

Compilation of Conflict of Interest Disclosures for
State Authorities, Boards and Commissions
State Fiscal Year 2018

Prepared by the Department of Legislative Audit
July 2018



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MARTIN L. GUINDON, CPA
AUDITOR GENERAL

July 20, 2018

To: Government Operations and Audit Committee Members

From: Martin L. Guindon, Auditor General

RE: State Authorities, Boards and Commissions Conflict of Interest Disclosures

This document compiles minutes and other documents containing disclosures required of members of certain State authorities, boards and commissions by SDCL Chapter 3-23.

HB 1170 of the 2017 legislative session revised the conflict of interest disclosure requirements for members of certain State authorities, boards and commissions. SDCL 3-23-3.1 requires these members to make an annual disclosure of any interest in a contract or direct benefit covered by SDCL Chapter 3-23 and to disclose ownership interest of five percent or greater in any entity that receives grant money from the State or that contracts with the State or any political subdivision for services. This law requires that the Auditor-General compile and present the annual disclosures for review by the Government Operations and Audit Committee.

SDCL 3-23-3 allows State authorities, boards and commissions to authorize its members to receive direct benefit from contracts under certain circumstances. Authorizations for direct benefit that are granted pursuant to this statute are to be filed with the Attorney General and Auditor-General. The Auditor-General is to compile these authorizations and present them annually for review by the Government Operations and Audit Committee.

Following this memorandum is a Table of Contents that is linked to the various disclosures we received from the authorities, boards and commissions.

State Boards and Commissions Conflict of Interest Disclosures – SFY 2018

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STATE OF SOUTH DAKOTA
AERONAUTICS COMMISSION


STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (CURRENT MEMBER)

THIS IS A PUBLIC DOCUMENT

Two separate written requests for waiver both dated November 28, 2017, were received from Christopher Funk. The first request for waiver relates to a lease between Christopher Funk and the city of Brookings, South Dakota. The second request for waiver relates to Christopher Funk's employment with South Dakota State University. The requests were acted upon by the members of the South Dakota State Aeronautics Commission during a meeting held on January 23, 2018.

(check one)

- The request for waiver of conflict was denied for the following reason(s):
- The request for waiver of conflict was authorized for the following reason(s):
- The Aeronautics Commission determined that the matters underlying the conflicts are fair, reasonable, and not contrary to the public interest.
- The Aeronautics Commission's minutes, which include the written requests for waiver as attached exhibits, are attached to this Waiver Authorization as **Exhibit A**.
- The request for waiver of conflict was authorized subject to the following condition(s):


Signature of Chairperson or Authorized Member

1-23-18
Date

Printed Name of Chairperson or Authorized Member: ERIC OPENSACH

Date sent to Auditor-General: 4/24/18 Date sent to Attorney General: 4/24/18

STATE OF SOUTH DAKOTA

South Dakota Aeronautics Commission

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23
THIS IS A PUBLIC DOCUMENT

Date: 11/28/2017

Name of Board Member or Former Board Member: Christopher Funk

Name of Board, Authority or Commission: South Dakota Aeronautics Commission

Brief explanation of contract for which a waiver is requested:

a) Parties to the contract:

South Dakota State University
Christopher Funk

b) Board Member's role in the contract:

Employed by South Dakota State University

c) Purpose and objective of the contract:

Employed by South Dakota State University

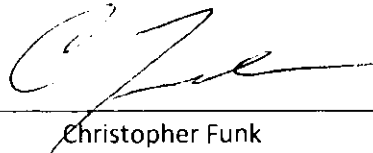
d) Consideration or benefit conferred or agreed to be conferred upon each party

Annual salary: \$64,584

e) Duration of the contract

2017 – On Going

Signature of Requesting Party: _____



Christopher Funk

Date 11/28/2017

STATE OF SOUTH DAKOTA

South Dakota Aeronautics Commission

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23
THIS IS A PUBLIC DOCUMENT

Date: 11/28/2017

Name of Board Member or Former Board Member: Christopher Funk

Name of Board, Authority or Commission: South Dakota Aeronautics Commission

Brief explanation of contract for which a waiver is requested:

a) Parties to the contract:

Brookings SD (KBKX) Airport
Christopher Funk

b) Board Member's role in the contract:

Owner of Hangar on Leased land

c) Purpose and objective of the contract:

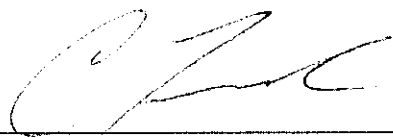
Lease Land under hangar building at the Brookings SD Airport (KBKX)

d) Consideration or benefit conferred or agreed to be conferred upon each party

Lease is \$ 491.52 / year

e) Duration of the contract

2017 – On Going

Signature of Requesting Party:  Date 11/28/2017

Christopher Funk

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Christopher Funk

Name of Board, Authority or Commission: SD Aeronautics Commission

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or 2) The entity contracts with the State or any political subdivision for services.

1. **Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law** - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-232.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

Attach additional pages, if necessary:

2. **Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Land Lease	Brookings SD Airport Christopher Funk	4096 Q FT Land Lease	2014
Employee of SDSU	SDSU Christopher Funk	Employed by SDSU	September 2011 - present

Attach additional pages, if necessary.

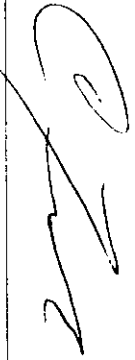
3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

Attach additional pages, if necessary.

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member:



Date:

11-28-2017

**AERONAUTICS COMMISSION MEETING MINUTES
JANUARY 23, 2018 – 1:00 P.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SOUTH DAKOTA**

COMMISSIONERS PRESENT: Eric Odenbach, Chairman
Arnie Hauge, Vice Chairman
Robert Huggins, Member
Christopher Funk, Member

DOT STAFF PRESENT: Joel Jundt, Karla Engle, Bonnie Olson, Jack Dokken,
Jennifer Boehm, Jon Becker, Colton Stahl, Rip Ray,
Tom Koch, and Patricia Saukel

OTHERS PRESENT: Representative David Johnson – District 33, Rapid
City; Steve Hamilton – SD Pilots Association (via
conference call)

Chairman Odenbach called the meeting of the South Dakota Aeronautics Commission (the "Commission") meeting to order at 1:00 p.m.

Chairman Odenbach opened the floor to Commission members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Commissioner Christopher Funk submitted a written annual disclosure and a waiver request (attached to these minutes) concerning a land lease entered into between Christopher Funk, as owner of a hangar, and Brookings SD (KBXX) Airport. The lease allows Funk to maintain his hangar and house his aircraft. Funk will abstain from any discussion and voting regarding items with Brookings SD (KBXX) Airport, South Dakota.

A MOTION WAS MADE by Hauge and seconded by Huggins to approve the waiver request submitted by Funk as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Funk, who abstained from the Commission discussion and vote. The motion carried.

Chairman Odenbach asked for a motion to approve the minutes of November 28, 2017.

A MOTION WAS MADE by Funk and seconded by Hauge. All present voted aye by roll call vote. The motion carried.

Deputy Secretary Joel Jundt of the Department of Transportation (the "Department") had two items for the Secretary's Report. Jundt discussed the federal government shutdown that had occurred over the past weekend. Jundt informed the Commission that the FAA funding was recently passed and the shutdown was over. He said that no salaries or employees were impacted in the SD Department of Transportation.

Jundt brought the next item to the Commission's attention regarding South Dakota Codified Law (SDCL) Title 50 and said that the Department (specifically Jon Becker of the Office of Air, Rail & Transit) has been working with Representative David Johnson from Rapid City regarding a clean-up of SDCL Title 50. Jundt stated that Representative Johnson is ready to introduce the bill to the legislature. Jundt then proceeded to introduce Johnson to the Commission.

Representative Johnson offered his credentials to the Commission and began to discuss his opinion of SDCL Title 50. Johnson stated Chapter 50 caught his attention last year when a couple of drone bills was brought before the Transportation Committee.

Johnson stated that the language in both bills was archaic and different kind from one bill to the next. He said the pilots and the Department are not speaking the same language and it was obvious between the two bills. He gave the example of "air beacons" and "air markings" which are out of code today.

Johnson said that there is a lot of work to do in Chapter 50, but the focus right now is clean up the language to bring it up to current standards and technology. Johnson enjoys this project and thinks this work will be very effective.

Jundt added that perhaps a steering committee should be formed with someone from the Commission, the Department, the SD Pilots Association and a few others to work on what is in place and what modifications should be sought after so Johnson can get this ready to go before the legislature next year. Jundt said that the Department would be a part of it and support this action.

Johnson said he has been working with Becker, Jundt, and Bill Nevin, of the Office of Legal Counsel, with the initial contact with Secretary Darin Bergquist. Johnson said he has 100% cooperation with the Department in removing old code. Johnson hopes the first round of the bill will be presented to the Transportation Committee next week.

There was extensive discussion on drones and whether the Department should develop a state template because of FAA rules/responsibilities for airspace specifically in regard to drones. It was discussed that sometimes municipal governments put ordinances together and Unmanned Aircraft General (UAG) operators are confused by other ordinances by cities and counties. This is the reason that Johnson suggested the template, as drone regulations are just beginning to appear and it is just the tip of the iceberg.

Chair Odenbach asked if the Commission should appoint a committee, of which Huggins volunteered, if it was so decided. It was suggested to involve as many groups as possible, such as Airport Managers, SD Pilots Association, Airports Associations, Ag Groups, as well as the other State agencies - Department of Agriculture and the Highway Patrol with the Department of Public Safety. It was also suggested that John Otte of the Wagner Municipal Airport be invited because of his association with ag pilots. Becker mentioned that there are some small unmanned aerial groups that may want to be included.

It was decided that the Commission would not formally appoint a committee, but an ad hoc group instead. Johnson formally requested that the Commission review his bill before he presents it to the Transportation Committee. He is expected it to be dropped that day.

It was decided that the Aeronautic Commission would hold a special teleconference meeting on Monday, January 29, 2018, to discuss the contents of Representative Johnson's bill.

Tom Koch of the Office of Air, Rail & Transit, presented to the Commission for their consideration of the following Tall Structure/Aeronautical Hazard Application:

Permit #'s 2017-13607-13614 Sioux Falls, SD
FAA Aeronautical Study 2017-AGL-13607- 13614-OE

The City of Sioux Falls is rebuilding an existing electric transmission line with new laminated wood structures (Structure #'s T1-T8). It is being rebuilt generally in the existing alignment with the closest structure being approximately 1,650 feet southeast of the Sioux Falls airport.

The FAA has determined:

- ◆ This proposal does not exceed FAA obstruction standards and would not be a hazard to air navigation.
- ◆ Aeronautical studies 13608 thru 13612 must be marked/lighted as per FAA requirements.

The department recommended Commission approval.

A MOTION WAS MADE by Funk to approve Permit #'s 2017-13607-13614 Sioux Falls, SD and seconded by Huggins. All present voted aye by roll call vote. The motion carried.

Jon Becker of the Office of Air, Rail & Transit, presented the consideration for approval for the SDSU 2018 ACE Camp funding request. A MOTION WAS MADE by Huggins to approve a \$5000 scholarship for the ACE Camp tentatively scheduled for July 8-11, 2018, and seconded by Hauge. All present voted aye by roll call vote, except for Funk, who abstained. The motion carried.

Jon Becker of the Office of Air, Rail & Transit presented to the Commission the 2018 Capital Improvement Plan (CIP) Proposed Airport Projects for consideration. The CIP proposal is as follows:

2018 Proposed Airport Projects					
Airport	Project Description	Federal Funds (90%)	State Funds (5%)	Local Funds (5%)	Total Funds
Aberdeen - 38	Master Plan w/AGIS and exhibit A (taxiway geometry & ag ops relo; boarding bridge)	\$1,125,000	\$62,500	\$62,500	\$1,250,000
Belle Fourche - 13	Rehab asphalt mill/overlay public access road and parking lot	\$225,000	\$12,500	\$12,500	\$250,000
Bison - 10	Rehab and pave access road and construct new parking area	\$191,700	\$10,650	\$10,650	\$213,000
Britton - 13	Land acquisition and appraisals	\$171,000	\$9,500	\$9,500	\$190,000
Brookings - 30	Design of apron reconstruction and geotech exploration	\$81,000	\$4,500	\$4,500	\$90,000
Buffalo-Harding Co 07	Specs and acquire SRE skid loader with attachments	\$180,000	\$10,000	\$10,000	\$200,000
Canton -	NO PROJECT	\$0	\$0	\$0	\$0
Chamberlain -	NO PROJECT	\$0	\$0	\$0	\$0
Clark County - 12	Design and geotech for 12/30 runway, apron, taxiway reconstruction	\$117,000	\$6,500	\$6,500	\$130,000
Custer County - 14	Acquire 26 RPZ;	\$420,300	\$23,350	\$23,350	\$467,000
Custer County	master plan study	\$90,000	\$5,000	\$5,000	\$100,000

- 15					
DeSmet - 12	Hangar taxilane expansion and concrete hardstand	\$630,000	\$35,000	\$35,000	\$700,000
Eagle Butte - 10	GA apron reconstruction	\$540,000	\$30,000	\$30,000	\$600,000
Edgemont	NO PROJECT	\$0	\$0	\$0	\$0
Eureka - 09	Install tilt-down beacon bole	\$64,800	\$3,600	\$3,600	\$72,000
Faith - 09	Rehab and pave access road and parking area	\$391,500	\$21,750	\$21,750	\$435,000
Faulkton - 11	Land acquisition; design runway rehab/extension; geotech; approach survey	\$616,500	\$34,250	\$34,250	\$685,000
Flandreau - 10	Environmental for runway geometry and land acquisition	\$112,500	\$6,250	\$6,250	\$125,000
Gettysburg - 10	Install new fuel system; pavement maintenance	\$343,080	\$19,060	\$19,060	\$381,200
Gregory - 15	Design hangar taxilane expansion - phase I (widen to 35', extend 180'	\$27,000	\$1,500	\$1,500	\$30,000
Highmore -	NO PROJECT	\$0	\$0	\$0	\$0
Hot Springs -	NO PROJECT	\$0	\$0	\$0	\$0
Hoven - 10	Design, geotech survey, reconstruct GA apron	\$360,000	\$20,000	\$20,000	\$400,000
Howard	NO PROJECT	\$0	\$0	\$0	\$0
Huron - 36	Repair commercial apron; wildlife study and hazard mitigation plan	\$149,999	\$8,333	\$8,333	\$166,666
Lemmon - 14	Runway 12/30 reconstruction; MIRL, PAPIs, RSA grading, runway edge drains	\$2,542,500	\$141,250	\$141,250	\$2,825,000
Madison - 16	Construct parallel taxiway - south phase	\$1,126,800	\$62,600	\$62,600	\$1,252,000
Madison - 17	Construct parallel taxiway - North phase - State apportionment	\$2,124,000	\$118,000	\$118,000	\$2,360,000
Martin -	NO PROJECT	\$0	\$0	\$0	\$0
McLaughlin - 09	Reimburse land for RPZ and departure surfaces	\$180,000	\$10,000	\$10,000	\$200,000
Milbank - 16	appraisal for RPZ & departure; wildlife site visit & MP	\$540,000	\$30,000	\$30,000	\$600,000
Miller -	NO PROJECT	\$0	\$0	\$0	\$0
Mitchell -	PM - NO PROJECT	\$0	\$0	\$0	\$0
Mobridge - 14	Design/Construction of 12-30 and connector, grade RSA, lighting, turnaround expansion, testing; replace edge lights and PAPIs	\$3,737,624	\$207,646	\$207,646	\$4,152,915
Murdo - 11	Land acquisition for 14/32 RPZ	\$135,000	\$7,500	\$7,500	\$150,000
Onida - 10	design/construct 6 unit T hangar and taxilane	\$495,000	\$27,500	\$27,500	\$550,000
Parkston - 13	Design/construct perimeter fence improvements (4-wire barbed)	\$147,150	\$8,175	\$8,175	\$163,500

Philip - 11	Acquire 12/30 RPZ; legal/exhibit A map; rev hangar design; GA apron reconstruction design	\$144,000	\$8,000	\$8,000	\$160,000
Pierre - 39	GA hangar taxilane; ag area taxiway const; design twy B reconst	\$1,350,000	\$75,000	\$75,000	\$1,500,000
Pine Ridge - 15	Snow removal equipment with attachments	\$216,000	\$12,000	\$12,000	\$240,000
Platte - 10	Design/install card/reader for existing fuel; design for hangar/GA terminal	\$67,500	\$3,750	\$3,750	\$75,000
Rapid City - 50	EA for sewage lagoon; replace terminal baggage claim	\$585,000	\$32,500	\$32,500	\$650,000
Redfield - 12	Design/construct AWOS III	\$247,500	\$13,750	\$13,750	\$275,000
Rosebud - 11	Design/construct AWOS III	\$270,000	\$15,000	\$15,000	\$300,000
Sioux Falls - 53	replace perimeter fence; remove obstruction; expand west GA apron; design term apron expansion/deicing pad; move ANG blast fence; SRE	\$3,026,958	\$168,164	\$168,164	\$3,363,287
Sisseton - 14	Master Plan with Airport Layout Plan	\$180,000	\$10,000	\$10,000	\$200,000
Spearfish-BH - 24	EA for runway 5-23 constr & land; wildlife hazard site visit and mgmt plan	\$171,000	\$9,500	\$9,500	\$190,000
Springfield - 007	Replace runway lights	\$349,200	\$19,400	\$19,400	\$388,000
Sturgis - 14	Environmental, design, construct Rev-producing fuel system	\$234,000	\$13,000	\$13,000	\$260,000
Tea - 14	Obstruction removal; wind cone relocation; threshold lighting	\$112,500	\$6,250	\$6,250	\$125,000
Vermillion -	NO PROJECT	\$0	\$0	\$0	\$0
Wagner - 13	Design for Revenue producing T-hangars	\$31,500	\$1,750	\$1,750	\$35,000
Wall -	NO PROJECT	\$0	\$0	\$0	\$0
Watertown - 33	Design/construct perimeter fence modifications	\$126,000	\$7,000	\$7,000	\$140,000
Webster - 10	Land appraisals and acquisition; wildlife hazard site visit and mgmt plan	\$135,000	\$7,500	\$7,500	\$150,000
Wess Sprgs - 10	Design runway 12/30 reconstruction; engineering report	\$117,000	\$6,500	\$6,500	\$130,000
Winner -	NO PROJECT	\$0	\$0	\$0	\$0
Yankton - 27	Design apron expansion; remove hangar, relo two hangars	\$69,300	\$3,850	\$3,850	\$77,000
SDDOT - 26	Pavement Condition Index Survey	\$189,000	\$21,000	\$0	\$210,000
SDDOT - 24	Aviation system plan	\$360,000	\$40,000	\$0	\$400,000
SDDOT - 25	Statewide pavement maintenance	\$360,000	\$20,000	\$20,000	\$400,000
Totals	Totals	\$24,296,911	\$1,349,828	\$1,349,828	\$28,006,568

		Total Federal funds	State Funds (5%)	Local Funds (5%)	Total Funds
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After extensive discussion regarding individual airports, A MOTION WAS MADE by Hauge for approve the proposal as written and seconded by Funk. All present voted aye by roll call vote. The motion carried.

Becker brought a handout of the State Aviation System Plan (SASP) to the Commission as an informational item. The SASP has been updated and is currently being drafted into a Request for Proposal to be released in February 2018.

Becker explained his handout to the Commission members. There was discussion on the proposal and Becker took suggestions from members on how to tweak up the proposal before release. No action was needed.

Jack Dokken, Program Manager of the Office of Air, Rail & Transit introduced Rip Ray with the Office of Audits, Internal Services Division, to the Commission for an informational item presentation on Reviewing Airport Contracts as a follow-up to Commissioner Hauge’s questions from a prior meeting.

With no other business to come before the Commission, the meeting was adjourned at 2:57 p.m.

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PRESIDENT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Christopher Funk

Name of Board, Authority or Commission: SID Aeronautics Commission

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission; or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. **Contracts in which you have an interest pursuant to SIDCL Chapter 3-23 and which do not violate any other provision of law** - Provide the following for each contract in which you have, or will have, an interest. For further information see SIDCL 3-23-1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

Attach additional pages, if necessary.

2. **Contracts in which you have a direct benefit pursuant to SIDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SIDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Land Lease	Brookings SD Airport Christopher Funk	4096 Q FT Land Lease	2014
Employee of SIDSE	SIDSE Christopher Funk	Employed by SIDSE	September 2011 - present

Attach additional pages, if necessary.

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

Attach additional pages, if necessary.

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member:



Date: 11-28-2017

STATE OF SOUTH DAKOTA

South Dakota Aeronautics Commission

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23
THIS IS A PUBLIC DOCUMENT

Date: 11/28/2017

Name of Board Member or Former Board Member: Christopher Funk

Name of Board, Authority or Commission: South Dakota Aeronautics Commission

Brief explanation of contract for which a waiver is requested:

a) Parties to the contract:

Brookings SD (KBKX) Airport
Christopher Funk

b) Board Member's role in the contract:

Owner of Hangar on Leased land

c) Purpose and objective of the contract:


Lease Land under hangar building at the Brookings SD Airport (KBKX)

d) Consideration or benefit conferred or agreed to be conferred upon each party

Lease is \$ 491.52 / year

e) Duration of the contract

2017 – On Going

Signature of Requesting Party:  Date 11/28/2017
Christopher Funk

STATE OF SOUTH DAKOTA

South Dakota Aeronautics Commission

REQUEST FOR STATE BOARD WAIVER
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Brief explanation of contract for which a waiver is requested:

a) Parties to the contract:

South Dakota State University
Christopher Funk

b) Board Member's role in the contract:

Employed by South Dakota State University

c) Purpose and objective of the contract:

Employed by South Dakota State University

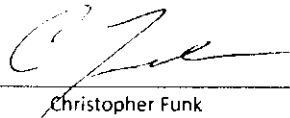
d) Consideration or benefit conferred or agreed to be conferred upon each party

Annual salary: \$64,584

e) Duration of the contract

2017 – On Going

Signature of Requesting Party:



Christopher Funk

Date 11/28/2017

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (CURRENT MEMBER)

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated September 26, 2017, was received from Arlen Hauge. The request was acted upon by the members of the South Dakota State Aeronautics Commission during a meeting held on September 26, 2017.

(check one)

The request for waiver of conflict was denied for the following reason(s):

The request for waiver of conflict was authorized for the following reason(s):

Commission Member Arlen Hauge submitted a written request for waiver to the Aeronautics Commission relating to Hauge's land lease between Hauge, as owner of the hangar, and Lincoln County Airport. The lease allows Hauge to maintain his hangar and house his aircraft on the county-owned land.

The Aeronautics Commission determined that the matter underlying the conflict is fair, reasonable, and not contrary to the public interest.

The Aeronautics Commission's minutes, which include the written request for waiver as an exhibit, are attached to this Waiver Authorization as **Exhibit A**.

The request for waiver of conflict was authorized subject to the following condition(s):



Signature of Chairperson or Authorized Member

11-28-17

Date

Printed Name of Chairperson or Authorized Member: ERIC ODENSBACH

Date sent to Auditor-General: 12/5/17 Date sent to Attorney General: 12/5/17

**AERONAUTICS COMMISSION MEETING MINUTES
SEPTEMBER 26, 2017 – 1:00 P.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SOUTH DAKOTA**

COMMISSIONERS PRESENT: Eric Odenbach, Chairman
Arnie Hauge, Vice Chairman
Dave Luers, Member
Skip VanDerhule, Member

DOT STAFF PRESENT: Darin Bergquist, Karla Engle, Bonnie Olson, Jack Dokken,
Jennifer Boehm, Jon Becker, Tom Koch, Colton Stahl, Kellie
Beck and Tessa Wenner

**OTHERS PRESENT
VIA CONFERENCE CALL:** Cori Helms and Todd Syher

OTHERS PRESENT: Steve Hamilton, Bob Babcock, Rob Senn and Mike Isaacs

Chairman Odenbach called the meeting of the South Dakota Aeronautics Commission meeting to order at 1:10 p.m. Roll call was taken and a quorum was determined.

Karla Engle, Office of Legal Counsel provided additional information to the Commission members as a follow-up from the last teleconference meeting to address questions she received from Commission members relating to the new conflict of interest laws.

Chairman Odenbach opened the floor to Commission members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Odenbach turned the meeting over to Vice Chairman Hauge.

Eric Odenbach submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit A**) concerning a land lease entered into between Odenbach, as owner of a hangar, and the city of Eureka, South Dakota. The lease allows Odenbach to maintain his hangar and house his aircraft on the city-owned land. Odenbach will abstain from any discussion and voting in regard to items with the city of Eureka, South Dakota.

A MOTION WAS MADE by Luers and seconded by VanDerhule to approve the waiver request submitted by Odenbach as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call

vote, except Odenbach, who abstained from the Commission discussion and vote. The motion carried.

Vice Chairman Hauge turned the meeting back over to Chair Odenbach.

Arlen Hauge submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit B**) concerning a land lease entered into between Arlen Hauge, as owner of a hangar, and Lincoln County Airport. The lease allows Hauge to maintain his hangar and house his aircraft on the county-owned land. Hauge will abstain from any discussion and voting in regard to items with Lincoln County, South Dakota.

A MOTION WAS MADE by Odenbach and seconded by Luers to approve the waiver request submitted by Hauge as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Hauge, who abstained from the Commission discussion and vote. The motion carried.

Dave Luers submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit C**) concerning a land lease entered into between Luers and Jim Peitz, as co-owners of a hangar, and the city of Pierre, South Dakota. The lease allows Luers and Peitz to maintain their hangar and house their aircraft on the city-owned land. Luers will abstain from any discussion and voting in regard to items with the city of Pierre, South Dakota.

A MOTION WAS MADE by Odenbach and seconded by VanDerhule to approve the waiver request submitted by Luers as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Luers, who abstained from the Commission discussion and vote. The motion carried.

The Commission acknowledged receipt of VanDerhule's annual disclosure of potential conflict of interest form, which will be filed with the required state agencies. The disclosure concerns VanDerhule's lease of a hangar from the City of Yankton. VanDerhule had previously submitted a waiver request concerning this potential conflict of interest, and the waiver request was approved at the August 22, 2017, meeting. A copy of the written annual disclosure form is attached to and incorporated into these minutes as **Exhibit D**.

Chairman Odenbach asked for a motion to approve the minutes of August 22, 2017.

A MOTION WAS MADE by VanDerhule and seconded by Hauge to approve the August 22, 2017, meeting minutes. All present voted aye by roll call vote. The motion carried.

Secretary Bergquist recognized and congratulated Commissioner VanDerhule's on his upcoming retirement from serving on the Commission. This Commission meeting is his last meeting as a Commission member.

Bergquist informed the Commission that the current Federal Aviation Administration (FAA) funding expires on September 30, 2017. Congress has been struggling with legislation for reauthorization of that funding. A bill to extend the funding for an additional six months was filed in the U.S. House of Representatives and failed to pass. It is believed it will be filed again under a different rule with a majority vote, rather than a two thirds vote.

Hauge requested information regarding Senate Bill 1320 (Flight Act). Bergquist will check into that and get back to Hauge.

Jack Dokken, Program Manager for the Office of Air, Rail, and Transit, presented the Commission with the trust fund statement that was requested by the Commission at the previous meeting.

Martin 3-46-0030-013-2017

Airport Master Plan study, airport layout plan, exhibit A and Aeronautical Study.

Federal Share	\$ 285,000.00
State Share	\$ 15,833.33
Local Share	\$ 15,833.34
Total	\$ 316,666.67

The Department recommends approval of state assistance in the amount of \$15,833.33.

Pierre 3-46-0044-038-2017

Passenger boarding bridge procurement and GA taxiway design to include provisions for aeronautical agricultural operations, access road, utility corridors and drainage issues.

Federal Share	\$ 800,000.00
State Share	\$ 44,444.44
Local Share	\$ 44,444.45
Total	\$ 888,888.89

The Department recommends approval of state assistance in the amount of \$44,444.44.

Redfield 3-46-0049-011-2017

Construction of runway 17/35, including bidding, construction administration, engineering, wetland mitigation, easement acquisition, tribal & archeological monitoring, Precision Approach Path Indicator flight check.

Federal Share	\$ 3,528,000.00
State Share	\$ 196,000.00
Local Share	\$ 196,000.00

Total \$ 3,920,000.00

The Department recommends approval of state assistance in the amount of \$196,000.00.

Rosebud 3-46-0082-010-2017

Acquisition of snow removal equipment.

Federal Share	\$ 205,200.00
State Share	\$ 11,400.00
Local Share	\$ 11,400.00
Total	\$ 228,000.00

The Department recommends approval of state assistance in the amount of \$11,400.00.

Sisseton 3-46-0051-013-2017

Design and bidding for runway 16/34 reconstruction (3,400' X 60'), turnarounds, connector taxiway, and lighting upgrades.

Federal Share	\$ 153,000.00
State Share	\$ 8,500.00
Local Share	\$ 8,500.00
Total	\$ 170,000.00

The Department recommends approval of state assistance in the amount of \$8,500.00.

Watertown 3-46-0058-032-2017

Construction of hangar taxilane expansion, including design, bidding, construction admin, engineering.

Federal Share	\$ 805,500.00
State Share	\$ 44,750.00
Local Share	\$ 44,750.00
Total	\$ 895,000.00

The Department recommends approval of state assistance in the amount of \$44,750.00.

A MOTION WAS MADE by VanDerhule and seconded by Luers to approve the following grant applications:

Martin 3-46-0030-013-2017, state assistance in the amount of \$15,833.33.
Redfield 3-46-0049-011-2017, state assistance in the amount of \$196,000.00.
Rosebud 3-46-0082-010-2017, state assistance in the amount of \$11,400.00.

Sisseton 3-46-0051-013-2017, state assistance in the amount of \$8,500.00.
Watertown 3-46-0058-032-2017, state assistance in the amount of \$44,750.00.

All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by VanDerhule and seconded by Hauge to approve the grant application for Pierre 3-46-0044-038-2017 with state assistance in the amount of \$44,444.44. All present voted aye by roll call vote, except Luers, who abstained from the Commission discussion and vote. The motion carried.

Mike Isaacs, Manager of the Pierre Regional Airport, presented the Commission with a request for up to \$40,000.00 from the Pierre Regional Airport fuel tax account to purchase various items to complete the Aircraft Rescue and Fire Fighting (ARFF) building project.

A MOTION WAS MADE by Odenbach and seconded by Hauge to approve the request by the Pierre Regional Airport to use up to \$40,000.00 from the Pierre Regional Airport fuel tax account to purchase various items to complete the ARFF building project. All present voted aye by roll call vote, except Luers, who abstained from the Commission discussion and vote. The motion carried.

The Department presented the Commission with the below informational item.

The FAA Airports District Office has suggested that the State of South Dakota secure a 2018 grant for a state aviation system plan update. It has been about eight years since the completion of the State's current system plan and FAA guidance provides for an update every ten years.

This system plan is used to guide the State through airport projects so work is done systemically, rather than piecemeal. Factors to consider might be storage of large aircraft, turf runways, fuel systems, and weather reporting. The Department will issue a request for proposal this fall, with a consultant being selected sometime in the spring. Commission participation will be crucial at that time.

In 2018, another pavement condition index (PCI) survey will be conducted. PCI surveys are conducted every three years. The last one was completed in 2015. These surveys along with subsurface surveys provide important information regarding the condition and remaining life of airport surfaces. They are normally included in the engineering reports provided to FAA to justify and guide pavement rehabilitation and reconstruction.

No action was taken.

Chairman Odenbach turned the meeting over to Vice Chairman Hauge.

The Department is requesting approval from the Commission to purchase airport marker cones for use at multiple general aviation airports. In 2015, the Department was authorized to purchase 400 new plastic marker cones costing \$37.52 each for a total cost of \$15,008.00. The Department has received a quote from LeTourneau Plastics Inc. for 400 plastic marker cones costing \$35.75 each for a total cost of \$14,300.00.

A MOTION WAS MADE by VanDerhule and seconded by Luers to authorize the Department to secure the purchase of 400 airport marker cones for use at multiple general aviation airports in the amount of \$14,300.00 and for the purchase of a segmented circle. The Department is authorized to distribute airport marker cones and segmented circle out to the airports that are in need and as available. All present voted aye by roll call vote, except Odenbach, who abstained from the Commission discussion and vote. The motion carried.

Vice Chairman Hauge turned the meeting back over to Chairman Odenbach.

With no other business to come before the Commission, the meeting was adjourned at 2:20 p.m.

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority)

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Date: 9-26-17

Name of Board Member or Former Board Member: ARLIN HAUGE _____

Name of Board, Authority or Commission: SOUTH DAKOTA AERONAUTICS COMMISSION

Brief explanation of contract for which a waiver is requested:

a) Parties to the contract

LINCOLN COUNTY AIRPORT
ARLIN HAUGE

b) Board Member's role in the contract

OWNER OF HANGAR BUILDING ON LEASED LAND

c) Purpose and objective of the contract

LEASE LAND UNDER HANGAR BUILDING AT LINCOLN COUNTY
AIRPORT

d) Consideration or benefit conferred or agreed to be conferred upon each party

LEASE IS \$510.00/YR

e) Duration of the contract

2017-ON GOING

Signature of Requesting Party: _____

Date _____

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: ARLEN HAUGE

Name of Board, Authority or Commission: SOUTH DAKOTA AERONAUTICS COMMISSION

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. **Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law** - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

Attach additional pages, if necessary.

2. **Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
LAND LEASE	LINCOLN COUNTY AIRPORT ARLEN HAUGE	3,400 SQ FT LAND LEASE	2017

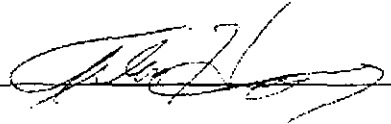
Attach additional pages, if necessary.

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services - Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

Attach additional pages, if necessary.

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member:  Date: 9/29/17

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (CURRENT MEMBER)

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated September 26, 2017, was received from Dave Luers. The request was acted upon by the members of the South Dakota State Aeronautics Commission during a meeting held on September 26, 2017.

(check one)

The request for waiver of conflict was denied for the following reason(s):

The request for waiver of conflict was authorized for the following reason(s):

Commission Member Dave Luers submitted a written request for waiver to the Aeronautics Commission relating to Luers' land lease between Luers and Jim Peitz, as co-owners of the hangar, and the city of Pierre, South Dakota. The lease allows Luers and Peitz to maintain their hangar and house their aircraft on the city-owned land.

The Aeronautics Commission determined that the matter underlying the conflict is fair, reasonable, and not contrary to the public interest.

The Aeronautics Commission's minutes, which include the written request for waiver as an exhibit, are attached to this Waiver Authorization as **Exhibit A**.

The request for waiver of conflict was authorized subject to the following condition(s):



Signature of Chairperson or Authorized Member

11-28-17

Date

Printed Name of Chairperson or Authorized Member:

ERIC ODENSBACH

Date sent to Auditor-General: 12/5/17

Date sent to Attorney General: 12/5/17

**AERONAUTICS COMMISSION MEETING MINUTES
SEPTEMBER 26, 2017 – 1:00 P.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SOUTH DAKOTA**

COMMISSIONERS PRESENT: Eric Odenbach, Chairman
Arnie Hauge, Vice Chairman
Dave Luers, Member
Skip VanDerhule, Member

DOT STAFF PRESENT: Darin Bergquist, Karla Engle, Bonnie Olson, Jack Dokken,
Jennifer Boehm, Jon Becker, Tom Koch, Colton Stahl, Kellie
Beck and Tessa Wenner

**OTHERS PRESENT
VIA CONFERENCE CALL:** Cori Helms and Todd Syher

OTHERS PRESENT: Steve Hamilton, Bob Babcock, Rob Senn and Mike Isaacs

Chairman Odenbach called the meeting of the South Dakota Aeronautics Commission meeting to order at 1:10 p.m. Roll call was taken and a quorum was determined.

Karla Engle, Office of Legal Counsel provided additional information to the Commission members as a follow-up from the last teleconference meeting to address questions she received from Commission members relating to the new conflict of interest laws.

Chairman Odenbach opened the floor to Commission members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Odenbach turned the meeting over to Vice Chairman Hauge.

Eric Odenbach submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit A**) concerning a land lease entered into between Odenbach, as owner of a hangar, and the city of Eureka, South Dakota. The lease allows Odenbach to maintain his hangar and house his aircraft on the city-owned land. Odenbach will abstain from any discussion and voting in regard to items with the city of Eureka, South Dakota.

A MOTION WAS MADE by Luers and seconded by VanDerhule to approve the waiver request submitted by Odenbach as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call

vote, except Odenbach, who abstained from the Commission discussion and vote. The motion carried.

Vice Chairman Hauge turned the meeting back over to Chair Odenbach.

Arlen Hauge submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit B**) concerning a land lease entered into between Arlen Hauge, as owner of a hangar, and Lincoln County Airport. The lease allows Hauge to maintain his hangar and house his aircraft on the county-owned land. Hauge will abstain from any discussion and voting in regard to items with Lincoln County, South Dakota.

A MOTION WAS MADE by Odenbach and seconded by Luers to approve the waiver request submitted by Hauge as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Hauge, who abstained from the Commission discussion and vote. The motion carried.

Dave Luers submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit C**) concerning a land lease entered into between Luers and Jim Peitz, as co-owners of a hangar, and the city of Pierre, South Dakota. The lease allows Luers and Peitz to maintain their hangar and house their aircraft on the city-owned land. Luers will abstain from any discussion and voting in regard to items with the city of Pierre, South Dakota.

A MOTION WAS MADE by Odenbach and seconded by VanDerhule to approve the waiver request submitted by Luers as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Luers, who abstained from the Commission discussion and vote. The motion carried.

The Commission acknowledged receipt of VanDerhule's annual disclosure of potential conflict of interest form, which will be filed with the required state agencies. The disclosure concerns VanDerhule's lease of a hangar from the City of Yankton. VanDerhule had previously submitted a waiver request concerning this potential conflict of interest, and the waiver request was approved at the August 22, 2017, meeting. A copy of the written annual disclosure form is attached to and incorporated into these minutes as **Exhibit D**.

Chairman Odenbach asked for a motion to approve the minutes of August 22, 2017.

A MOTION WAS MADE by VanDerhule and seconded by Hauge to approve the August 22, 2017, meeting minutes. All present voted aye by roll call vote. The motion carried.

Secretary Bergquist recognized and congratulated Commissioner VanDerhule's on his upcoming retirement from serving on the Commission. This Commission meeting is his last meeting as a Commission member.

Bergquist informed the Commission that the current Federal Aviation Administration (FAA) funding expires on September 30, 2017. Congress has been struggling with legislation for reauthorization of that funding. A bill to extend the funding for an additional six months was filed in the U.S. House of Representatives and failed to pass. It is believed it will be filed again under a different rule with a majority vote, rather than a two thirds vote.

Hauge requested information regarding Senate Bill 1320 (Flight Act). Bergquist will check into that and get back to Hauge.

Jack Dokken, Program Manager for the Office of Air, Rail, and Transit, presented the Commission with the trust fund statement that was requested by the Commission at the previous meeting.

Martin 3-46-0030-013-2017

Airport Master Plan study, airport layout plan, exhibit A and Aeronautical Study.

Federal Share	\$ 285,000.00
State Share	\$ 15,833.33
Local Share	\$ 15,833.34
Total	\$ 316,666.67

The Department recommends approval of state assistance in the amount of \$15,833.33.

Pierre 3-46-0044-038-2017

Passenger boarding bridge procurement and GA taxiway design to include provisions for aeronautical agricultural operations, access road, utility corridors and drainage issues.

Federal Share	\$ 800,000.00
State Share	\$ 44,444.44
Local Share	\$ 44,444.45
Total	\$ 888,888.89

The Department recommends approval of state assistance in the amount of \$44,444.44.

Redfield 3-46-0049-011-2017

Construction of runway 17/35, including bidding, construction administration, engineering, wetland mitigation, easement acquisition, tribal & archeological monitoring, Precision Approach Path Indicator flight check.

Federal Share	\$ 3,528,000.00
State Share	\$ 196,000.00
Local Share	\$ 196,000.00

Total \$ 3,920,000.00

The Department recommends approval of state assistance in the amount of \$196,000.00.

Rosebud 3-46-0082-010-2017

Acquisition of snow removal equipment.

Federal Share	\$ 205,200.00
State Share	\$ 11,400.00
Local Share	\$ 11,400.00
Total	\$ 228,000.00

The Department recommends approval of state assistance in the amount of \$11,400.00.

Sisseton 3-46-0051-013-2017

Design and bidding for runway 16/34 reconstruction (3,400' X 60'), turnarounds, connector taxiway, and lighting upgrades.

Federal Share	\$ 153,000.00
State Share	\$ 8,500.00
Local Share	\$ 8,500.00
Total	\$ 170,000.00

The Department recommends approval of state assistance in the amount of \$8,500.00.

Watertown 3-46-0058-032-2017

Construction of hangar taxilane expansion, including design, bidding, construction admin, engineering.

Federal Share	\$ 805,500.00
State Share	\$ 44,750.00
Local Share	\$ 44,750.00
Total	\$ 895,000.00

The Department recommends approval of state assistance in the amount of \$44,750.00.

A MOTION WAS MADE by VanDerhule and seconded by Luers to approve the following grant applications:

Martin 3-46-0030-013-2017, state assistance in the amount of \$15,833.33.

Redfield 3-46-0049-011-2017, state assistance in the amount of \$196,000.00.

Rosebud 3-46-0082-010-2017, state assistance in the amount of \$11,400.00.

Sisseton 3-46-0051-013-2017, state assistance in the amount of \$8,500.00.
Watertown 3-46-0058-032-2017, state assistance in the amount of \$44,750.00.

All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by VanDerhule and seconded by Hauge to approve the grant application for Pierre 3-46-0044-038-2017 with state assistance in the amount of \$44,444.44. All present voted aye by roll call vote, except Luers, who abstained from the Commission discussion and vote. The motion carried.

Mike Isaacs, Manager of the Pierre Regional Airport, presented the Commission with a request for up to \$40,000.00 from the Pierre Regional Airport fuel tax account to purchase various items to complete the Aircraft Rescue and Fire Fighting (ARFF) building project.

A MOTION WAS MADE by Odenbach and seconded by Hauge to approve the request by the Pierre Regional Airport to use up to \$40,000.00 from the Pierre Regional Airport fuel tax account to purchase various items to complete the ARFF building project. All present voted aye by roll call vote, except Luers, who abstained from the Commission discussion and vote. The motion carried.

The Department presented the Commission with the below informational item.

The FAA Airports District Office has suggested that the State of South Dakota secure a 2018 grant for a state aviation system plan update. It has been about eight years since the completion of the State's current system plan and FAA guidance provides for an update every ten years.

This system plan is used to guide the State through airport projects so work is done systemically, rather than piecemeal. Factors to consider might be storage of large aircraft, turf runways, fuel systems, and weather reporting. The Department will issue a request for proposal this fall, with a consultant being selected sometime in the spring. Commission participation will be crucial at that time.

In 2018, another pavement condition index (PCI) survey will be conducted. PCI surveys are conducted every three years. The last one was completed in 2015. These surveys along with subsurface surveys provide important information regarding the condition and remaining life of airport surfaces. They are normally included in the engineering reports provided to FAA to justify and guide pavement rehabilitation and reconstruction.

No action was taken.

Chairman Odenbach turned the meeting over to Vice Chairman Hauge.

The Department is requesting approval from the Commission to purchase airport marker cones for use at multiple general aviation airports. In 2015, the Department was authorized to purchase 400 new plastic marker cones costing \$37.52 each for a total cost of \$15,008.00. The Department has received a quote from LeTourneau Plastics Inc. for 400 plastic marker cones costing \$35.75 each for a total cost of \$14,300.00.

A MOTION WAS MADE by VanDerhule and seconded by Luers to authorize the Department to secure the purchase of 400 airport marker cones for use at multiple general aviation airports in the amount of \$14,300.00 and for the purchase of a segmented circle. The Department is authorized to distribute airport marker cones and segmented circle out to the airports that are in need and as available. All present voted aye by roll call vote, except Odenbach, who abstained from the Commission discussion and vote. The motion carried.

Vice Chairman Hauge turned the meeting back over to Chairman Odenbach.

With no other business to come before the Commission, the meeting was adjourned at 2:20 p.m.

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority)

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCI CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Date: 9-26-17

Name of Board Member or Former Board Member: DAVE LUERS

Name of Board, Authority or Commission: SOUTH DAKOTA AERONAUTICS COMMISSION

Brief explanation of contract for which a waiver is requested:

a) Parties to the contract

CITY OF PIERRE, SD

DAVE LUERS & JIM PETZ, CO-OWNERS HANGAR BUILDING
LEASE LAND UNDER HANGAR AT PIERRE AIRPORT

b) Board Member's role in the contract

JOINT OWNER OF HANGAR BUILDING ON LEASED LAND

c) Purpose and objective of the contract

LEASE LAND UNDER HANGAR AT PIERRE AIRPORT

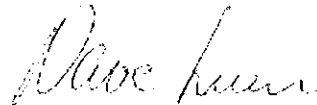
d) Consideration or benefit conferred or agreed to be conferred upon each party

YEARLY LEASE IS \$738.00
COMMISSIONER LUERS IS RESPONSIBLE FOR 50%, EQUALING \$369.00/YR

e) Duration of the contract

2016-ON GOING

Signature of Requesting Party:



Date 9-26-17

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: DAVE LUERS

Name of Board, Authority or Commission: SOUTH DAKOTA AERONAUTICS COMMISSION

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law. - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

Attach additional pages, if necessary.

2. Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23 - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
LAND LEASE OF AIRPORT PROPERTY UNDER OWNED HANGAR	CITY OF PIERRE, SD DAVE LUERS & JIM PETIZ JOINT OWNERS OF HANGAR BUILDING	LEASE LAND UNDER HANGAR	2016

Attach additional pages, if necessary.

3. **Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services** – Provide the following for each such entity. See SDCI 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

Attach additional pages, if necessary.

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member: Joe Kren Date: 9-26-17

STATE OF SOUTH DAKOTA
AERONAUTICS COMMISSION

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (CURRENT MEMBER)

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated September 26, 2017, was received from Eric Odenbach. The request was acted upon by the members of the South Dakota State Aeronautics Commission during a meeting held on September 26, 2017.

(check one)


- The request for waiver of conflict was denied for the following reason(s):
- The request for waiver of conflict was authorized for the following reason(s):

Commission Chairperson Eric Odenbach submitted a written request for waiver to the Aeronautics Commission relating to Chairperson Odenbach's land lease between Odenbach, as owner of the hangar, and the city of Eureka, South Dakota. The lease allows Odenbach to maintain his hangar and house his aircraft on the city-owned land.

The Aeronautics Commission determined that the matter underlying the conflict is fair, reasonable, and not contrary to the public interest.

The Aeronautics Commission's minutes, which include the written request for waiver as an exhibit, are attached to this Waiver Authorization as **Exhibit A**.

- The request for waiver of conflict was authorized subject to the following condition(s):

 _____ 11/28/17 _____
Signature of Chairperson or Authorized Member Date

Printed Name of Chairperson or Authorized Member: Arlen Hauge

Date sent to Auditor-General: 12/5/17 Date sent to Attorney General: 12/5/17

**AERONAUTICS COMMISSION MEETING MINUTES
SEPTEMBER 26, 2017 – 1:00 P.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SOUTH DAKOTA**

COMMISSIONERS PRESENT: Eric Odenbach, Chairman
Arnie Hauge, Vice Chairman
Dave Luers, Member
Skip VanDerhule, Member

DOT STAFF PRESENT: Darin Bergquist, Karla Engle, Bonnie Olson, Jack Dokken,
Jennifer Boehm, Jon Becker, Tom Koch, Colton Stahl, Kellie
Beck and Tessa Wenner

**OTHERS PRESENT
VIA CONFERENCE CALL:** Cori Helms and Todd Syher

OTHERS PRESENT: Steve Hamilton, Bob Babcock, Rob Senn and Mike Isaacs

Chairman Odenbach called the meeting of the South Dakota Aeronautics Commission meeting to order at 1:10 p.m. Roll call was taken and a quorum was determined.

Karla Engle, Office of Legal Counsel provided additional information to the Commission members as a follow-up from the last teleconference meeting to address questions she received from Commission members relating to the new conflict of interest laws.

Chairman Odenbach opened the floor to Commission members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Odenbach turned the meeting over to Vice Chairman Hauge.

Eric Odenbach submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit A**) concerning a land lease entered into between Odenbach, as owner of a hangar, and the city of Eureka, South Dakota. The lease allows Odenbach to maintain his hangar and house his aircraft on the city-owned land. Odenbach will abstain from any discussion and voting in regard to items with the city of Eureka, South Dakota.

A MOTION WAS MADE by Luers and seconded by VanDerhule to approve the waiver request submitted by Odenbach as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call

vote, except Odenbach, who abstained from the Commission discussion and vote. The motion carried.

Vice Chairman Hauge turned the meeting back over to Chair Odenbach.

Arlen Hauge submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit B**) concerning a land lease entered into between Arlen Hauge, as owner of a hangar, and Lincoln County Airport. The lease allows Hauge to maintain his hangar and house his aircraft on the county-owned land. Hauge will abstain from any discussion and voting in regard to items with Lincoln County, South Dakota.

A MOTION WAS MADE by Odenbach and seconded by Luers to approve the waiver request submitted by Hauge as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Hauge, who abstained from the Commission discussion and vote. The motion carried.

Dave Luers submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit C**) concerning a land lease entered into between Luers and Jim Peitz, as co-owners of a hangar, and the city of Pierre, South Dakota. The lease allows Luers and Peitz to maintain their hangar and house their aircraft on the city-owned land. Luers will abstain from any discussion and voting in regard to items with the city of Pierre, South Dakota.

A MOTION WAS MADE by Odenbach and seconded by VanDerhule to approve the waiver request submitted by Luers as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Luers, who abstained from the Commission discussion and vote. The motion carried.

The Commission acknowledged receipt of VanDerhule's annual disclosure of potential conflict of interest form, which will be filed with the required state agencies. The disclosure concerns VanDerhule's lease of a hangar from the City of Yankton. VanDerhule had previously submitted a waiver request concerning this potential conflict of interest, and the waiver request was approved at the August 22, 2017, meeting. A copy of the written annual disclosure form is attached to and incorporated into these minutes as **Exhibit D**.

Chairman Odenbach asked for a motion to approve the minutes of August 22, 2017.

A MOTION WAS MADE by VanDerhule and seconded by Hauge to approve the August 22, 2017, meeting minutes. All present voted aye by roll call vote. The motion carried.

Secretary Bergquist recognized and congratulated Commissioner VanDerhule's on his upcoming retirement from serving on the Commission. This Commission meeting is his last meeting as a Commission member.

Bergquist informed the Commission that the current Federal Aviation Administration (FAA) funding expires on September 30, 2017. Congress has been struggling with legislation for reauthorization of that funding. A bill to extend the funding for an additional six months was filed in the U.S. House of Representatives and failed to pass. It is believed it will be filed again under a different rule with a majority vote, rather than a two thirds vote.

Hauge requested information regarding Senate Bill 1320 (Flight Act). Bergquist will check into that and get back to Hauge.

Jack Dokken, Program Manager for the Office of Air, Rail, and Transit, presented the Commission with the trust fund statement that was requested by the Commission at the previous meeting.

Martin 3-46-0030-013-2017

Airport Master Plan study, airport layout plan, exhibit A and Aeronautical Study.

Federal Share	\$ 285,000.00
State Share	\$ 15,833.33
Local Share	\$ 15,833.34
Total	\$ 316,666.67

The Department recommends approval of state assistance in the amount of \$15,833.33.

Pierre 3-46-0044-038-2017

Passenger boarding bridge procurement and GA taxiway design to include provisions for aeronautical agricultural operations, access road, utility corridors and drainage issues.

Federal Share	\$ 800,000.00
State Share	\$ 44,444.44
Local Share	\$ 44,444.45
Total	\$ 888,888.89

The Department recommends approval of state assistance in the amount of \$44,444.44.

Redfield 3-46-0049-011-2017

Construction of runway 17/35, including bidding, construction administration, engineering, wetland mitigation, easement acquisition, tribal & archeological monitoring, Precision Approach Path Indicator flight check.

Federal Share	\$ 3,528,000.00
State Share	\$ 196,000.00
Local Share	\$ 196,000.00

Total \$ 3,920,000.00

The Department recommends approval of state assistance in the amount of \$196,000.00.

Rosebud 3-46-0082-010-2017

Acquisition of snow removal equipment.

Federal Share	\$ 205,200.00
State Share	\$ 11,400.00
Local Share	\$ 11,400.00
Total	\$ 228,000.00

The Department recommends approval of state assistance in the amount of \$11,400.00.

Sisseton 3-46-0051-013-2017

Design and bidding for runway 16/34 reconstruction (3,400' X 60'), turnarounds, connector taxiway, and lighting upgrades.

Federal Share	\$ 153,000.00
State Share	\$ 8,500.00
Local Share	\$ 8,500.00
Total	\$ 170,000.00

The Department recommends approval of state assistance in the amount of \$8,500.00.

Watertown 3-46-0058-032-2017

Construction of hangar taxilane expansion, including design, bidding, construction admin, engineering.

Federal Share	\$ 805,500.00
State Share	\$ 44,750.00
Local Share	\$ 44,750.00
Total	\$ 895,000.00

The Department recommends approval of state assistance in the amount of \$44,750.00.

A MOTION WAS MADE by VanDerhule and seconded by Luers to approve the following grant applications:

Martin 3-46-0030-013-2017, state assistance in the amount of \$15,833.33.

Redfield 3-46-0049-011-2017, state assistance in the amount of \$196,000.00.

Rosebud 3-46-0082-010-2017, state assistance in the amount of \$11,400.00.

Sisseton 3-46-0051-013-2017, state assistance in the amount of \$8,500.00.
Watertown 3-46-0058-032-2017, state assistance in the amount of \$44,750.00.

All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by VanDerhule and seconded by Hauge to approve the grant application for Pierre 3-46-0044-038-2017 with state assistance in the amount of \$44,444.44. All present voted aye by roll call vote, except Luers, who abstained from the Commission discussion and vote. The motion carried.

Mike Isaacs, Manager of the Pierre Regional Airport, presented the Commission with a request for up to \$40,000.00 from the Pierre Regional Airport fuel tax account to purchase various items to complete the Aircraft Rescue and Fire Fighting (ARFF) building project.

A MOTION WAS MADE by Odenbach and seconded by Hauge to approve the request by the Pierre Regional Airport to use up to \$40,000.00 from the Pierre Regional Airport fuel tax account to purchase various items to complete the ARFF building project. All present voted aye by roll call vote, except Luers, who abstained from the Commission discussion and vote. The motion carried.

The Department presented the Commission with the below informational item.

The FAA Airports District Office has suggested that the State of South Dakota secure a 2018 grant for a state aviation system plan update. It has been about eight years since the completion of the State's current system plan and FAA guidance provides for an update every ten years.

This system plan is used to guide the State through airport projects so work is done systemically, rather than piecemeal. Factors to consider might be storage of large aircraft, turf runways, fuel systems, and weather reporting. The Department will issue a request for proposal this fall, with a consultant being selected sometime in the spring. Commission participation will be crucial at that time.

In 2018, another pavement condition index (PCI) survey will be conducted. PCI surveys are conducted every three years. The last one was completed in 2015. These surveys along with subsurface surveys provide important information regarding the condition and remaining life of airport surfaces. They are normally included in the engineering reports provided to FAA to justify and guide pavement rehabilitation and reconstruction.

No action was taken.

Chairman Odenbach turned the meeting over to Vice Chairman Hauge.

The Department is requesting approval from the Commission to purchase airport marker cones for use at multiple general aviation airports. In 2015, the Department was authorized to purchase 400 new plastic marker cones costing \$37.52 each for a total cost of \$15,008.00. The Department has received a quote from LeTourneau Plastics Inc. for 400 plastic marker cones costing \$35.75 each for a total cost of \$14,300.00.

A MOTION WAS MADE by VanDerhule and seconded by Luers to authorize the Department to secure the purchase of 400 airport marker cones for use at multiple general aviation airports in the amount of \$14,300.00 and for the purchase of a segmented circle. The Department is authorized to distribute airport marker cones and segmented circle out to the airports that are in need and as available. All present voted aye by roll call vote, except Odenbach, who abstained from the Commission discussion and vote. The motion carried.

Vice Chairman Hauge turned the meeting back over to Chairman Odenbach.

With no other business to come before the Commission, the meeting was adjourned at 2:20 p.m.

STATE OF SOUTH DAKOTA
AERONAUTICS COMMISSION

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL 3-23-3

Date: 9-26-17

Name of Board Member or Former Board Member: ERIC ODENSACH

Brief explanation of contract for which a waiver is requested.

- a) Parties to the contract
ERIC ODENSACH AND CITY OF EUREKA
- b) Board Member's role in the contract
HANGER LAND LEASE
- c) Purpose and objective of the contract
LEASE LAND
- d) Consideration or benefit conferred or agreed to be conferred upon each party
\$.10 PER SQUARE FOOT
- e) Duration of the contract
THROUGH 2025

Signature of Requesting Party: [Signature] Date 9-26-17

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Eric Odenbach

Name of Board, Authority or Commission: AERONAUTICS

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

Attach additional pages, if necessary.

2. Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23 - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
LAND LEASE OF AIRPORT PROPERTY UNDER OWNED HANGAR	CITY OF EUREKA ERIC ODENRACH	LEASE UNDER HANGAR	2015

Attach additional pages, if necessary.

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

Attach additional pages, if necessary.

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member: Enlosh Date: 9-26-17

**AERONAUTICS COMMISSION MEETING MINUTES
SEPTEMBER 26, 2017 – 1:00 P.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SOUTH DAKOTA**

Received
12/5/2017
Legislative Audit

COMMISSIONERS PRESENT: Eric Odenbach, Chairman
Arnie Hauge, Vice Chairman
Dave Luers, Member
Skip VanDerhule, Member

DOT STAFF PRESENT: Darin Bergquist, Karla Engle, Bonnie Olson, Jack Dokken,
Jennifer Boehm, Jon Becker, Tom Koch, Colton Stahl, Kellie
Beck and Tessa Wenner

**OTHERS PRESENT
VIA CONFERENCE CALL:** Cori Helms and Todd Syher

OTHERS PRESENT: Steve Hamilton, Bob Babcock, Rob Senn and Mike Isaacs

Chairman Odenbach called the meeting of the South Dakota Aeronautics Commission meeting to order at 1:10 p.m. Roll call was taken and a quorum was determined.

Karla Engle, Office of Legal Counsel provided additional information to the Commission members as a follow-up from the last teleconference meeting to address questions she received from Commission members relating to the new conflict of interest laws.

Chairman Odenbach opened the floor to Commission members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Odenbach turned the meeting over to Vice Chairman Hauge.

Eric Odenbach submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit A**) concerning a land lease entered into between Odenbach, as owner of a hangar, and the city of Eureka, South Dakota. The lease allows Odenbach to maintain his hangar and house his aircraft on the city-owned land. Odenbach will abstain from any discussion and voting in regard to items with the city of Eureka, South Dakota.

A MOTION WAS MADE by Luers and seconded by VanDerhule to approve the waiver request submitted by Odenbach as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call

vote, except Odenbach, who abstained from the Commission discussion and vote. The motion carried.

Vice Chairman Hauge turned the meeting back over to Chair Odenbach.

Arlen Hauge submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit B**) concerning a land lease entered into between Arlen Hauge, as owner of a hangar, and Lincoln County Airport. The lease allows Hauge to maintain his hangar and house his aircraft on the county-owned land. Hauge will abstain from any discussion and voting in regard to items with Lincoln County, South Dakota.

A MOTION WAS MADE by Odenbach and seconded by Luers to approve the waiver request submitted by Hauge as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Hauge, who abstained from the Commission discussion and vote. The motion carried.

Dave Luers submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit C**) concerning a land lease entered into between Luers and Jim Peitz, as co-owners of a hangar, and the city of Pierre, South Dakota. The lease allows Luers and Peitz to maintain their hangar and house their aircraft on the city-owned land. Luers will abstain from any discussion and voting in regard to items with the city of Pierre, South Dakota.

A MOTION WAS MADE by Odenbach and seconded by VanDerhule to approve the waiver request submitted by Luers as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Luers, who abstained from the Commission discussion and vote. The motion carried.

The Commission acknowledged receipt of VanDerhule's annual disclosure of potential conflict of interest form, which will be filed with the required state agencies. The disclosure concerns VanDerhule's lease of a hangar from the City of Yankton. VanDerhule had previously submitted a waiver request concerning this potential conflict of interest, and the waiver request was approved at the August 22, 2017, meeting. A copy of the written annual disclosure form is attached to and incorporated into these minutes as **Exhibit D**.

Chairman Odenbach asked for a motion to approve the minutes of August 22, 2017.

A MOTION WAS MADE by VanDerhule and seconded by Hauge to approve the August 22, 2017, meeting minutes. All present voted aye by roll call vote. The motion carried.

Secretary Bergquist recognized and congratulated Commissioner VanDerhule's on his upcoming retirement from serving on the Commission. This Commission meeting is his last meeting as a Commission member.

Bergquist informed the Commission that the current Federal Aviation Administration (FAA) funding expires on September 30, 2017. Congress has been struggling with legislation for reauthorization of that funding. A bill to extend the funding for an additional six months was filed in the U.S. House of Representatives and failed to pass. It is believed it will be filed again under a different rule with a majority vote, rather than a two thirds vote.

Hauge requested information regarding Senate Bill 1320 (Flight Act). Bergquist will check into that and get back to Hauge.

Jack Dokken, Program Manager for the Office of Air, Rail, and Transit, presented the Commission with the trust fund statement that was requested by the Commission at the previous meeting.

Martin 3-46-0030-013-2017

Airport Master Plan study, airport layout plan, exhibit A and Aeronautical Study.

Federal Share	\$ 285,000.00
State Share	\$ 15,833.33
Local Share	\$ 15,833.34
Total	\$ 316,666.67

The Department recommends approval of state assistance in the amount of \$15,833.33.

Pierre 3-46-0044-038-2017

Passenger boarding bridge procurement and GA taxiway design to include provisions for aeronautical agricultural operations, access road, utility corridors and drainage issues.

Federal Share	\$ 800,000.00
State Share	\$ 44,444.44
Local Share	\$ 44,444.45
Total	\$ 888,888.89

The Department recommends approval of state assistance in the amount of \$44,444.44.

Redfield 3-46-0049-011-2017

Construction of runway 17/35, including bidding, construction administration, engineering, wetland mitigation, easement acquisition, tribal & archeological monitoring, Precision Approach Path Indicator flight check.

Federal Share	\$ 3,528,000.00
State Share	\$ 196,000.00
Local Share	\$ 196,000.00

Total \$ 3,920,000.00

The Department recommends approval of state assistance in the amount of \$196,000.00.

Rosebud 3-46-0082-010-2017

Acquisition of snow removal equipment.

Federal Share	\$ 205,200.00
State Share	\$ 11,400.00
Local Share	\$ 11,400.00
Total	\$ 228,000.00

The Department recommends approval of state assistance in the amount of \$11,400.00.

Sisseton 3-46-0051-013-2017

Design and bidding for runway 16/34 reconstruction (3,400' X 60'), turnarounds, connector taxiway, and lighting upgrades.

Federal Share	\$ 153,000.00
State Share	\$ 8,500.00
Local Share	\$ 8,500.00
Total	\$ 170,000.00

The Department recommends approval of state assistance in the amount of \$8,500.00.

Watertown 3-46-0058-032-2017

Construction of hangar taxilane expansion, including design, bidding, construction admin, engineering.

Federal Share	\$ 805,500.00
State Share	\$ 44,750.00
Local Share	\$ 44,750.00
Total	\$ 895,000.00

The Department recommends approval of state assistance in the amount of \$44,750.00.

A MOTION WAS MADE by VanDerhule and seconded by Luers to approve the following grant applications:

Martin 3-46-0030-013-2017, state assistance in the amount of \$15,833.33.

Redfield 3-46-0049-011-2017, state assistance in the amount of \$196,000.00.

Rosebud 3-46-0082-010-2017, state assistance in the amount of \$11,400.00.

Sisseton 3-46-0051-013-2017, state assistance in the amount of \$8,500.00.
Watertown 3-46-0058-032-2017, state assistance in the amount of \$44,750.00.

All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by VanDerhule and seconded by Hauge to approve the grant application for Pierre 3-46-0044-038-2017 with state assistance in the amount of \$44,444.44. All present voted aye by roll call vote, except Luers, who abstained from the Commission discussion and vote. The motion carried.

Mike Isaacs, Manager of the Pierre Regional Airport, presented the Commission with a request for up to \$40,000.00 from the Pierre Regional Airport fuel tax account to purchase various items to complete the Aircraft Rescue and Fire Fighting (ARFF) building project.

A MOTION WAS MADE by Odenbach and seconded by Hauge to approve the request by the Pierre Regional Airport to use up to \$40,000.00 from the Pierre Regional Airport fuel tax account to purchase various items to complete the ARFF building project. All present voted aye by roll call vote, except Luers, who abstained from the Commission discussion and vote. The motion carried.

The Department presented the Commission with the below informational item.

The FAA Airports District Office has suggested that the State of South Dakota secure a 2018 grant for a state aviation system plan update. It has been about eight years since the completion of the State's current system plan and FAA guidance provides for an update every ten years.

This system plan is used to guide the State through airport projects so work is done systemically, rather than piecemeal. Factors to consider might be storage of large aircraft, turf runways, fuel systems, and weather reporting. The Department will issue a request for proposal this fall, with a consultant being selected sometime in the spring. Commission participation will be crucial at that time.

In 2018, another pavement condition index (PCI) survey will be conducted. PCI surveys are conducted every three years. The last one was completed in 2015. These surveys along with subsurface surveys provide important information regarding the condition and remaining life of airport surfaces. They are normally included in the engineering reports provided to FAA to justify and guide pavement rehabilitation and reconstruction.

No action was taken.

Chairman Odenbach turned the meeting over to Vice Chairman Hauge.

The Department is requesting approval from the Commission to purchase airport marker cones for use at multiple general aviation airports. In 2015, the Department was authorized to purchase 400 new plastic marker cones costing \$37.52 each for a total cost of \$15,008.00. The Department has received a quote from LeTourneau Plastics Inc. for 400 plastic marker cones costing \$35.75 each for a total cost of \$14,300.00.

A MOTION WAS MADE by VanDerhule and seconded by Luers to authorize the Department to secure the purchase of 400 airport marker cones for use at multiple general aviation airports in the amount of \$14,300.00 and for the purchase of a segmented circle. The Department is authorized to distribute airport marker cones and segmented circle out to the airports that are in need and as available. All present voted aye by roll call vote, except Odenbach, who abstained from the Commission discussion and vote. The motion carried.

Vice Chairman Hauge turned the meeting back over to Chairman Odenbach.

With no other business to come before the Commission, the meeting was adjourned at 2:20 p.m.

ANNUAL DISCLOSURE FOR AUTHORITY BOARD COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Vernon C. VanDerhule

Name of Board, Authority or Commission: South Dakota Aeronautics Commission

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission; or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. **Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law** - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable
Annual lease on -1- T-Hangar. The City has -6- T-Hangars for rent. Undersigned, with a partner, rents -1- of them. The Other -5- are rented to parties unrelated to the undersigned. Each tenant pays exactly the same annual rent and each has exactly the same terms.	City of Yankton, Landlord Vernon C. VanDerhule & James G Cox, joint tenants	In partnership with Mr. Cox, we jointly rent a hangar from the City in which we keep our jointly owned aircraft.	2016

Attach additional pages, if necessary.

2. **Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Annual lease on -1- T-Hangar. The City has -6- T-Hangars for rent. Undersigned, with a partner, rents -1- of them. The Other -5- are rented to parties unrelated to the undersigned. Each tenant pays exactly the same annual rent and each has exactly the same terms.	City of Yankton, Landlord Vernon C. VanDerhule & James G Cox, joint tenants	In partnership with Mr. Cox, we jointly rent a hangar from the City in which we keep our jointly owned aircraft. The benefit is that we can keep our aircraft out of the weather, don't have to construct our own hangar, and have a place to store aviation related supplies.	2016 and again on 08/23/2017.

Attach additional pages, if necessary.

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 5-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision
<p>>> None <<</p>		

Attach additional pages, if necessary.

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member:  Date: Aug 24 2011

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (CURRENT MEMBER)

THIS IS A PUBLIC DOCUMENT

A written request for waiver of conflict, dated August 22, 2017, was received from Vernon C. VanDerhule. The request was acted upon by the members of the Aeronautics Commission during a meeting held on August 22, 2017.

(check one)

The request for waiver of conflict was denied for the following reason(s):

The request for waiver of conflict was authorized for the following reason(s):

On August 22, 2017, Commissioner Vernon C. VanDerhule submitted a written request for waiver to the Aeronautics Commission. Commissioner VanDerhule requested a waiver from the Aeronautics Commission relating to Commissioner VanDerhule's lease of hangar space from the City of Yankton at its airport. VanDerhule explained that his lease rate is commensurate with lease rates charged to other members of the public at the City of Yankton Airport.

The Aeronautics Commission determined that the matter underlying the conflict is fair, reasonable, and not contrary to the public interest.

The Aeronautics Commission minutes, which include the written request for waiver as an exhibit, are attached to this Waiver Authorization as **Exhibit A**.

The request for waiver of conflict was authorized subject to the following condition(s):



Signature of Chairperson or Authorized Member

9-26-17

Date

Printed Name of Chairperson or Authorized Member: ERIC ODENTBACH

Date mailed to Auditor-General: 9/29/17

**AERONAUTICS COMMISSION CONFERENCE CALL MEETING MINUTES
AUGUST 22, 2017 – 1:00 P.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SOUTH DAKOTA**

COMMISSIONERS PRESENT

VIA CONFERENCE CALL: Eric Odenbach, Chairman
Arnie Hauge, Vice Chairman
Chris Funk, Member
Dave Luers, Member
Dan Noteboom, Member
Skip VanDerhule, Member

DOT STAFF PRESENT: Joel Jundt, Jack Dokken, Jon Becker, Tom Koch, Jennifer Boehm,
Bonnie Olson, Karla Engle, and Tessa Wenner

OTHERS PRESENT

VIA CONFERENCE CALL: Dustin DeBoer (DOT), Steve Hamilton, and Bob Mercer

Chairman Odenbach called the meeting of the South Dakota Aeronautics Commission meeting to order at 1:00 p.m. Roll call was taken and a quorum was determined.

Karla Engle, Office of Legal Counsel presented information on the new conflict of interest laws relating to boards and commissions.

After Engle's presentation, Chairman Odenbach opened the floor to the Commission members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Skip Vanderhule submitted a written waiver request (attached to and incorporated into these minutes as **Exhibit A**) concerning a hangar lease entered into between Vanderhule and James G. Cox, as co-owners of an aircraft, and the city of Yankton, South Dakota. The lease allows Vanderhule and Cox to house their aircraft in the city-owned hangar. Vanderhule will abstain from any discussion and voting in regard to items with the city of Yankton, South Dakota.

A MOTION WAS MADE by Funk and seconded by Luers to approve the waiver request submitted by Vanderhule as the Commission has determined the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Vanderhule, who abstained from the Commission discussion and vote. The motion carried.

Chairman Odenbach asked for a motion to approve the minutes of June 27, 2017.

A MOTION WAS MADE by Vanderhule and seconded by Funk to approve the June 27, 2017, meeting minutes. All present voted aye by roll call vote. The motion carried.

Joel Jundt, Deputy Secretary of the Department of Transportation (the “Department”), stated that the Federal Aviation Administration (“FAA”) bill is due to expire September 30, 2017, but with Congress being in summer recess, it will be difficult to get a bill passed. It is likely Congress will extend the current legislation. In addition, a fiscal year (“FY”) 2018 Federal Appropriations bill needs to be passed as it also expires September 30, 2017. Commission members posed a question and a request to discuss state financials. Jundt briefly discussed the financial report posted on the Commission’s webpage that was recently updated for FY2017. The Department will add the financials as an agenda item for the next Commission meeting and will provide a proposed financial chart for the Commission’s review and consideration.

Harold Davidson Field, Vermillion AIP #3-46-0056-11-2015 – Design engineering for reconstruction of the apron.

The federal grant amount was increased to reflect final as-built measured quantities for construction. The state share must increase accordingly.

	Federal (90%)	State (5%)
Final project	\$41,596.00	\$2,310.89
Original grant	\$40,000.00	\$2,222.22
<hr/>		
Change	\$1,596.00	\$88.67

The Department recommends approval of a state grant amendment in the amount of \$88.67.

A MOTION WAS MADE by Vanderhule and seconded by Hauge to approve an amendment for the Harold Davidson Field, Vermillion AIP #3-46-0056-11-2015 agreement to increase the state’s share of funding in the amount of \$88.67. All present voted aye by roll call vote. The motion carried.

Aberdeen 3-46-0001-037-2017

Snow Removal Equipment (SRE) acquisition, wildlife hazard assessment, and wildlife hazard management plan.

Federal Share	\$ 1,215,000.00
State Share	\$ 67,500.00
Local Share	\$ 67,500.00
Total	\$ 1,350,000.00

The Department recommends approval of state assistance in the amount of \$67,500.00.

Britton 3-46-0004-012-2017

Design, construction and testing for hangar taxiway expansion.

Federal Share	\$ 463,500.00
State Share	\$ 25,750.00
Local Share	\$ 25,750.00
Total	\$ 515,000.00

The Department recommends approval of state assistance in the amount of \$25,750.00.

Canton 3-46-0007-007-2017

Construct wildlife fence and wetland mitigation.

Federal Share	\$ 402,901.00
State Share	\$ 22,383.00
Local Share	\$ 22,385.00
Total	\$ 447,669.00

The Department recommends approval of state assistance in the amount of \$22,383.00.

Chamberlain 3-46-0071-009-2017

Produce a master plan and airport layout plan, including aviation forecast and exhibit A property map.

Federal Share	\$ 220,590.00
State Share	\$ 12,255.00
Local Share	\$ 12,255.00
Total	\$ 245,100.00

The Department recommends approval of state assistance in the amount of \$12,255.00.

Clark County 3-46-0009-011-2017

Acquire SRE and attachments.

Federal Share	\$ 157,500.00
State Share	\$ 8,750.00
Local Share	\$ 8,750.00
Total	\$ 175,000.00

The Department recommends approval of state assistance in the amount of \$8,750.00.

Custer County 3-46-0011-013-2017

Reconstruct apron including, engineering, administration and testing.

Federal Share	\$ 575,000.00
State Share	\$ 31,944.44
Local Share	\$ 31,944.45
Total	\$ 638,888.89

The Department recommends approval of state assistance in the amount of \$31,944.44.

A MOTION WAS MADE by Hauge and seconded by Funk to approve the following grant applications:

- Aberdeen 3-46-0001-037-2017, state assistance in the amount of \$67,500.00
- Britton 3-46-0004-012-2017, state assistance in the amount of \$25,750.00
- Canton 3-46-0007-007-2017, state assistance in the amount of \$22,383.00
- Chamberlain 3-46-0071-009-2017, state assistance in the amount of \$12,255.00.
- Clark County 3-46-0009-011-2017, state assistance in the amount of \$8,750.00.
- Custer County 3-46-0011-013-2017, state assistance in the amount of \$31,944.44

All present voted aye by roll call vote. The motion carried.

Eagle Butte 3-46-0068-009-2017

Design, bidding, CATEX, class III cultural survey for reconstruction and expansion of apron.

Federal Share	\$ 72,000.00
State Share	\$ 4,000.00
Local Share	\$ 4,000.00
Total	\$ 80,000.00

The Department recommends approval of state assistance in the amount of \$4,000.00.

A MOTION WAS MADE by Funk and seconded by Noteboom to approve state assistance in the amount of \$4,000.00 for Eagle Butte 3-46-0068-009-2017. All present voted aye by roll call vote. The motion carried.

Faulkton 3-46-0016-010-2017

Environmental assessment to include wetland delineation, wildlife hazard site visit and cultural survey.

Federal Share	\$ 112,500.00
State Share	\$ 6,250.00
Local Share	\$ 6,250.00
Total	\$ 125,000.00

The Department recommends approval of state assistance in the amount of \$6,250.00.

Madison 3-46-0029-014-2017

Wetland mitigation consisting of purchasing approximately 29.44 credits via a wetland bank.

Federal Share	\$ 299,700.00
State Share	\$ 16,650.00
Local Share	\$ 16,650.00
Total	\$ 333,000.00

The Department recommends approval of state assistance in the amount of \$16,650.00.

Martin 3-46-0030-012-2017

Construction, engineering and administration for wildlife fence.

Federal Share	\$ 165,000.00
State Share	\$ 9,166.66
Local Share	\$ 9,166.67
Total	\$ 183,333.33

The Department recommends approval of state assistance in the amount of \$9,166.66.

Mitchell 3-46-0037-027-2017

Purchase SRE.

Federal Share	\$ 119,700.00
State Share	\$ 6,650.00
Local Share	\$ 6,650.00
Total	\$ 133,000.00

The Department recommends approval of state assistance in the amount of \$6,650.00.

Mobridge 3-46-0038-011-2017

Design for reconstruction of runway 12/30 and connector taxiway, turnaround expansion, replacement of medium intensity runway lights and precision approach path indicators. new taxiway medium intensity taxiway lights and partial runway safety area, grading, land acquisition, exhibit A update. Reimbursement for 12' SRE blade and pusher box attachments.

Federal Share	\$ 337,509.00
State Share	\$ 18,751.00
Local Share	\$ 18,751.00
Total	\$ 375,011.00

The Department recommends approval of state assistance in the amount of \$18,751.00.

Rapid City 3-46-0048-049-2017

Reconstruction of apron phase 2, SRE sander, design for de-icing apron and containment system.

Federal Share	\$ 1,615,000.00
State Share	\$ 89,722.22
Local Share	\$ 89,722.22
Total	\$ 1,794,444.44

The Department recommends approval of state assistance in the amount of \$89,722.22.

Sioux Falls 3-46-0050-051-2017

Partial reconstruction of runway 3/21, including in-pavement centerline lights; runway 3/21 partial rehab; runway 3/21 partial runway safety area grading; taxiway B1 & B3 reconstruction within 3/21 object free area including edge lights..

Federal Share	\$ 8,227,472.00
State Share	\$ 457,081.00
Local Share	\$ 457,081.00
Total	\$ 9,141,637.00

The Department recommends approval of state assistance in the amount of \$457,081.00.

A MOTION WAS MADE by Vanderhule and seconded by Luers to approve state assistance for the following grant applications:

- Faulkton 3-46-0016-010-2017, state assistance in the amount of \$6,250.00.
- Madison 3-46-0029-014-2017, state assistance in the amount of \$16,650.00
- Martin 3-46-0030-012-2017, state assistance in the amount of \$9,166.66

Mitchell 3-46-0037-027-2017, state assistance in the amount of \$6,650.00
Mobridge 3-46-0038-011-2017, state assistance in the amount of \$18,751.00
Rapid City 3-46-0048-049-2017, state assistance in the amount of \$89,722.22
Sioux Falls 3-46-0050-051-2017, state assistance in the amount of \$457,081.00

All present voted aye by roll call vote. The motion carried.

The following aeronautical study has not been approved by the FAA as of the date of the meeting. Sprint is asking the Aeronautics Commission for conditional approval pending the FAA's issuance of a "Determination of No Hazard to Air Navigation".

Permit #2017-14082, Presho, SD
FAA Aeronautical Study 2017-AGL-14082-OE

Sprint is proposing to construct a 104 ft. steel antenna tower approximately 0.97 miles east of the Presho airport.

The Department is recommending Commission approval.

A MOTION WAS MADE by Vanderhule and seconded by Funk to approve Permit #2017-14082, Presho, SD pending FAA approval. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Vanderhule and seconded by Luers to adjourn.

With no other business to come before the Commission, the meeting was adjourned at 2:45 p.m.

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: 6/28/2017

Name of Board Member or Former Board Member: *Susan Aguilar*

Name of Board, Authority or Commission: *South Dakota Board of Education*

Brief explanation of your potential conflict of interest:

My husband sits on the board of directors of Lutheran Social Services (LSS), which receives grants funds from the South Dakota Department of Education, Division of Child and Adult Nutrition Services, regarding United States Department of Agriculture (USDA) School Nutrition Programs.

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

This grant agreement exists between the SDDOE Division of Child and Adult Nutrition Services and LSS. I have no role in the transaction, as the Board of Education does not approve or administer grant applications and agreements. I do not play any role in administration of the contract.

Brief explanation of the essential terms of the contract or transaction:

The grant agreement and attestations, and grant award notifications, are attached as Exhibits 1 and 2. The agreement covers reimbursement for meals served through the school nutrition programs, specifically school lunch, breakfast, and snack programs. The reimbursement rates are set out in Exhibit 3. The term of the agreement is July 1, 2016, to June 30, 2017. The total yearly funds disbursed is approximated at \$175,000 (2015-2016 total was \$157,693.20)

Brief explanation of why you believe a waiver should be granted:

I played no role in the awarding of this grant, and my household receives no income or benefit as a result of the agreement between LSS and the DOE. I requested the waiver as soon as I became aware of the agreement in order to provide as much disclosure as possible regarding this agreement, despite the term ending on June 30, 2017. In addition, the services provided under the agreement serve the public interest.

Signature of Person Requesting Waiver: _____

Susan Aguilar

STATE OF SOUTH DAKOTA
SOUTH DAKOTA BOARD OF EDUCATION STANDARDS
STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (current member)

A written request for waiver of conflict, dated June 28, 2017, was received from Susan Aguilar, regarding a contract between the Department of Education (Child and Adult Nutrition Services) and Lutheran Social Services for school nutrition services. The request was acted upon by the members of the South Dakota Board of Education Standards during a meeting held on July 17, 2017.

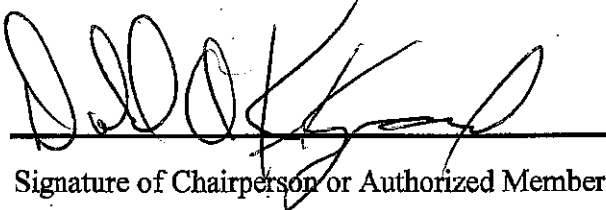
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The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

See attached minutes

The request for waiver was authorized subject to the following conditions:



Signature of Chairperson or Authorized Member

None Pro Tunc 7/17/17
10-30-2017

Date

Date mailed to Auditor-General: 11/14/17

AGREEMENT AND ATTESTATIONS
for United States Department of Agriculture School Nutrition Programs
Administered by the State of South Dakota
Department of Education Child and Adult Nutrition Services

I hereby certify that neither the Local Agency/Sponsor nor its principals or authorized representatives is presently debarred, suspended, proposed for debarment, declared ineligible, disqualified, or voluntarily excluded from participation in this transaction by any Federal/State department or agency.

I certify under penalty of perjury that the information on these application forms is true and correct, and that I will immediately report to the State any changes that occur to the information submitted. I understand that this information is being given in connection with receipt of federal funds and/or USDA Foods. The State may verify information; and the deliberate misrepresentation of information will subject me to prosecution under applicable federal and state criminal statutes.

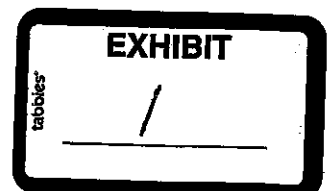
On behalf of the Local Agency/Sponsor, I hereby agree to comply with all state and federal laws and regulations governing the listed USDA Food and Nutrition Service (FNS) Programs below administered by the State. In accordance with Federal law and U.S. Department of Agriculture policy, this Sponsor does not discriminate on the basis of race, color, national origin, sex, age, or disability. I will ensure that all monthly claims for reimbursement are true and correct and that records are available to support these claims.

The program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR Part 50.3 and 42; and FNS directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.

By accepting this assurance, the Program applicant agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Program applicant.

In accordance with South Dakota state law, SDCL 1-56-10, regarding grant agreements, I attest that:

- (1) A conflict of interest policy is enforced within the recipient's or sub-recipient's organization;



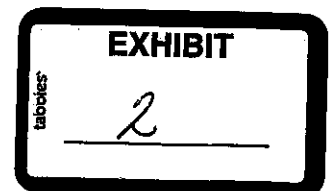
South Dakota Department of Education

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GRANT AWARD NOTIFICATION

<p>Name and Address of Subrecipient: Lutheran Social Services - Sioux Falls 705 E 41st Street Ste. 200</p> <p>Sioux Falls, SD 57105</p> <p>DUNS Number: 42374876</p>	<p>SDDOE Program Contact: Cheriee Watterson / 605-773-2213 / cheriee.watterson@state.sd.us</p> <p>SDDOE Fiscal Contact: Jackie Mattheis / 605-773-3456 / jacquelynn.mattheis@state.sd.us</p>
<p>Project:</p> <p>Current Subaward \$0</p> <p>Reallocation \$0</p>	<p>Grant Period: 7/1/2016 to 9/30/2016</p>
<p>Program Title: School Lunch Program (Breakfast)</p> <p>Catalog of Federal and Domestic Assistance (CFDA): 10.553</p>	
<p>Source: US Department of Agriculture</p> <p align="right">Current Year</p> <p>Federal Award Identification Number (FAIN): 16163SD310N1099</p> <p>Federal Award Date: 01/12/2016</p>	
<p>Terms and Conditions of Award</p> <p>This is the initial Grant Award Notification. The final award will be posted at the closeout of the grant period. The amount of the grant award will be depended upon the number of meals served and reported to the SD DOE.</p> <p>This is not an R and D subaward.</p> <p>Requirements for Federal System for Award Management (SAM) - The sub recipient must maintain the currency of its information in the SAM until the final financial report required is submitted under this award or the final payment is received, whoever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.</p> <p>This grant is subject to the award periods listed above. Obligations for each award must occur within each award's specific grant period.</p> <p>This grant is subject to the timeline and procedures describe in the applications, agreements and policy statements.</p> <p>This grant is subject to provisions of the National School Lunch Act, Child Nutrition Act and their subsequent regulations, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards in 2 CFR 200.</p> <p>If the sub recipient identified in the GAN is a public local education agency the indirect cost rate indicated on the LEA's current indirect cost rate agreement from the SD DOE applies to this award.</p> <p>Requirement for Data Universal Numbering System (DUNS) Numbers - No potential sub recipients may receive a subaward from SD DOE unless the entity has provided its DUNS Number to SD DOE.</p> <p>The sub recipient must make timely corrections to deficiencies in program operations that are identified through audits, monitoring or evaluation.</p>	
<p>SDDOE Approvals:</p> <p><u>Approved by: SKangas on 11/02/2016</u></p>	



South Dakota Department of Education

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GRANT AWARD NOTIFICATION

<p>Name and Address of Subrecipient: Lutheran Social Services - Sioux Falls 705 E 41st Street Ste. 200 Sioux Falls, SD 57105 DUNS Number: 42374876</p>	<p>SDDOE Program Contact: Cheriee Watterson / 605-773-2213 / cheriee.watterson@state.sd.us SDDOE Fiscal Contact Jackie Mattheis / 605-773-3456 / jacquelynn.mattheis@state.sd.us</p>
<p>Project: Current Subaward \$0 Reallocation \$0</p>	<p>Grant Period: 10/1/2016 to 6/30/2017</p>
<p>Program Title: School Lunch Program (Breakfast) Catalog of Federal and Domestic Assistance (CFDA): 10.553</p>	
<p>Source: US Department of Agriculture</p> <p align="right">Current Year</p> <p>Federal Award Identification Number (FAIN): 173SD310N1099 Federal Award Date: 01/04/2017</p>	
<p>Terms and Conditions of Award</p> <p>This is the initial Grant Award Notification. The final award will be posted at the closeout of the grant period. The amount of the grant award will be depended upon the number of meals served and reported to the SD DOE.</p> <p>This is not an R and D subaward.</p> <p>Requirements for Federal System for Award Management (SAM) - The sub recipient must maintain the currency of its information in the SAM until the final financial report required is submitted under this award or the final payment is received, whoever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.</p> <p>This grant is subject to the award periods listed above. Obligations for each award must occur within each award's specific grant period.</p> <p>This grant is subject to the timeline and procedures describe in the applications, agreements and policy statements.</p> <p>This grant is subject to provisions of the National School Lunch Act, Child Nutrition Act and their subsequent regulations, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards in 2 CFR 200.</p> <p>If the sub recipient identified in the GAN is a public local education agency the indirect cost rate indicated on the LEA's current indirect cost rate agreement from the SD DOE applies to this award.</p> <p>Requirement for Data Universal Numbering System (DUNS) Numbers - No potential sub recipients may receive a subaward from SD DOE unless the entity has provided its DUNS Number to SD DOE.</p> <p>The sub recipient must make timely corrections to deficiencies in program operations that are identified through audits, monitoring or evaluation.</p>	
<p>SDDOE Approvals:</p> <p>Approved by: SKangas on 11/02/2016</p>	

South Dakota Department of Education

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GRANT AWARD NOTIFICATION

<p>Name and Address of Subrecipient: Lutheran Social Services - Sioux Falls 705 E 41st Street Ste. 200</p> <p>Sioux Falls, SD 57105</p> <p>DUNS Number: 42374876</p>	<p>SDDOE Program Contact: Cheriee Watterson / 605-773-2213 / cheriee.watterson@state.sd.us</p> <p>SDDOE Fiscal Contact: Jackie Mattheis / 605-773-3456 / jacquelynn.mattheis@state.sd.us</p>
<p>Project:</p> <p>Current Subaward \$0</p> <p>Reallocation \$0</p>	<p>Grant Period: 7/1/2016 to 9/30/2016</p>
<p>Program Title: School Lunch Program (Lunch)</p> <p>Catalog of Federal and Domestic Assistance (CFDA): 10.555</p>	
<p>Source: US Department of Agriculture</p> <p align="right">Current Year</p> <p>Federal Award Identification Number (FAIN): 16163SD310N1099</p> <p>Federal Award Date: 01/12/2016</p>	
<p>Terms and Conditions of Award</p> <p>This is not an R and D subaward.</p> <p>Requirements for Federal System for Award Management (SAM) - The sub recipient must maintain the currency of its information in the SAM until the final financial report required is submitted under this award or the final payment is received, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.</p> <p>This grant is subject to the award periods listed above. Obligations for each award must occur within each award's specific grant period.</p> <p>This grant is subject to the timeline and procedures describe in the applications, agreements and policy statements.</p> <p>This grant is subject to provisions of the National School Lunch Act, Child Nutrition Act and their subsequent regulations, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards in 2 CFR 200.</p> <p>If the sub recipient identified in the GAN is a public local education agency the indirect cost rate indicated on the LEA's current indirect cost rate agreement from the SD DOE applies to this award.</p> <p>Requirement for Data Universal Numbering System (DUNS) Numbers - No potential sub recipients may receive a subaward from SD DOE unless the entity has provided its DUNS Number to SD DOE.</p> <p>The sub recipient must make timely corrections to deficiencies in program operations that are identified through audits, monitoring or evaluation.</p>	
<p>SDDOE Approvals:</p> <p><u>Approved by: SKangas on 11/02/2016</u></p>	

South Dakota Department of Education

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GRANT AWARD NOTIFICATION

<p>Name and Address of Subrecipient: Lutheran Social Services - Sioux Falls 705 E 41st Street Ste. 200 Sioux Falls, SD 57105 DUNS Number: 42374876</p>	<p>SDDOE Program Contact: Cherree Watterson / 605-773-2213 / cherree.watterson@state.sd.us SDDOE Fiscal Contact Jackie Mattheis / 605-773-3456 / jacquelynn.mattheis@state.sd.us</p>
<p>Project: Current Subaward \$0 Reallocation \$0</p>	<p>Grant Period: 10/1/2016 to 6/30/2017</p>
<p>Program Title: School Lunch Program (Lunch) Catalog of Federal and Domestic Assistance (CFDA): 10.555</p>	
<p>Source: US Department of Agriculture <p align="right">Current Year</p>Federal Award Identification Number (FAIN): 173SD310N1099 Federal Award Date: 01/04/2017</p>	
<p>Terms and Conditions of Award This is the initial Grant Award Notification. The final award will be posted at the closeout of the grant period. The amount of the grant award will be depended upon the number of meals served and reported to the SD DOE. This is not an R and D subaward. Requirements for Federal System for Award Management (SAM) - The sub recipient must maintain the currency of its information in the SAM until the final financial report required is submitted under this award or the final payment is received, whoever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term. This grant is subject to the award periods listed above. Obligations for each award must occur within each award's specific grant period. This grant is subject to the timeline and procedures describe in the applications, agreements and policy statements. This grant is subject to provisions of the National School Lunch Act, Child Nutrition Act and their subsequent regulations, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards in 2 CFR 200. If the sub recipient identified in the GAN is a public local education agency the indirect cost rate indicated on the LEA's current indirect cost rate agreement from the SD DOE applies to this award. Requirement for Data Universal Numbering System (DUNS) Numbers - No potential sub recipients may receive a subaward from SD DOE unless the entity has provided its DUNS Number to SD DOE. The sub recipient must make timely corrections to deficiencies in program operations that are identified through audits, monitoring or evaluation.</p>	
<p>SDDOE Approvals: Approved by: SKangas on 11/02/2016</p>	

School Nutrition Programs



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Claims >

Claim Rates for SNP Rate Year: July 1, 2016 to June 30, 2017

Federal Reimbursement Rates

National School Lunch Program

	Section 4		Section 11	
	High	Low	High	Low
Free	0.3200	0.3000	2.8600	2.8600
Reduced	0.3200	0.3000	2.4600	2.4600
Paid	0.3200	0.3000	0.0000	0.0000

School Breakfast Program

	Severe Need	Non-Severe Need
Free	2.0400	1.7100
Reduced	1.7400	1.4100
Paid	0.2900	0.2900

After School Meal Supplements

	Area Eligible	Regular
Free	0.8600	0.8600
Reduced	N/A	0.4300
Paid	N/A	0.0700

Special Milk Program

Paid	0.1075
------	--------

Federal Performance-Based Reimbursement Rates

July	0.0600	November	0.0600	March	0.0500
August	0.0500	December	0.0600	April	0.0600
September	0.0600	January	0.0600	May	0.0600
October	0.0500	February	0.0600	June	0.0600

Created By: PamMcCorm on: 8/2/2016 9:38:31 AM Modified By: jackie.mitchell on: 8/4/2016 2:47:09 PM

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REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: 6/28/2017

Name of Board Member or Former Board Member: *Susan Aguilar*

Name of Board, Authority or Commission: *South Dakota Board of Education*

Brief explanation of your potential conflict of interest:

My husband sits on the board of directors of Lutheran Social Services (LSS), which receives grants funds from the South Dakota Department of Education, Division of Child and Adult Nutrition Services, regarding the Child and Adult Care Food Program (CACFP).

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

This grant agreement exists between the SDDOE Division of Child and Adult Nutrition Services and LSS. I have no role in the transaction, as the Board of Education does not approve or administer grant applications and agreements. I do not play any role in administration of the contract.

Brief explanation of the essential terms of the contract or transaction:

The grant certification and original assurances are attached as Exhibits 1 and 2. The agreement covers reimbursement for meals served through the CACFP program, specifically lunch, breakfast, and snack programs in child day care centers, family and group day care homes, and adult day care centers via LSS. The reimbursement rates are set out in Exhibit 2. The term of the agreement is October 1, 2016, to September 30, 2017.

Brief explanation of why you believe a waiver should be granted:

I played no role in the awarding of this grant, and my household receives no income or benefit as a result of the agreement between LSS and the DOE. I requested the waiver as soon as I became aware of the agreement in order to provide as much disclosure as possible regarding this contract. In addition, the services provided under the agreement serve the public interest.

Signature of Person Requesting Waiver: *Susan Aguilar*

STATE OF SOUTH DAKOTA
SOUTH DAKOTA BOARD OF EDUCATION STANDARDS
STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (current member)

A written request for waiver of conflict, dated June 28, 2017, was received from Susan Aguilar regarding a contract between the Department of Education (Child and Adult Nutrition Services) and Lutheran Social Services for child and adult care food program services. The request was acted upon by the members of the South Dakota Board of Education Standards during a meeting held on July 17, 2017.

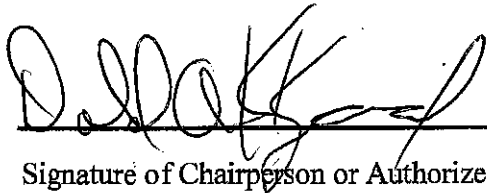
(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

See attached minutes

The request for waiver was authorized subject to the following conditions:



Signature of Chairperson or Authorized Member

*Nunc Pro Tunc 7/17/17
10-31-2017*

Date

Date mailed to Auditor-General: 11/14/17

Child and Adult Care Food Program Annual Information Certification

Directions: Insert the name of your local agency on the blank lines. Review the certification statements that are listed for your type of facility (independent center or sponsoring organization). Have the Authorized Representative, CEO, Owner, Board President, Superintendent, or Tribal Chair complete the information at the bottom of the page. Return this page with an original signature.

This is to certify that LSS of SD meets all of the requirements for renewing institutions contained in 7 CFR 226.6(b)(2). This agency certifies that:

For All Agencies (independent centers and sponsoring organizations):

- The names, mailing addresses, and dates of birth of all current institution principals have been reviewed and updated within the ICAN application;
- The agency itself, and the responsible principals and individuals (as listed in the ICAN application), are not currently on the CACFP National Disqualified List;
- The agency itself, and the responsible principals and individuals (as listed in the ICAN application), have not been determined ineligible for any other publicly funded program due to violation of that program's requirements in the past seven years;
- No responsible principals or individuals of the local agency have been convicted of any activity that occurred during the past seven years that would indicate a lack of business integrity; and
- The agency is currently compliant with the required performance standards of financial viability, financial management, administrative capability, and program accountability as described in 7 CFR 226.6(b)(2)(vii).
- The management plan (and all attachments to that plan) submitted in 2014-2015 (or the first year of CACFP operations if started after 2014-2015) is complete and up to date;
- The site application(s) has (have) been reviewed and revised, as needed to reflect current operations at the site(s).

For Sponsoring Organizations Only:

- No sponsored facility or principals of a sponsored facility is currently on the CACFP National Disqualified List; and
- The outside employment policy most recently submitted to the State agency remains current and in effect.

Any of the above information that has changed since the permanent application was submitted has already been submitted to the State agency or is being submitted with this certification. I certify that the above information is true and correct.

Rebecca Kesow Knudsen

Printed Name and Title (of Authorized Representative, CEO, Owner, Board President, Superintendent, Tribal Chair, or individual with a comparable title)

[Signature]

Signature of Individual Listed Above

10/19/16

Date



Claim Rates for CACFP

Federal Reimbursement Operating Rates - July 1, 2016 to June 30, 2017

Breakfast	
	<u>Maximum Reimbursement</u>
Free	1.7100
Reduced	1.4100
Paid	0.2900

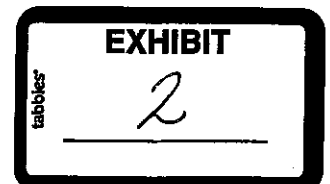
Lunch	
	<u>Maximum Reimbursement</u>
Free	3.1600
Reduced	2.7600
Paid	0.3000
CIL	0.2300

Supper	
	<u>Maximum Reimbursement</u>
Free	3.1600
Reduced	2.7600
Paid	0.3000
CIL	0.2300

Snack	
	<u>Maximum Reimbursement</u>
Free	0.8600
Reduced	0.4300
Paid	0.0700

At Risk Snack	
	<u>Maximum Reimbursement</u>
Free	0.8600

At Risk Supper	
	<u>Maximum Reimbursement</u>
Free	3.1600



REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: 6/28/2017

Name of Board Member or Former Board Member: *Susan Aguilar*

Name of Board, Authority or Commission: *South Dakota Board of Education*

Brief explanation of your potential conflict of interest:

My husband sits on the board of directors of Lutheran Social Services (LSS), which receives grants funds from the South Dakota Department of Education, regarding 21st Century Community Learning Centers.

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

This grant agreement exists between the SDDOE and LSS. I have no role in the transaction, as the Board of Education does not approve or administer grant applications and agreements. I do not play any role in administration of the contract.

Brief explanation of the essential terms of the contract or transaction:

The grant award notification and grant assurances are attached as Exhibits 1 and 2. The primary purpose of the grant is to provide after-school services for English language learners. The agreement is a multi-year agreement that has been in existence since 2012, but a yearly continuation award is issued and LSS signed renewed assurances during this grant award period. Out of an abundance of caution, I am requesting a waiver for this grant agreement because a continuation award was issued after July 1, 2016.

Brief explanation of why you believe a waiver should be granted:

I played no role in the awarding of this grant, and my household receives no income or benefit as a result of the agreement between LSS and the DOE. I requested the waiver as soon as I became aware of the agreement in order to provide as much disclosure as possible regarding this contract, despite the contract term ending on June 30, 2017. In addition, the services provided under the agreement serve the public interest.

Signature of Person Requesting Waiver: *Susan Aguilar*

STATE OF SOUTH DAKOTA
SOUTH DAKOTA BOARD OF EDUCATION STANDARDS
STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (current member)

A written request for waiver of conflict, dated June 28, 2017, was received from Susan Aguilar regarding a contract between the Department of Education and Lutheran Social Services for 21st Century Community Learning Centers grant funding. The request was acted upon by the members of the South Dakota Board of Education Standards during a meeting held on July 17, 2017.

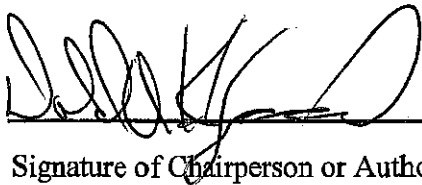
(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

See attached minutes

The request for waiver was authorized subject to the following conditions:



Signature of Chairperson or Authorized Member

Nunc Pro Tunc 7/17/17
10-31-2017

Date

Date mailed to Auditor-General: 11/14/17

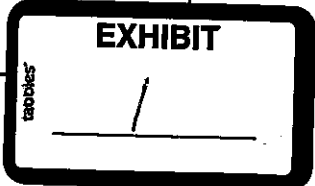
South Dakota Department of Education

800 Governors Drive
Pierre, SD 57501-2294

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GRANT AWARD NOTIFICATION

<p>Name and Address of Subrecipient: Lutheran Social Services - Sioux Falls 80-021 705 E 41st Street Ste. 200 Sioux Falls, SD 57105 DUNS Number: 042374876</p>	<p>SDDOE Program Contact: Sue Burgard / (605) 773-6400 / Sue.Burgard@state.sd.us SDDOE Fiscal Contact Mark Gageby / (605) 773-3248 / Mark.Gageby@state.sd.us</p>
<p>Project: A0 - Lutheran Social Services of South Dakota Current Subaward \$150,000 Reallocation \$0</p>	<p>Amendment 1 approved on 02/22/2017 Grant Period: 07/01/2016 to 06/30/2017</p>
<p>Program Title: 21st Century Community Learning Centers Catalog of Federal and Domestic Assistance (CFDA): 84.287C</p>	
<p>Source: US Department of Education</p> <p align="right">Current Year</p> <p>Federal Award Identification Number (FAIN): S287C160042 Federal Award Date: 07/01/2016</p>	
<p>Terms and Conditions of Award</p> <p>This grant is made subject to the provisions of all applicable acts and regulations. This grant is subject to the provisions of Title IX of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001, the General Education Provisions Act (GEPA) and the Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 76, 77, and 82, 2 CFR 3485, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200 and 3474.</p> <p>The subrecipient must permit the SD DOE and auditors to have access to the subrecipient's records and financial statements as necessary for the SD DOE to meet the requirements of 2 CFR Part 200.</p> <p>The subrecipient must make timely corrections to deficiencies in program operations that are identified through audits, monitoring or evaluation.</p> <p>The subrecipient is required to submit periodic performance reports as requested by the SD DOE. The subrecipient is required to submit a final financial status report to the SD DOE within 90 days from the end of the grant period.</p> <p>The subrecipient may submit a written request to carryover no more than 25 percent of this subaward for use in the next award period. The carryover request must be submitted to the SD DOE within 90 days from the end of the grant period and carryover will only be allowed if the request is approved by the SD DOE. Funds may not be carried forward beyond the 5 year project period.</p> <p>If the subrecipient identified in the GAN is a public local education agency and the SD DOE approves its negotiated restricted indirect cost rate, the rate is indicated in the SD DOE's Grants Management System (GMS). For other subrecipients the restricted indirect cost rate agreement approved by a federally recognized cognizant agency applies. Subrecipients without a current approved indirect cost rate agreement from a federally recognized cognizant agency cannot claim indirect costs.</p> <p>Requirement for Federal System for Award Management (SAM) - The subrecipient must maintain the currency of its information in the SAM until the final financial report required is submitted under this award or the final payment is received, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.</p> <p>Requirement for Data Universal Numbering System (DUNS) Numbers - No potential subrecipients may receive a subaward from SD DOE unless the entity has provided its DUNS number to SD DOE. This is not an R and D subaward.</p>	
<p>SDDOE Approvals:</p> <p>Approved by: Rob Huffman on 02/22/2017 Administrator, Office of Grants Management</p>	



Common Assurances for Federal Programs

Instructions

- By checking this box and saving the page, the applicant hereby certifies that he/she has read, understood and will comply with the attestations and assurances listed below, as applicable to the program(s) for which funding is requested.

Each legal entity, district, cooperative, or agency MUST agree to all of the attestation and assurance statements listed below prior to being able to submit their application for funds to the South Dakota Department of Education (SDDOE).

In accordance with South Dakota state law regarding grant agreements, I attest that:

1. A conflict of interest policy is enforced within the recipient's or sub-recipient's organization;
2. The Internal Revenue Service Form 990 has been filed, if applicable, in compliance with federal law, and is displayed immediately after filing on the recipient's or sub-recipient's website;
3. An effective internal control system is employed by the recipient's or sub-recipient's organization; and
4. If applicable, the recipient or sub-recipient is in compliance with the federal Single Audit Act, in compliance with 4-11-2.1, and audits are displayed on the recipient's or sub-recipient's website.

Completion of this form is not an application for funds and does not obligate the applicant or SDE for the programs. This page consolidates the common assurances required by federal law that apply to the federal programs listed below. Additional specific program assurances may be included in the application or program plan for that individual program.

General Assurances

The local education agency (LEA) hereby assures the South Dakota Department of Education that:

1. Each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications, including the conditions of any waiver granted by the United States Department of Education pursuant to 20 U.S.C. 7861.
2. The control of funds provided under each program and title to property acquired with program funds will be in a public agency or in a nonprofit, private agency, institution, or organization, or Indian tribe, if the law authorizing the program provides for assistance to those entities.
3. The public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer the funds and property to the extent required by the authorizing statutes.
4. The applicant will adopt and use proper methods of administering each such program, including - the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation.
5. The applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary, or other Federal officials.
6. The applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under each such program.
7. The applicant will - submit such reports to the State educational agency (which shall make the reports available to the Governor) and the Secretary as the State educational agency and Secretary may require to enable the State educational agency and the Secretary to perform their duties under each such program; and maintain such records, provide such information, and afford such access to the records as the State educational agency (after consultation with the Governor) or the Secretary may reasonably require to carry out the state educational agency's or the Secretary's duties.
8. Before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and considered such comment.
9. Funds will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of federal funds, be made available, and in no case supplant, such State, local, and other non-Federal funds.
10. Equitable participation of non-public schools (if any) will be provided. The applicant will consult with officials of non-public schools in a meaningful and timely manner, provide non-public participants genuine access to equitable services and equal expenditure of funds.

Pro-Children Act of 1994 Assurance

I hereby acknowledge that the LEA of which I am the authorized representative, has adopted the provisions of the Pro-Children Act of 1994. The Pro-Children Act requires that smoking not be permitted in any indoor facility used routinely or regularly for the provision of children's services to persons under age 18, if the services are funded by specified Federal programs either directly or through State or local governments.

Gun Free Schools Act Assurance

I hereby acknowledge that the LEA, of which I am the authorized representative, has adopted a Gun Free Policy that is in compliance with SDCL 13-32-4.



Child Internet Protection Act

I hereby certify that the LEA will comply with the Child Internet Protection Act.

Constitutionally Protected Prayer in Public Schools Certification

I hereby certify that the LEA, of which I am the authorized representative, has no policy that prevents, or otherwise denies participation in, constitutionally protected prayer in its public elementary and secondary schools.
As a condition of receiving funds under terms of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by Section 9524 of the No Child Left Behind Act of 2001, this certification is required by October 1st of each year. The South Dakota Department of Education in its role as the official public education state agency in South Dakota will annually send to the U.S. Secretary of Education a list of those LEAs in South Dakota that have not submitted the required certification or against which complaints have been made that the LEA is not in compliance with this provision.

LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 -

- A. The applicant certifies that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) (b) of this certification; and
 - (d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause and default; and
- B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

DRUG-FREE WORKPLACE

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

- A. The applicant certifies that it will or will continue to provide a drug-free workplace by:
 - (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an on-going drug-free awareness program to inform employees about:
 - (i) The dangers of drug abuse in the workplace;
 - (ii) The grantee's policy of maintaining a drug-free workplace;
 - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - (i) Abide by the terms of the statement; and

- (ii) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W., (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 - (i) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (ii) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
 - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

ASSURANCES – NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for

- research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
 17. Will cause to be performed the required financial and compliance audits in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Chapter I, and Chapter II, Parts 200, 215, 220, 225, and 230; Section 200.501.
 18. Will comply with all applicable requirements of all other Federal laws, regulations and policies governing this program.

Common Assurances agreed to on: 11/22/2016

These assurances have been agreed to by: Jenn Tanno

21st CCLC Continuation Assurances

Instructions

By checking this box, the applicant hereby certifies that he or she has read, understood and will comply with the assurances listed below, as applicable to the program(s) for which funding is requested. These assurances are binding for Districts/Fiscal Agents that are accepting funding under this program.

General ASSURANCES for 21st Century Community Learning Centers Proposal

Contractors are required to submit assurances, applicable to each of the 21st Century Community Learning Center programs included in the proposal, assuring:

1. The applicant will assure that the program will primarily target students who attend schools eligible for schoolwide programs under section 1114 and the families of such students;
2. The applicant will transport students only in vehicles that meet applicable safety standards;
3. The applicant will develop the program and will actively collaborate with the schools the students attend;
4. The applicant will after the submission, provide for public availability and review of the application and any waiver request.
5. That the contractor will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, funds paid to the proposer under the 21st Century Community Learning Centers program.
6. The applicant will conduct the program in a safe and easily accessible facility that complies with all health, fire and safety requirements; facilities other than an elementary, middle, or secondary school must be at least as available and accessible to the participants as if the program were located in an elementary or secondary school;
7. Applicant will coordinate and collaborate, to the extent feasible and necessary as determined by the applicant, with other agencies providing services to children, youth, and families, including health and social services.

The assurances were fully agreed to on this date: 11/22/2016

These assurances have been agreed to by: Jenn Tanno

SOUTH DAKOTA BOARD OF EDUCATION STANDARDS

Date: Monday, July 17, 2017—8:00 a.m. Central Time

Location: Matthews Training Center, Foss Building
523 E. Capitol Avenue, Pierre, SD 57501

Received
11/14/2017
Legislative Audit

Public Telephone Access:
1-866-410-8397/conference code: 8381998525

For live streaming of meeting: <http://www.sd.net/remote1/>

Present: Sue Aguilar, Vice President
Glenna Foubert, Member
Scott Herman, Member (joined meeting at approximately 8:12 a.m. CT)
Donald Kirkegaard, President
Kay Schallenkamp, Member
Gopal Vyas, Member
Lori Wagner, Member

DOE staff

in attendance: Mary Stadick Smith, Becky Nelson, Abby Javurek, Laura Scheibe, Dorothy Aguilar Black-Bear, Andrea Diehm, Sandra Kangas, Ferne Haddock, and Holly Farris.

Others in

attendance: Dr. Kelly Duncan (former Board member), Bob Mercer (media), Jeff Danielson (Watertown School District), Brian Fields (Beresford School District), Joel Jorgenson (Madison School District), Bob Sittig (Baltic School District), Brian Huepel (Leola School District), Tim Graf (Milbank School District), Mark Naugle (Custer School District), Gary Leighton (Florence School District), Terry Nebelsick (Huron School District), Summer Schultz (Dell Rapids School District), Rob Monson (School Administrators of South Dakota), and other members of the public present in person or via telephone.

Call to Order, Pledge of Allegiance, and Roll Call:

President Kirkegaard called the meeting to order at approximately 8:02 a.m. Central Time.

Adoption of Agenda:

Motion by Aguilar, second by Schallenkamp, to adopt the July 17, 2017, proposed agenda. Voice vote, all present voted in favor. Motion carried.

Approval of Minutes:

Motion by Vyas, second by Wagner, to approve the May 15, 2017, minutes as proposed. Voice vote, all present voted in favor. Motion carried.

Election of Officers:

Fouberg nominated Aguilar to fill the remaining term of the office of vice-president, vacated due to the resignation of Deb Shephard from the Board.

Motion by Fouberg, second by Vyas, to cease nominations and cast a unanimous ballot for Aguilar. Voice vote, all present voted in favor. Motion carried.

Conflicts disclosures (SDCL 3-23-3):

Susan Aguilar requested waivers on two contracts between the Department of Education Child and Adult Nutrition Services division and Lutheran Social Services (LSS). Aguilar's spouse serves on the board of LSS. These contracts were entered into prior to the amendments to the conflict disclosure laws taking effect on July 1, 2017, and so Aguilar is requesting a waiver under the prior provisions of the law in the interest of full disclosure. Aguilar requested the waivers as soon as she became aware of the contracts. The contracts are to provide meals through the school nutrition and child and adult care food programs, which are funded on a reimbursement basis. Aguilar stated that she played no role in the contracts being awarded to LSS and her household receives no income as a result of LSS having the contracts.

Motion by Vyas, second by Schallenkamp, to approve the waiver requests as presented. Voice vote, all present voted in favor (Aguilar and Herman abstained). Motion carried.

Dr. Kelly Duncan, former board member, requested a waiver for her employment contract with the South Dakota Board of Regents to be employed as the dean of the School of Education at Northern State University. The contract was effective prior to July 1, 2017, and so Duncan is requesting a waiver according to the provisions of the law in effect at that time. Duncan previously received a waiver for her employment contract with NSU in 2016.

Motion by Fouberg, second by Aguilar, to approve the waiver request as presented. Voice vote, all present voted in favor. Motion carried.

President Kirkegaard turned the gavel over to Vice President Aguilar at approximately 8:16 a.m. CT.

Holly Farris, board counsel, provided a summary of House Bill 1170 and the associated updates to the conflict of interest disclosure laws affecting state board members.

Kirkegaard requested a waiver for his employment contract with Meade School District, for which he serves as superintendent. Kirkegaard is a direct party to the contract with Meade

School District, and received a waiver for his employment contract in 2016 as well. (A copy of the waiver request is attached to the minutes as Attachment A.)

Motion by Fouberg, second by Vyas, to approve the waiver request as presented. Voice vote, all present voted in favor (Kirkegaard abstained). Motion carried.

Vice President Aguilar returned the gavel to Kirkegaard at approximately 8:22 a.m. CT.

Each current board member submitted an annual disclosure form regarding conflicts of interest. (Copies of the disclosure forms are attached to the minutes as Attachments B-H.) Board members Aguilar, Fouberg, Schallenkamp, and Vyas had no disclosures on their annual forms.

President Kirkegaard disclosed grant agreements between his employer, Meade School District, and the South Dakota Department of Education (DOE) for Title, IDEA, Perkins, and school food service program funds, which are needs-based programs.

Lori Wagner disclosed a contract between her employer, the NSU E-Learning Center, and the DOE for the E-Learning Center to offer college readiness courses.

Scott Herman disclosed a grant agreement between his employer, the Rosebud Sioux Tribe, and the DOE for summer food service program funds.

Secretary's Report:

Mary Stadick Smith, deputy Secretary of Education, presented the Secretary's report. Stadick Smith provided updates on the Department's Every Student Succeeds Act (ESSA) state plan progress and comment period, Governor Daugaard's focus on strengthening career pathways in the K-12 education system, the recent state Special Education programs federal review, and state dyslexia workgroup progress on a five-year plan and updates to the dyslexia handbook.

Public Hearing—Administrative Rules (24:58 Principal Performance Standards and Evaluations)

Article 24:58 (Principal Performance Standards and Evaluations)

Proponent Testimony:

Becky Nelson, DOE director of learning and instruction, testified in support of the proposed rules. Nelson stated that the proposed changes were formulated by gathering feedback from a variety of stakeholders, including the Every Student Succeeds Act (ESSA) educator effectiveness workgroup and the Commission on Teaching and Learning. The Department also sent out a statewide survey to school administrators on the rules for teacher and principal evaluations to gather information. A hearing on these rules was originally scheduled in May, but the

Department determined additional time was necessary to gather information and draft the rules due to comments received from superintendents in the field. The additional information gathered consisted of a webinar held in June and a number of administrators participated. The proposed rules incorporate many, but not all, suggestions made during the webinar.

Nelson stated that the proposed rules change the definitions of assistant principal and principal to align to the recently passed educator certification rules. The proposed changes also incorporate suggestions that assistant principals need not be evaluated on all six domains within the principal standards, but evaluators can choose four of the six domains. This increases flexibility for school districts.

The current rules set out two performance measures: performance and school growth. The proposed changes to the rules would allow principals to set a specific goal aligned to the school improvement plan and could be used as an additional measure of performance. The proposed rules provide more flexibility for goal-setting between the superintendent and the principal. The proposed changes also allow schools to create a summative rating or do separate ratings for school growth and professional practices ratings, which provides additional flexibility. Because the proposed rules add flexibility for schools to formulate individual goals regarding student growth ratings, there is no longer a need for the alternative student growth model. Therefore, that rule would be repealed.

The proposed changes also eliminate the need for a plan of assistance for principals. Further, language was added to clarify that the authority of a school or district to dismiss or non-renew is not superseded by the evaluation requirements in the rules.

In response to Board questions, Nelson stated that feedback indicated superintendents wanted less requirements to evaluate on all domains for assistant principals, as responsibilities for those positions were not the same as principals. The rules reflect adjustments for the roles of assistant principals.

Nelson stated that one public comment was received regarding these rules, from Jennifer Lowery, superintendent of the Tea School District. The comment raises concerns about principals unintentionally being given tenure because of the proposed requirements in the rules. Lowery recommended that two rules could be cut, primarily from the definitions section of the rules. Nelson responded to the comment by stating that the Department addressed the concerns about principal tenure by adding language clarifying that the chapter on principal evaluation was not to supersede district authority to non-renew or dismiss a principal. Nelson also stated that the Department wanted to be very clear that the rules require a principal evaluation model aligned with the principal standards, which are not being changed in the proposed rules. Further, the proposed rules do not require a certain evaluation tool be used, only that the evaluation tool used by a school district must align to the principal performance standards.

In response to Board questions, Nelson stated that over half of superintendents that received the survey responded and close to one-third of principals responded. Nelson also stated that very few schools currently have waivers pertaining to principal evaluations, perhaps less than a dozen. Nelson clarified that, currently, waivers may be obtained for utilizing different standards or growth goals (two separate waivers). Under the proposed rules, waivers for different growth goals would no longer be required, only waivers to evaluate on different principal standards. The student growth waiver would no longer be required because the proposed rules provide schools the flexibility to set whatever goal the district deems necessary.

Nelson also stated that the proposed rules do not mandate a current form or tool, districts need to make sure the principals standards are used on whichever form is used. If a district wanted to use standards different than those already in rule, the district could apply for a waiver. The Department would then evaluate whether or not the standards were acceptable and make a determination on the waiver. Nelson stated that rules are still necessary, despite the fact that districts may still seek a waiver. The priority is to have all districts evaluate principals using the same standards. South Dakota created its own principal standards by modifying certain national standards to fit state needs. But the Department recognizes that some organizations have different standards that a district may feel better suit its needs.

Opponent testimony:

Jeff Danielson, superintendent of the Watertown School District and president-elect of the South Dakota Superintendent's Association (SDSA), testified in opposition to the proposed rules. Danielson stated that the SDSA executive board met in April and its position has remained the same to date. The SASD executive board's position on the proposed rules is that the principal effectiveness model should be a recommended model, not a required model. Districts would still comply with completing evaluations on the proposed timeline, but many superintendents feel that school districts need the ability to evaluate principals without lengthy paperwork which increases the workload on building principals also responsible for teacher evaluations. Danielson stated that principals need latitude to complete teacher evaluations without also being burdened by compliance with principal effectiveness requirements.

Superintendents are concerned that the rules may give principals a level of tenure because they could argue that the principal is not serving at the will of the board, but could defend their jobs by accusing superintendents of not following all the protocol demanded by the proposed principal effectiveness model. Danielson also stated that ESSA's intent was to provide more flexibility and this just rolls over the old model and all its requirements.

Bob Sittig, superintendent of the Baltic School District, testified in opposition to the proposed rules. Sittig stated that recent conversations with South Dakota's congressional delegation indicated that the intent of ESSA was to return control to states at a local level so decisions can be made closest to the students. Sittig stated that the proposed principal effectiveness model is in opposition to that intent. Sittig said that while schools can request waivers, they should not have to.

SOUTH DAKOTA BOARD OF EDUCATION STANDARDS

In response to Board questions, Tim Graf, superintendent at Milbank School District, stated that schools are agreeable with the requirement to complete evaluations, but superintendents feel that districts need the flexibility to change the recommended model as needed. It should be recommended, not required. Terry Nebelsick, superintendent at Huron School District, further stated that the validation of the effectiveness evaluations can be shown during the school accreditation process.

Board discussion focused on how the proposed rules may be modified to provide more flexibility, as sought by the superintendents who testified in opposition. Nelson explained that eliminating the alternative evaluation application would remove flexibility from the rules, as the rules would then require that all school districts would have to use the principal standards in rule and there would be no option for schools to use different standards that the district has formulated. Nelson stated that to add flexibility, the Board could consider removing the requirements to assign professional practice ratings or school growth ratings. The rules would then provide that school districts would be required to complete an evaluation based on the principal standards, but would have flexibility to do the evaluation in individualized formats and assign ratings if the school district felt it necessary. Some Board members raised concerns with whether a focus on only flexibility for school districts would remove consistency in requirements to ensure effective and formative evaluations.

Nelson stated that the current rules would require evaluations yearly for the first four years for principals, and then every other year. Those rules are not being amended. Nelson restated that waivers allow the principal evaluations to be completed using a different set of standards that the Department approves. Receiving a waiver does not eliminate the requirement to complete an evaluation.

Nelson also discussed that school growth ratings in the past were goals based on the school performance index as well as a percentage of teachers with goals on student learning objectives. The proposed rules would allow schools to individually define a goal for school growth and evaluate principals on whether or not that goal was met. An example of this is student achievement on a benchmark assessment. Here, the term growth essentially means improvement.

Nelson requested a recess to formulate some amendments to the proposed rules.

President Kirkegaard declared a recess of the rules hearing at 9:42 a.m. Central Time.

President Kirkegaard declared the rules hearing back in session at 10:35 a.m. Central Time.

Nelson presented language to amend the proposed rules as requested by the Board. Nelson stated that the amendments reflect the superintendents' request for more flexibility and are significantly based on the specific suggestions made by Tea School District Superintendent Lowery in her public comment. The amendments increase flexibility by requiring schools to

evaluate principals but removing requirements to make specific ratings or school growth goals. The reason for eliminating these areas is to eliminate the additional paperwork and documentation that the superintendents found burdensome. The schools will have the option to set and implement goals, but goal-setting and assessment on those goals will no longer be mandated. The districts would be required to evaluate principals based on the standards for principals already in rule.

Nelson reviewed the individual changes proposed as amendments. The professional practice rating and school growth rating definitions were eliminated and the rules renumbered. Language was added stating that the minimal evaluation requirements will be based on the principal framework of the existing principal standards consisting of the six existing domains. The professional practice rating and school growth rating requirements were removed. The remainder of the rules was not changed.

In response to board questions, Nelson stated that the rules do not require a specific evaluation tool, so schools may use whatever is adequate for their local purposes without needing a waiver. The requirement to seek a waiver for evaluating principals on different standards than those in rule will still be necessary. The Department will continue to review these waivers and determine if a school district's proposed alternative principal standards comply with basic professional standards.

Motion by Aguilar, second by Vyas, to amend the rules as proposed with Nelson's suggested edits. Voice vote, all present voted in favor. Motion carried.

Motion by Fouberg, second by Schallenkamp, to approve the rules as amended. Voice vote, all present voted in favor. Motion carried.

The rules hearing closed at approx. 10:46 a.m. Central Time.

First Reading—Administrative Rules (Article 24:55 Public School Accountability):

Laura Scheibe, DOE division of accountability systems, presented the first reading of administrative rule changes to Article 24:55. Scheibe stated that the proposed rules will put in place a large part of what the state ESSA plan lays out for the first year of plan implementation, and then other changes will be incorporated as other indicators are developed.

Scheibe stated that the proposed rule changes can be broadly grouped into three components: indicators, school improvement and support, and goals and annual measures. Many of the proposed changes are a clean-up of the existing rules, where old requirements from the NCLB flexibility waiver are deleted as they are not part of the new system.

Scheibe described the proposed changes regarding accountability indicators. The student achievement indicator includes proposed changes on how points are assigned. Points will now be awarded on a spectrum that rewards student growth and progress, rather than solely

measuring whether a student is proficient or not proficient. The proposed changes to the student attendance indicator adjust the measure of student attendance from 94 percent to 90 percent. This reflects requirements at the federal level to report chronic absenteeism. The federal level also uses a 90 percent measure. State alignment with federal requirements will simplify reporting requirements.

Scheibe discussed the college and career readiness and school performance index indicators. The separate readiness divisions for math, reading, and English language arts will be removed. Multiple options to show readiness for college, careers, and future work will be created, such as utilizing the national career readiness certificate (NCRC), dual credit coursework, and career and technical education concentrator status. Additional options will be built into the rules as ESSA implementation progresses.

English language proficiency is a new indicator addressed in the proposed rules, which is required by ESSA. The indicator measures progress of students whose first language is not English being prepared for academic work and how long it takes such students to meet certain standards for academic participation. Similar to student achievement, points in this area will be awarded on a continuum. Abby Javurek discussed the process to develop this indicator in South Dakota, which involved national experts examining South Dakota data and South Dakota educators who work with the English learner population.

The high school completion indicator as measured will remain unchanged, but the indicator is broken out into two components to satisfy federal requirements. The high school completion indicator calculates the high school completion rate, including GED/high school equivalency and graduation, irrespective of how many years a student took to earn a diploma. The four-year cohort graduation rate, as required by ESSA, will continue to be calculated.

Another change in this area is that all indicators will now be calculated on full academic year students, which are those attending from October 1 to May 1.

In response to Board questions, Scheibe noted that the Board does not need to approve the state plan prior to its submission to the U.S. Department of Education.

Scheibe discussed the school ranking and classification accountability requirements. Several classifications will be removed from this area as they are not required under ESSA. The only rankings required under ESSA involve schools designated for school support. High-ranking schools no longer need to be designated as such.

The new designation of comprehensive support schools is similar to the old designation of priority schools. Designations are based on Title I schools ranking in the bottom five percent of SPI scores and schools with graduation rates under 67 percent. Supports will be more individualized for schools, with many of the system's prescriptive requirements being removed. Evidence-based interventions are required.

SOUTH DAKOTA BOARD OF EDUCATION STANDARDS

The new designation of targeted support schools loosely replaces the old focus school designation. These schools used to be designated strictly by gap group performance, and now other subsets of student performance or disproportionate performance will be considered. Javurek noted that with the small South Dakota population, the rules are sensitive to the fact that there will be some small subgroups. Confidence intervals are built into the rules as a result, to prevent inadequate reporting.

Academic progress used to be measured by annual measurable objectives and only goals for student achievement were included. ESSA requires goals for student achievement, four-year cohort graduation rate, and English learners obtaining proficiency. These goals will all follow a similar formula that involves setting aspirational goals resulting in 100 percent achievement of the benchmark within 13 years. These goals will be set in five-year intervals and based on 2016-2017 school year performance.

In response to Board questions, Scheibe discussed the aspirational goal of getting students to 100 percent proficiency by graduation and whether that was a realistic goal. Scheibe stated that this was an ongoing conversation as the rules were developed. The goal in this area was to incorporate the department's existing aspiration and goal work. The Department's goal is to ensure all schools are included and get the focus they need.

In response to questions about the college and career readiness indicator, Scheibe stated that students can show readiness by taking the NCRC, and that coursework will also be examined. This will pick up students who may not be particularly strong in readiness for a four-year degree school, but pursue a career path. Workgroups for the state plan felt strongly that career and technical education needed to be a stronger focus and that the indicators should not differentiate between college readiness and career readiness, but rather readiness for what comes after secondary education.

Scheibe also discussed that, at this point, data regarding the number of students going on to postsecondary institutes will not be a component of the college and career readiness component of the accountability system, but that information will still be reported out.

Motion by Aguilar, second by Wagner, to move the accountability rules to a public hearing. Voice vote, all present voted in favor. Motion carried.

President Kirkegaard declared a recess at approximately 10:20 a.m. CT.

President Kirkegaard declared the meeting back in session at approximately 10:32 a.m. CT.

NOCTI Exam Cut Score

Erin Larsen, DOE division of career and technical education, presented the cut score for the NOCTI accounting teacher assessment for Board approval. The score applies to the accounting career pathway endorsement for teacher certification and was inadvertently omitted from the

cut score packed presented to the Board at the May meeting. Larsen requested that the criterion reference cut score be set at 55.9, as recommended by the test designer and career cluster advisory committee. Consultation with both NOCTI and the advisory committee indicated that a cut score of 55.9 should be recommended since this is a new test offered in South Dakota. The scores will be monitored to assess whether the score should be modified.

Motion by Aguilar, second by Schallenkamp, to approve the recommended cut score. Voice vote, all present voted in favor. Motion carried.

Report on the South Dakota Comprehensive School Counseling Program Model:

Andrea Diehm, DOE division of career and technical education, presented a report on the comprehensive school counseling program model. The model was created in 2013 and recently revised. The revision process focused on how to support schools and students as a whole, with an emphasis on how students benefit from the services provided and how a school counselor fits into the overall environment at a school.

Components of the model include management and delivery, and alignment to the American School Counselor Association national model. The revised model has added standards for student success, reassignment of non-counseling duties, examples on program implementation, and sample lesson plans for classroom work.

In response to Board questions, Diehm discussed how counselors fit into the role of ensuring students have information about career and workforce pathways.

Proposed Agenda Items for Future Discussion:

The Board requested informational updates from the Department on librarian and paraprofessional certification standards, and a report on educator certificate issuance.

Review of BOES Duties and Responsibilities:

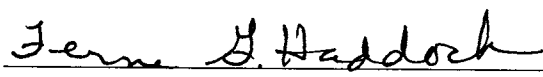
Farris presented an overview of the Board's duties and obligations as outlined by state statutes. The Board requested that the Department collaborate to help revise the Board's mission statement.

BOES Meeting Schedule Update:

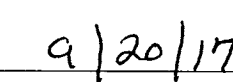
The location of the September meeting was changed from Pierre to Aberdeen, to accommodate the standards hearing cycle. The date will remain on September 18.

Adjournment:

The meeting was adjourned at 11:30 a.m. CT.



Ferne Haddock, Ex. Secretary, BOES



Date:

STATE OF SOUTH DAKOTA
BOARD OF EDUCATION STANDARDS

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Date: July 14, 2017

Name of Board Member or Former Board Member: Donald Kirkegaard

Name of Board, Authority, or Commission: Board of Education Standards

Brief explanation of contract for which a waiver is requested:

a) Parties to the contract:

Donald Kirkegaard and the Meade School District 46-1

b) Board Member's role in the contract:

I am a party to an employment contract with Meade School District to serve as superintendent of the Meade School District.

c) Purpose and objective of the contract:

The purpose and objective to the contract is to provide superintendent services to the Meade School District for a one-year period.

d) Consideration or benefit conferred or agreed to be conferred upon each party:

Salary of \$132,000 and benefits to provide superintendent services to Meade School District.

e) Duration of the contract:

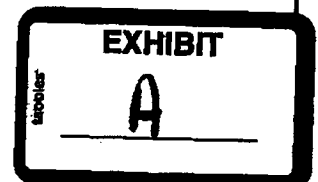
July 1, 2017 to June 30, 2018

Signature of Requesting Party: _____

Donald Kirkegaard

Date: _____

7-13-2017



State Authorities/Boards/Commissions - Annual Disclosure Form

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member:

Name of Board, Authority or Commission:

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

1. With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
2. With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
3. With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

1. The entity receives grant money from the State, either directly or by a pass-through grant or
2. The entity contracts with the State or any political subdivision for services.

1. Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed; if applicable
No disclosures			

add row

2. Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23 - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
no disclosures			



3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision
no disclosures		

add row

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member: Susan K. Aguilar

Date: 07/14/17

State Authorities/Boards/Commissions - Annual Disclosure Form

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member:

Name of Board, Authority or Commission:

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

1. With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
2. With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
3. With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

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Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed; if applicable
no disclosures			

add row

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Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
no disclosures			

add row



3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision
no disclosures		

add row

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Signature of Member: Glenna Touberg

Date: 7/17/17

State Authorities/Boards/Commissions - Annual Disclosure Form

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member:

Name of Board, Authority or Commission:

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Contract # 2017G-SFSPRST: grant agreement to provide meals on a reimbursement basis through the Summer Food Service Program from May 1, 2017, to August 30, 2017.	Rosebud Sioux Tribe and the South Dakota Department of Education (SD DOE)	Contract between my employer and the SD DOE, which is attached to the Board of Education Standards for reporting and/or oversight purposes.	

add row

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no disclosures			

add row

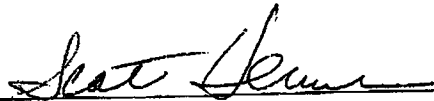
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no disclosures		

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Signature of Member:



Date:

7-17-17

State Authorities/Boards/Commissions - Annual Disclosure Form

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Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed; if applicable
2018 Consolidated Grant Application/ Agreement: Title I Part A, Title II Part A, and Title IV Part A funds (FY2018 fund amount not allocated to date; FY2017 award was approximately \$818,865)	Meade School District 46-1 and the South Dakota Department of Education (SD DOE)	Grant agreement between my employer and the SD DOE.	FY2017 grant disclosed June 20, 2016.
2018 IDEA Grant Application/ Agreement: Part B, sections 611 and 619 funds (FY2018 fund amount not allocated to date; FY2017 award was approximately \$604,117)	Meade School District 46-1 and the SD DOE	Grant agreement between my employer and the SD DOE	FY2017 grant disclosed June 201, 2016
2018 Carl Perkins Grant Application/ Agreement: Career and Technical Education funds (FY2018 fund amount not allocated to date; FY2017 was approximately \$38,924)	Meade School District 46-1 and the SD DOE	Grant agreement between my employer and the SD DOE	FY2017 grant disclosed June 20, 2016
2018 School Nutrition Programs Grant Application/ Agreement: School lunch, school breakfast, and commodities (FY2018 allocation unknown, funds disbursed on a reimbursement basis)	Meade School District 46-1 and the SD DOE	Grant agreement between my employer and the SD DOE	FY2017 grant disclosed August 15, 2016
2018 Fresh Fruit and Vegetable Grant Application/ Agreement (FY2018 fund amount not allocated to date; FY2017 was approximately \$78,238)	Meade School District 46-1 and the SD DOE	Grant agreement between my employer and the SD DOE	FY2017 grant disclosed August 15, 2016
Contract #2017A-419: State aid intercept agreement (no set amount)		State aid intercept agreement between my employer and various parties, including SD DOE	March 20, 2017

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed; if applicable
	Meade School District 46-1, SD DOE, South Dakota Health and Educational Facilities Authority, First National Bank in Sioux Falls		
Contract #2017A-456: State aid intercept agreement (no set amount)	Meade School District 46-1, SD DOE, South Dakota Health and Educational Facilities Authority, First National Bank in Sioux Falls	State aid intercept agreement between my employer and various parties, including SD DOE	March 20, 2017

add row

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Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Employment contract to serve as superintendent for Meade School District #6-1 from July 1, 2017 to June 30, 2018	Donald Kirkegaard and Meade School District 46-1	Receive salary and benefits to provide superintendent services to Meade School District, a political subdivision of the State of South Dakota	July 17, 2017 (authorization requested)

add row

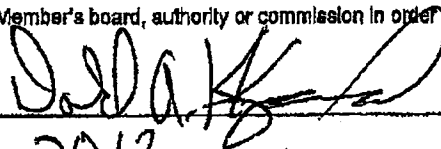
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no disclosures		

add row

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Signature of Member



Date: 7-13-2017

State Authorities/Boards/Commissions - Annual Disclosure Form

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Kay Schallenkamp

Name of Board, Authority or Commission: Board of Education Standards

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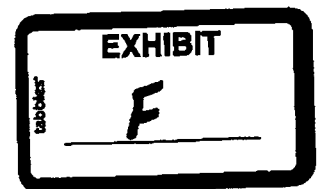
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no disclosures		

add row

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Signature of Member: *Kay Schallenberg*
 Date: *July 17, 2017*

State Authorities/Boards/Commissions - Annual Disclosure Form

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no disclosures		

add row

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Signature of Member: *Arpal Vyas*

Date: 7/13/2017

State Authorities/Boards/Commissions - Annual Disclosure Form

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
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Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed; if applicable
Agreement to provide college readiness coursework to high school students through the Northern State University E-Learning Center. The services under the contract will not exceed \$50,000. The contract duration will last approximately July 18, 2017, to July 17, 2018.	Northern State University E-Learning Center and the South Dakota Department of Education	Contract between my employer and the SD DOE. I do not provide any of the contracted services for the E-Learning Center.	This is a renewal of a previous contract that was disclosed to the Board of Education Standards on May 15, 2017.

add row

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add row

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Signature of Member: *Lori J. Wagner*
 Date: 7/13/17

SOUTH DAKOTA BOARD OF EDUCATION STANDARDS

Date: Monday, July 17, 2017—8:00 a.m. Central Time

Location: Matthews Training Center, Foss Building
523 E. Capitol Avenue, Pierre, SD 57501

Public Telephone Access:
1-866-410-8397/conference code: 8381998525

For live streaming of meeting: <http://www.sd.net/remote1/>

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9/21/2017
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Present: Sue Aguilar, Vice President
Glenna Fouberg, Member
Scott Herman, Member (joined meeting at approximately 8:12 a.m. CT)
Donald Kirkegaard, President
Kay Schallenkamp, Member
Gopal Vyas, Member
Lori Wagner, Member

DOE staff

in attendance: Mary Stadick Smith, Becky Nelson, Abby Javurek, Laura Scheibe, Dorothy Aguilar Black-Bear, Andrea Diehm, Sandra Kangas, Ferne Haddock, and Holly Farris.

Others in

attendance: Dr. Kelly Duncan (former Board member), Bob Mercer (media), Jeff Danielson (Watertown School District), Brian Fields (Beresford School District), Joel Jorgenson (Madison School District), Bob Sittig (Baltic School District), Brian Huepel (Leola School District), Tim Graf (Milbank School District), Mark Naugle (Custer School District), Gary Leighton (Florence School District), Terry Nebelsick (Huron School District), Summer Schultz (Dell Rapids School District), Rob Monson (School Administrators of South Dakota), and other members of the public present in person or via telephone.

Call to Order, Pledge of Allegiance, and Roll Call:

President Kirkegaard called the meeting to order at approximately 8:02 a.m. Central Time.

Adoption of Agenda:

Motion by Aguilar, second by Schallenkamp, to adopt the July 17, 2017, proposed agenda. Voice vote, all present voted in favor. Motion carried.

Approval of Minutes:

Motion by Vyas, second by Wagner, to approve the May 15, 2017, minutes as proposed. Voice vote, all present voted in favor. Motion carried.

Election of Officers:

Fouberg nominated Aguilar to fill the remaining term of the office of vice-president, vacated due to the resignation of Deb Shephard from the Board.

Motion by Fouberg, second by Vyas, to cease nominations and cast a unanimous ballot for Aguilar. Voice vote, all present voted in favor. Motion carried.

Conflicts disclosures (SDCL 3-23-3):

Susan Aguilar requested waivers on two contracts between the Department of Education Child and Adult Nutrition Services division and Lutheran Social Services (LSS). Aguilar's spouse serves on the board of LSS. These contracts were entered into prior to the amendments to the conflict disclosure laws taking effect on July 1, 2017, and so Aguilar is requesting a waiver under the prior provisions of the law in the interest of full disclosure. Aguilar requested the waivers as soon as she became aware of the contracts. The contracts are to provide meals through the school nutrition and child and adult care food programs, which are funded on a reimbursement basis. Aguilar stated that she played no role in the contracts being awarded to LSS and her household receives no income as a result of LSS having the contracts.

Motion by Vyas, second by Schallenkamp, to approve the waiver requests as presented. Voice vote, all present voted in favor (Aguilar and Herman abstained). Motion carried.

Dr. Kelly Duncan, former board member, requested a waiver for her employment contract with the South Dakota Board of Regents to be employed as the dean of the School of Education at Northern State University. The contract was effective prior to July 1, 2017, and so Duncan is requesting a waiver according to the provisions of the law in effect at that time. Duncan previously received a waiver for her employment contract with NSU in 2016.

Motion by Fouberg, second by Aguilar, to approve the waiver request as presented. Voice vote, all present voted in favor. Motion carried.

President Kirkegaard turned the gavel over to Vice President Aguilar at approximately 8:16 a.m. CT.

Holly Farris, board counsel, provided a summary of House Bill 1170 and the associated updates to the conflict of interest disclosure laws affecting state board members.

Kirkegaard requested a waiver for his employment contract with Meade School District, for which he serves as superintendent. Kirkegaard is a direct party to the contract with Meade

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9/21/2017
Legislative Audit

School District, and received a waiver for his employment contract in 2016 as well. (A copy of the waiver request is attached to the minutes as Attachment A.)

Motion by Fouberg, second by Vyas, to approve the waiver request as presented. Voice vote, all present voted in favor (Kirkegaard abstained). Motion carried.

Vice President Aguilar returned the gavel to Kirkegaard at approximately 8:22 a.m. CT.

Each current board member submitted an annual disclosure form regarding conflicts of interest. (Copies of the disclosure forms are attached to the minutes as Attachments B-H.) Board members Aguilar, Fouberg, Schallenkamp, and Vyas had no disclosures on their annual forms.

President Kirkegaard disclosed grant agreements between his employer, Meade School District, and the South Dakota Department of Education (DOE) for Title, IDEA, Perkins, and school food service program funds, which are needs-based programs.

Lori Wagner disclosed a contract between her employer, the NSU E-Learning Center, and the DOE for the E-Learning Center to offer college readiness courses.

Scott Herman disclosed a grant agreement between his employer, the Rosebud Sioux Tribe, and the DOE for summer food service program funds.

Secretary's Report:

Mary Stadick Smith, deputy Secretary of Education, presented the Secretary's report. Stadick Smith provided updates on the Department's Every Student Succeeds Act (ESSA) state plan progress and comment period, Governor Dugaard's focus on strengthening career pathways in the K-12 education system, the recent state Special Education programs federal review, and state dyslexia workgroup progress on a five-year plan and updates to the dyslexia handbook.

Public Hearing—Administrative Rules (24:58 Principal Performance Standards and Evaluations)

Article 24:58 (Principal Performance Standards and Evaluations)

Proponent Testimony:

Becky Nelson, DOE director of learning and instruction, testified in support of the proposed rules. Nelson stated that the proposed changes were formulated by gathering feedback from a variety of stakeholders, including the Every Student Succeeds Act (ESSA) educator effectiveness workgroup and the Commission on Teaching and Learning. The Department also sent out a statewide survey to school administrators on the rules for teacher and principal evaluations to gather information. A hearing on these rules was originally scheduled in May, but the

Department determined additional time was necessary to gather information and draft the rules due to comments received from superintendents in the field. The additional information gathered consisted of a webinar held in June and a number of administrators participated. The proposed rules incorporate many, but not all, suggestions made during the webinar.

Nelson stated that the proposed rules change the definitions of assistant principal and principal to align to the recently passed educator certification rules. The proposed changes also incorporate suggestions that assistant principals need not be evaluated on all six domains within the principal standards, but evaluators can choose four of the six domains. This increases flexibility for school districts.

The current rules set out two performance measures: performance and school growth. The proposed changes to the rules would allow principals to set a specific goal aligned to the school improvement plan and could be used as an additional measure of performance. The proposed rules provide more flexibility for goal-setting between the superintendent and the principal. The proposed changes also allow schools to create a summative rating or do separate ratings for school growth and professional practices ratings, which provides additional flexibility. Because the proposed rules add flexibility for schools to formulate individual goals regarding student growth ratings, there is no longer a need for the alternative student growth model. Therefore, that rule would be repealed.

The proposed changes also eliminate the need for a plan of assistance for principals. Further, language was added to clarify that the authority of a school or district to dismiss or non-renew is not superseded by the evaluation requirements in the rules.

In response to Board questions, Nelson stated that feedback indicated superintendents wanted less requirements to evaluate on all domains for assistant principals, as responsibilities for those positions were not the same as principals. The rules reflect adjustments for the roles of assistant principals.

Nelson stated that one public comment was received regarding these rules, from Jennifer Lowery, superintendent of the Tea School District. The comment raises concerns about principals unintentionally being given tenure because of the proposed requirements in the rules. Lowery recommended that two rules could be cut, primarily from the definitions section of the rules. Nelson responded to the comment by stating that the Department addressed the concerns about principal tenure by adding language clarifying that the chapter on principal evaluation was not to supersede district authority to non-renew or dismiss a principal. Nelson also stated that the Department wanted to be very clear that the rules require a principal evaluation model aligned with the principal standards, which are not being changed in the proposed rules. Further, the proposed rules do not require a certain evaluation tool be used, only that the evaluation tool used by a school district must align to the principal performance standards.

In response to Board questions, Nelson stated that over half of superintendents that received the survey responded and close to one-third of principals responded. Nelson also stated that very few schools currently have waivers pertaining to principal evaluations, perhaps less than a dozen. Nelson clarified that, currently, waivers may be obtained for utilizing different standards or growth goals (two separate waivers). Under the proposed rules, waivers for different growth goals would no longer be required, only waivers to evaluate on different principal standards. The student growth waiver would no longer be required because the proposed rules provide schools the flexibility to set whatever goal the district deems necessary.

Nelson also stated that the proposed rules do not mandate a current form or tool, districts need to make sure the principals standards are used on whichever form is used. If a district wanted to use standards different than those already in rule, the district could apply for a waiver. The Department would then evaluate whether or not the standards were acceptable and make a determination on the waiver. Nelson stated that rules are still necessary, despite the fact that districts may still seek a waiver. The priority is to have all districts evaluate principals using the same standards. South Dakota created its own principal standards by modifying certain national standards to fit state needs. But the Department recognizes that some organizations have different standards that a district may feel better suit its needs.

Opponent testimony:

Jeff Danielson, superintendent of the Watertown School District and president-elect of the South Dakota Superintendent's Association (SDSA), testified in opposition to the proposed rules. Danielson stated that the SDSA executive board met in April and its position has remained the same to date. The SASD executive board's position on the proposed rules is that the principal effectiveness model should be a recommended model, not a required model. Districts would still comply with completing evaluations on the proposed timeline, but many superintendents feel that school districts need the ability to evaluate principals without lengthy paperwork which increases the workload on building principals also responsible for teacher evaluations. Danielson stated that principals need latitude to complete teacher evaluations without also being burdened by compliance with principal effectiveness requirements.

Superintendents are concerned that the rules may give principals a level of tenure because they could argue that the principal is not serving at the will of the board, but could defend their jobs by accusing superintendents of not following all the protocol demanded by the proposed principal effectiveness model. Danielson also stated that ESSA's intent was to provide more flexibility and this just rolls over the old model and all its requirements.

Bob Sittig, superintendent of the Baltic School District, testified in opposition to the proposed rules. Sittig stated that recent conversations with South Dakota's congressional delegation indicated that the intent of ESSA was to return control to states at a local level so decisions can be made closest to the students. Sittig stated that the proposed principal effectiveness model is in opposition to that intent. Sittig said that while schools can request waivers, they should not have to.

In response to Board questions, Tim Graf, superintendent at Milbank School District, stated that schools are agreeable with the requirement to complete evaluations, but superintendents feel that districts need the flexibility to change the recommended model as needed. It should be recommended, not required. Terry Nebelsick, superintendent at Huron School District, further stated that the validation of the effectiveness evaluations can be shown during the school accreditation process.

Board discussion focused on how the proposed rules may be modified to provide more flexibility, as sought by the superintendents who testified in opposition. Nelson explained that eliminating the alternative evaluation application would remove flexibility from the rules, as the rules would then require that all school districts would have to use the principal standards in rule and there would be no option for schools to use different standards that the district has formulated. Nelson stated that to add flexibility, the Board could consider removing the requirements to assign professional practice ratings or school growth ratings. The rules would then provide that school districts would be required to complete an evaluation based on the principal standards, but would have flexibility to do the evaluation in individualized formats and assign ratings if the school district felt it necessary. Some Board members raised concerns with whether a focus on only flexibility for school districts would remove consistency in requirements to ensure effective and formative evaluations.

Nelson stated that the current rules would require evaluations yearly for the first four years for principals, and then every other year. Those rules are not being amended. Nelson restated that waivers allow the principal evaluations to be completed using a different set of standards that the Department approves. Receiving a waiver does not eliminate the requirement to complete an evaluation.

Nelson also discussed that school growth ratings in the past were goals based on the school performance index as well as a percentage of teachers with goals on student learning objectives. The proposed rules would allow schools to individually define a goal for school growth and evaluate principals on whether or not that goal was met. An example of this is student achievement on a benchmark assessment. Here, the term growth essentially means improvement.

Nelson requested a recess to formulate some amendments to the proposed rules.

President Kirkegaard declared a recess of the rules hearing at 9:42 a.m. Central Time.

President Kirkegaard declared the rules hearing back in session at 10:35 a.m. Central Time.

Nelson presented language to amend the proposed rules as requested by the Board. Nelson stated that the amendments reflect the superintendents' request for more flexibility and are significantly based on the specific suggestions made by Tea School District Superintendent Lowery in her public comment. The amendments increase flexibility by requiring schools to

evaluate principals but removing requirements to make specific ratings or school growth goals. The reason for eliminating these areas is to eliminate the additional paperwork and documentation that the superintendents found burdensome. The schools will have the option to set and implement goals, but goal-setting and assessment on those goals will no longer be mandated. The districts would be required to evaluate principals based on the standards for principals already in rule.

Nelson reviewed the individual changes proposed as amendments. The professional practice rating and school growth rating definitions were eliminated and the rules renumbered. Language was added stating that the minimal evaluation requirements will be based on the principal framework of the existing principal standards consisting of the six existing domains. The professional practice rating and school growth rating requirements were removed. The remainder of the rules was not changed.

In response to board questions, Nelson stated that the rules do not require a specific evaluation tool, so schools may use whatever is adequate for their local purposes without needing a waiver. The requirement to seek a waiver for evaluating principals on different standards than those in rule will still be necessary. The Department will continue to review these waivers and determine if a school district's proposed alternative principal standards comply with basic professional standards.

Motion by Aguilar, second by Vyas, to amend the rules as proposed with Nelson's suggested edits. Voice vote, all present voted in favor. Motion carried.

Motion by Fouberg, second by Schallenkamp, to approve the rules as amended. Voice vote, all present voted in favor. Motion carried.

The rules hearing closed at approx. 10:46 a.m. Central Time.

First Reading—Administrative Rules (Article 24:55 Public School Accountability):

Laura Scheibe, DOE division of accountability systems, presented the first reading of administrative rule changes to Article 24:55. Scheibe stated that the proposed rules will put in place a large part of what the state ESSA plan lays out for the first year of plan implementation, and then other changes will be incorporated as other indicators are developed.

Scheibe stated that the proposed rule changes can be broadly grouped into three components: indicators, school improvement and support, and goals and annual measures. Many of the proposed changes are a clean-up of the existing rules, where old requirements from the NCLB flexibility waiver are deleted as they are not part of the new system.

Scheibe described the proposed changes regarding accountability indicators. The student achievement indicator includes proposed changes on how points are assigned. Points will now be awarded on a spectrum that rewards student growth and progress, rather than solely

measuring whether a student is proficient or not proficient. The proposed changes to the student attendance indicator adjust the measure of student attendance from 94 percent to 90 percent. This reflects requirements at the federal level to report chronic absenteeism. The federal level also uses a 90 percent measure. State alignment with federal requirements will simplify reporting requirements.

Scheibe discussed the college and career readiness and school performance index indicators. The separate readiness divisions for math, reading, and English language arts will be removed. Multiple options to show readiness for college, careers, and future work will be created, such as utilizing the national career readiness certificate (NCRC), dual credit coursework, and career and technical education concentrator status. Additional options will be built into the rules as ESSA implementation progresses.

English language proficiency is a new indicator addressed in the proposed rules, which is required by ESSA. The indicator measures progress of students whose first language is not English being prepared for academic work and how long it takes such students to meet certain standards for academic participation. Similar to student achievement, points in this area will be awarded on a continuum. Abby Javurek discussed the process to develop this indicator in South Dakota, which involved national experts examining South Dakota data and South Dakota educators who work with the English learner population.

The high school completion indicator as measured will remain unchanged, but the indicator is broken out into two components to satisfy federal requirements. The high school completion indicator calculates the high school completion rate, including GED/high school equivalency and graduation, irrespective of how many years a student took to earn a diploma. The four-year cohort graduation rate, as required by ESSA, will continue to be calculated.

Another change in this area is that all indicators will now be calculated on full academic year students, which are those attending from October 1 to May 1.

In response to Board questions, Scheibe noted that the Board does not need to approve the state plan prior to its submission to the U.S. Department of Education.

Scheibe discussed the school ranking and classification accountability requirements. Several classifications will be removed from this area as they are not required under ESSA. The only rankings required under ESSA involve schools designated for school support. High-ranking schools no longer need to be designated as such.

The new designation of comprehensive support schools is similar to the old designation of priority schools. Designations are based on Title I schools ranking in the bottom five percent of SPI scores and schools with graduation rates under 67 percent. Supports will be more individualized for schools, with many of the system's prescriptive requirements being removed. Evidence-based interventions are required.

The new designation of targeted support schools loosely replaces the old focus school designation. These schools used to be designated strictly by gap group performance, and now other subsets of student performance or disproportionate performance will be considered. Javurek noted that with the small South Dakota population, the rules are sensitive to the fact that there will be some small subgroups. Confidence intervals are built into the rules as a result, to prevent inadequate reporting.

Academic progress used to be measured by annual measurable objectives and only goals for student achievement were included. ESSA requires goals for student achievement, four-year cohort graduation rate, and English learners obtaining proficiency. These goals will all follow a similar formula that involves setting aspirational goals resulting in 100 percent achievement of the benchmark within 13 years. These goals will be set in five-year intervals and based on 2016-2017 school year performance.

In response to Board questions, Scheibe discussed the aspirational goal of getting students to 100 percent proficiency by graduation and whether that was a realistic goal. Scheibe stated that this was an ongoing conversation as the rules were developed. The goal in this area was to incorporate the department's existing aspiration and goal work. The Department's goal is to ensure all schools are included and get the focus they need.

In response to questions about the college and career readiness indicator, Scheibe stated that students can show readiness by taking the NCRC, and that coursework will also be examined. This will pick up students who may not be particularly strong in readiness for a four-year degree school, but pursue a career path. Workgroups for the state plan felt strongly that career and technical education needed to be a stronger focus and that the indicators should not differentiate between college readiness and career readiness, but rather readiness for what comes after secondary education.

Scheibe also discussed that, at this point, data regarding the number of students going on to postsecondary institutes will not be a component of the college and career readiness component of the accountability system, but that information will still be reported out.

Motion by Aguilar, second by Wagner, to move the accountability rules to a public hearing. Voice vote, all present voted in favor. Motion carried.

President Kirkegaard declared a recess at approximately 10:20 a.m. CT.

President Kirkegaard declared the meeting back in session at approximately 10:32 a.m. CT.

NOCTI Exam Cut Score

Erin Larsen, DOE division of career and technical education, presented the cut score for the NOCTI accounting teacher assessment for Board approval. The score applies to the accounting career pathway endorsement for teacher certification and was inadvertently omitted from the

cut score packed presented to the Board at the May meeting. Larsen requested that the criterion reference cut score be set at 55.9, as recommended by the test designer and career cluster advisory committee. Consultation with both NOCTI and the advisory committee indicated that a cut score of 55.9 should be recommended since this is a new test offered in South Dakota. The scores will be monitored to assess whether the score should be modified.

Motion by Aguilar, second by Schallenkamp, to approve the recommended cut score. Voice vote, all present voted in favor. Motion carried.

Report on the South Dakota Comprehensive School Counseling Program Model:

Andrea Diehm, DOE division of career and technical education, presented a report on the comprehensive school counseling program model. The model was created in 2013 and recently revised. The revision process focused on how to support schools and students as a whole, with an emphasis on how students benefit from the services provided and how a school counselor fits into the overall environment at a school.

Components of the model include management and delivery, and alignment to the American School Counselor Association national model. The revised model has added standards for student success, reassignment of non-counseling duties, examples on program implementation, and sample lesson plans for classroom work.

In response to Board questions, Diehm discussed how counselors fit into the role of ensuring students have information about career and workforce pathways.

Proposed Agenda Items for Future Discussion:

The Board requested informational updates from the Department on librarian and paraprofessional certification standards, and a report on educator certificate issuance.

Review of BOES Duties and Responsibilities:

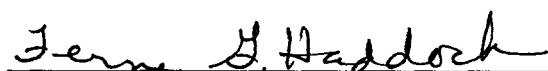
Farris presented an overview of the Board's duties and obligations as outlined by state statutes. The Board requested that the Department collaborate to help revise the Board's mission statement.

BOES Meeting Schedule Update:

The location of the September meeting was changed from Pierre to Aberdeen, to accommodate the standards hearing cycle. The date will remain on September 18.

Adjournment:

The meeting was adjourned at 11:30 a.m. CT.


Ferne Haddock, Ex. Secretary, BOES

9/20/17
Date:
129

SOUTH DAKOTA BOARD OF EDUCATION STANDARDS

Date: Friday, January 26, 2018—9:00 a.m. Mountain Time

Location: Rapid City High School, Multi-purpose Room
601 Columbus Street, Rapid City, South Dakota

Public Telephone Access:
1-866-410-8397/conference code: 8381998525

For live streaming of meeting: <http://www.sd.net/>

Present: Sue Aguilar, President
Gopal Vyas, Vice-President
Rebecca Guffin, Member
Scott Herman, Member
Kay Schallenkamp, Member
Jacqueline Sly, Member
Gopal Vyas, Member
Lori Wagner, Member

Absent: None

DOE staff

in attendance: Don Kirkegaard, Becky Nelson, Nicol Reiner, Teresa Berndt, Kim Roth, Laura Scheibe, Linda Turner, Holly Farris, and Ferne Haddock.

Others in attendance: Melissa Pankratz, Shanna Sundal, Debi Caskey, Colby Christensen, Kimberly Klynsmma, Rich Aguilar, Sharon Rendon, Summer Boock, Louise Yoho, June Apaza, Diane Wimp, Fran Linn, and other members of the public in attendance in person or via phone.

Call to Order, Pledge of Allegiance, and Roll Call:

President Aguilar called the meeting to order at approximately 9:01 a.m. Mountain Time.

Adoption of Agenda:

Motion by Vyas, second by Schallenkamp, to adopt the January 26, 2018, proposed agenda. Voice vote, all present voted in favor. Motion carried.

Approval of Minutes:

Motion by Wagner, second by Vyas, to approve the November 20, 2017, minutes as proposed. Voice vote, all present voted in favor. Motion carried.

Installation of Officers and Membership Update

Aguilar and Vyas were installed as president and vice-president of the board, respectively, for calendar year 2018.

SOUTH DAKOTA BOARD OF EDUCATION STANDARDS

Secretary Kirkegaard introduced new members Dr. Guffin and Sly and welcomed them to the board. Kirkegaard also introduced new DOE staff member Jacquie Larson.

Received
4/12/18
Legislative Audit

Conflicts disclosures (SDCL 3-23-3):

Holly Farris, Board legal counsel, presented an application for waiver requested by Deb Shephard, former Board member. The waiver requested is for an employment contract between Shephard and Lake Area Technical Institute, which is approved by the Watertown School District. Shephard could not be present at the meeting in person or via phone to request the waiver, but provided the waiver request prior to the meeting to allow any board members to ask questions or ask for additional information or clarifications. No board member had questions or requested information. Farris noted that former Board members are subject to the conflict of interest provisions for one year after leaving the board.

Motion by Vyas, second by Sly, to approve the waiver to Shephard as requested. Voice vote, all present voted in favor. Motion carried.

Dr. Guffin requested a waiver for the employment contract between herself and the Aberdeen School District to serve as superintendent. Guffin stated that her waiver request disclosed the details of her contract, which is a standard superintendent employment contract.

Motion by Shallenkamp, second by Wagner, to approve the waiver to Guffin as requested. Voice vote, all present voted in favor (Guffin abstained).

Annual disclosure forms for Guffin and Sly were also filed. Sly had no disclosures on her annual form. Guffin disclosed existing grant agreements between her employer, the Aberdeen School District, and the Department of Education for programs such as Title, IDEA, Perkins, and school nutrition program funds, which are widely available to school districts in South Dakota.

(Copies of the waiver requests and disclosure forms are attached to the board minutes as exhibits A-D)

Public Hearing—Standards:

The Board of Education Standards convened the third public hearing on academic content standards at approximately 9:12 a.m. Mountain Time on the following proposed standards: Health Education, Oceti Sakowin Essential Understandings and Standards, Business Management and Administration, Capstone Courses, Government and Public Administration, Hospitality and Tourism, Marketing, Transportation, Distribution, and Logistics, English Language Arts, and Math. This is the third of four public hearings on these standards.

Becky Nelson, DOE director of the division of learning and instruction, provided an overview of the content standards. Nelson noted that standards are the roadmap for educators and parents, and help provide consistency across the state. The standards do not dictate how educators teach the standards, nor do they dictate curriculum, which is decided at the school district level. The public hearings are an important part of the standards approval process, as the comments and testimony received are useful to the workgroup in making final decisions on the proposed language.

Health Education

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Becky Nelson testified in favor of the proposed standards. Nelson presented an overview of the health education standards review process, which began in July 2016. Committee members representing local education agencies, communities, and the public met to examine the current health education standards. As a preamble to that meeting, the members were provided information about the prior revision process, the current standards, and the intended revision process timeline. The group also received information about the features of a key health education standard and performance indicator.

Workgroup members were asked to review the South Dakota standards, as well as those from two other states. Strengths and weaknesses were identified during this review to inform the group's ongoing work. Group discussions and review of the standards resulted in revisions relative to the level of complexity of the cognitive indicators. The large group discussion led to revisions to the performance indicators to clarify what students should know and be able to do at the end of each grade span. The remainder of the meetings focused on comparing and contrasting South Dakota's health education standards to other states' standards.

The workgroup consensus was that the South Dakota health education standards include appropriate information and are presented in a user-friendly format. The workgroup eliminated outdated information and retained the current presentation formats.

Health Education Exhibit 1 was received into the record and addressed at a prior hearing. The comment will be taken to the workgroup for review and consideration.

Sly noted the importance of standards revision to adapt health education standards to modernize references.

In response to Board questions, Nelson stated that standards revision ensures that content stays relevant and appropriate. Core content standards are reviewed every seven years. If there are any major changes in a standards field, the Department of Education could request a change to the standards revision timeline to address significant changes. Career and technical education standards are reviewed on a five-year cycle.

There was no opponent testimony.

Oceti Sakowin Essential Understandings and Standards

Becky Nelson, DOE, testified in favor of the Oceti Sakowin Essential Understandings proposed standards. Nelson discussed the standards workgroup review process. The workgroup consisted of 26 members and two facilitators. The work focused not only on revision, but on reaffirming the vision of the standards themselves. Much of the work to date involved aligning the standards in social studies areas. The group examined how to keep the vision of the standards while including flexibility for all students to engage with the standards in a variety of content areas.

Nelson testified that the objectives included elder affirmation of the focus, the wording and format of the standards, educator reaffirmation and clarification of wording, and format for instructional purposes based on experience. The revisions also ensured historical and contemporary focus useful in all content areas. The overarching standards remain the same and have not been completely overhauled. Teacher experiences and elder expertise were further incorporated as the revision process went along. The

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indicators to the grade band connections were removed out of the standards into an appendix entitled "Suggested Approaches to Instruction" which supplies supports instead of explicit instructions.

The group also reviewed the standards, songs, and other components to ensure multiple content areas could access the Oceti Sakowin standards and increase opportunities for engagement. The overall structure provides a historical overview, the standards at a glance, the standards themselves, and supporting documents.

No public comments were received regarding the Oceti Sakowin Essential Understandings and Standards.

In response to Board question, Nelson stated that because the state does not mandate specific curriculum, districts can each make decisions on which curriculum to use and whether to include the Oceti Sakowin standards in that curriculum. The DOE has brought a group of elders and teachers together to develop lesson plans that align to the Oceti Sakowin standards, to facilitate the use of the standards by schools and districts. The DOE also supports the WoLakota project, which preserves elder information and experiences, in conjunction with the Oceti Sakowin standards. Like other areas of the content standards, DOE will make supports available to assist school districts in rolling out the revised standards and incorporating them for use. Nelson clarified that DOE cannot mandate curriculum in certain areas. Science, English language arts, math, and certain areas of social studies are required content areas to be taught, as well as certain offerings of career and technical education, world languages, and fine arts in high school to meet high school graduation requirements.

Secretary Kirkegaard stated his goal of promoting use of the Oceti Sakowin standards in schools in the coming months. In response to Board questions, Nelson stated that there is not a precise way for the DOE to gather information on which schools or how many schools are implementing these standards, as they are sometimes implemented in other content areas. Herman stated that he would like to see additional efforts to see the Oceti Sakowin implemented in schools. Nelson discussed the ongoing work to create implementation tools for educators to incorporate the Oceti Sakowin standards into multiple areas of the curriculum. Nelson also noted that the DOE is trying multiple ways to engage with the public and stakeholders to encourage public comments and input on the standards.

There was no opponent testimony.

Business Management and Administration

Kim Roth, DOE division of career and technical education, testified in favor of the proposed standards. Roth provided an overview of the standards revision process for all the revised CTE standards (Business Management and Administration, Capstone Courses, Government and Public Administration, Hospitality and Tourism, Marketing, and Transportation, Distribution, and Logistics). The CTE standards are slightly different than core content standards. These standards are broken into career clusters sharing common professional skills across a wide range of professional to entry-level careers. They are then narrowed into career pathways, which are broken into courses.

Over the summer, CTE workgroups were gathered and worked with the National Center for College and Career Transitions. This provided a common process across all six workgroups for CTE standards. The workgroups met for three days for each of the six clusters. The first day was spent reviewing labor market statistics for in-demand careers, and also looked at feedback from employers, post-secondary

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CTE faculty, and educators in the field. Workgroups then looked at the existing courses in the clusters and mapped out which courses were no longer needed and courses that should be added. The following two days looked at the individual standards by examining courses and developing new ones with continuity between all standards. This work was shared with faculty and industry to ensure that feedback was incorporated accurately. The standards, if adopted, would be unpacked this summer and additional guidance would be provided to teachers on transitioning to the new standards and providing opportunities to students. The standards would be fully implemented by the 2020 school year.

The proposed Business Management and Administration standards are focused specifically on students organizing, directing, and evaluating business functions. The workgroup spent a lot of time discussing employability skills and incorporation of skills into each course. The workgroup also discussed changes to human relations procedures and the impact of technology on this cluster. As a result of the discussion, a wide range of courses were retired or realigned because they were out-of-date or fit into other clusters. The group developed two new courses: business computer applications and advanced business computer applications. These courses focus on common office software used in business and industry on a daily basis.

Business Management and Administration Exhibit 1 was received into the record and discussed at a prior public hearing. No new public comments were received.

There was no opponent testimony.

Capstone Courses

Kim Roth testified in favor of the proposed Capstone Courses standards. Roth stated that these standards are the primary vehicles students use for work-based learning within school districts. There are no existing standards in this area, only frameworks, so the workgroup identified specific standards for each capstone experience identified. This was done to create a common experience for students and ensure key components of career exploration are a part of the experience.

The workgroup discussion centered on employability skills and workers encountering nontraditional workdays in today's work environment. The workgroup also included common elements across the courses, such as including business and industry partnership and engagement with professionals outside the school to create real-world applications. Individualized student choice was emphasized. The workgroup also developed a new Youth Apprenticeship course.

Capstone Courses Exhibits 1-2 were received into the record and discussed at a prior hearing. No new comments were submitted on these standards.

In response to Board questions, Roth stated that Capstone Courses became associated with CTE but many districts use it as a senior project approach, so other instruction areas are incorporated, based on the student interests and pursuits.

There was no opponent testimony.

Government and Public Administration

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Kim Roth testified in favor of the proposed Government and Public Administration standards. Roth stated that this is a new career cluster. Standards do not currently exist for these courses. The proposed standards relate to planning and performing government functions, and discussed government accountability versus efficiency, ethics, services provided, and data management.

Four new courses were developed for these standards and also included JROTC courses, which are sometimes offered in school districts. Courses include principles of public administration, international affairs, community and regional planning, and public finance.

Government and Public Administration Exhibits 1 and 2 were received into the record and addressed at a prior hearing. No new public comments were received on these standards.

In response to Board questions, Roth stated that once the standards are approved and implemented, JROTC will be able to be utilized as a course for CTE credit.

There was no opponent testimony.

Hospitality and Tourism

Kim Roth testified in favor of the proposed Hospitality and Tourism standards. Roth testified that this cluster focuses on the management, marketing, and operations of restaurants and other food services, lodging, attractions, and travel-related facilities. Particular attention was given to customized diets and trends in healthy eating, as well as other trends such as farm-to-table and food trucks. The workgroup incorporated a course called foundations of travel and tourism, and a hospitality and lodging services course. Two culinary arts courses were added due to the need for more advanced courses, including a course for students to pursue an individualized pathway.

Hospitality and Tourism Exhibits 1-4 were received into the record and discussed at a prior public hearing. No new public comments were received.

In response to Board questions, Roth stated that the workgroup looked at the question of certain certifications, which are recommendations, not requirements.

There was no opponent testimony.

Marketing

Kim Roth testified in support of the proposed marketing standards. Roth stated that these standards focus on planning, managing, and performing marketing activities. This workgroup focused on data and data analytics. These areas have increased in the last ten years due to the rise of online businesses.

The workgroup retired a number of courses and the content was restructured into other areas, and added a new course called marketing strategies. The courses all include components of data analytics.

No public comments were submitted regarding the proposed Marketing standards. Roth noted that there is a very small number of Marketing programs in South Dakota.

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In response to Board questions, Roth stated business-related workgroups have discussed keyboard skills. The two courses developed in the business cluster focus specifically on computer application programs to build keyboarding skills and professional efficiency.

There was no opponent testimony.

Transportation, Distribution, and Logistics

Kim Roth testified in favor of the proposed standards. Roth stated that these standards focus on planning, management, and movement of people, materials, and goods through distribution networks. The workgroups spent time discussing electric vehicles and emissions standards, as well as the rise of logistics as a necessary part of the field. The workgroup developed a new course called Logistics and Planning Management, and another in Diesel Technology.

Transportation, Distribution, and Logistics Exhibits 1-7 were received into the record and discussed at a prior hearing. No new public comments were received.

There was no opponent testimony.

English Language Arts

Teresa Berndt, DOE reading specialist, testified in favor of the proposed English language arts standards. Berndt provided an overview of the standards review process, which began in spring 2016. The process began by recruiting educators, administrators, teachers, postsecondary professors, and others from the education field to be on the workgroup and serve as table leads to facilitate the conversations.

The workgroup met and reviewed the existing South Dakota standards as well as standards from other states to identify strengths and weaknesses. The review process itself was also discussed, to ensure that the process resulted in meaningful suggestions, including development of the quality standards checklist.

The workgroup then broke into small groups to examine the standards by grade level and strands. Strands consist of reading for information, reading for literacy, writing, language, foundational skills, and 6-12 literacy skills for content areas (science, social studies, history, and technical subjects). Grade level discussions also included examinations of the standards for two grade levels above and below a given grade, in order to integrate skills progression. The workgroup discussed the reasoning behind changing a standard as involving the identification of key knowledge or skills, connecting learning across grade levels, and clarifying language. The entire group also discussed the vertical alignment of the K-12 standards as a whole.

All information on the revision process was put online at the end of the workgroup's process, including the progressions and proposed changes. This information was provided to educators during the 2016-2017 school year to facilitate feedback. A survey on this received approximately 80 responses from individual educators or groups of educators. A standards toolkit was developed and provided to school districts to facilitate additional discussions on the standards. All feedback was gathered and the workgroup reconvened in June 2017 to look at all the comments and revised the standards to incorporate proposed changes where necessary.

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Berndt summarized the proposed changes within the English language arts standards. The workgroup proposed changes to clarify language regarding the standard's expectations for students and connections to prior learning, as well as the progression of learning and skills. This was a focal point in all standards. The workgroup also proposed changes to the examples for the standards to support the intent of the standards. Confusing examples or examples that limited how skills were taught were removed.

A notable proposed change was made to the standards regarding reading for information, reading for literacy, and writing. The workgroup felt that the standards needed to incorporate language to allow for self-selected text and independently selected writing topics. The workgroup felt these skills were essential for lifelong learning and best practices, and developed new language around those skills. Some language also referred to proficiency at grade band, rather than grade level, so that was updated to reflect the specific expectations.

At the elementary level, the workgroup changed the K-4 vertical handwriting progression. Language was added regarding fluency and performance of language skills. Changes to the language on cursive or print handwriting requirements were made as well. Districts can decide the progression in this area.

In the grades 6-12 literacy standards, the workgroup determined to add language to improve the rigor and stamina of those skills and ensure the language in the K-12 reading and writing standards were consistent with the grades 6-12 literacy standards in the content areas of social studies, history, science, and technical writing. Academic examples were also included. The workgroup proposed inclusion of world literature and global perspectives language to account for additional viewpoints in those standards areas.

English Language Arts Exhibits 1-31 were received into the record and addressed at a prior hearing. English Language Arts Exhibits 32 and 33 were received into the record and discussed. Exhibit 32 was from a teacher and stated that no significant changes were noted by the commenter. Exhibit 33 was from a parent and teacher, and expressed frustration that she could not attend the meeting in person. Exhibit 33 stated that the standards maintain rigor and appropriateness, and will effectively prepare students for the future. All comments will be taken to the workgroup for review and response.

In response to Board questions, Berndt stated that the survey feedback received prior to the public hearings may be part of the reason why the standards did not receive many comments during the hearing process. Berndt stated that the decision to teach cursive is a local decision. The workgroup conversations did address that it is part of the progression in the standards.

Melissa Pankratz, parent and Meade School District teacher, testified in support of the proposed standards. Pankratz stated that she served on the standards revision workgroup. She noted that the standards are rigorous and will prepare students for college or career, and that there is a strong scaffold of skills that creates a gradual progression and builds into more advanced skills. The workgroup helped eliminate confusion and make the standards more user friendly, while maintaining rigor. She stated that standards were not really removed, but were reworked to put them in more appropriate areas or to address changes. Current research and best practices were considered and incorporated—self-selection is an example of that. In her opinion, the proposed standards will enhance what they are currently working with. Adopting these standards will ensure that South Dakota students are challenged and engaged with rigorous standards.

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Debi Caskey, Douglas School District, testified in support of the proposed standards. Caskey stated that the revision process put in place is one that benefits students and the professionals involved in the process. Teachers know what students are capable of and how to move children toward college and career readiness. By building on the existing standards and improving them, rather than starting from scratch, the DOE respects the work districts are already doing. This allows teachers to spend their time focusing on how to improve student learning through instruction, rather than backtracking. The publication process of the standards makes it easy for educators to follow along and make changes to their teaching. The proposed standards lay the groundwork for future success and set high expectations that our students can meet. That is shown in classrooms.

In response to Board comments, Caskey noted the value to teachers and districts when teachers participate in the standards revision process.

Shanna Sandal, Douglas School District, testified in support of the proposed standards. Sandal served as a workgroup member and table lead. Sandal discussed the revision process and the importance of keeping the rigor in the standards, which all members agreed with. The workgroup respected all viewpoints in the process. Sandal spoke about how serving on the workgroup helped with her teaching skills.

There was no opponent testimony.

Math

Nicol Reiner, DOE mathematics education specialist, testified in favor of the proposed standards. Reiner provided information about the workgroup revision process, which is similar to the English Language Arts process. The workgroup convened in June 2016 and consisted of K-12 educators from regular and special education, postsecondary education faculty, community members, and parents. The workgroup examined the existing South Dakota standards and compared them to standards from other states, and reviewed research impacting standards revision. The workgroup focused on two areas: maintaining the level of rigor in the standards and improving clarity.

The workgroup broke into smaller groups to work on sets of standards by grade level and course standards. The workgroup focused on key knowledge and skills, and horizontal and vertical progressions of learning, and language clarity. The workgroup was asked to review standards two grades up and two grades down from a focus grade, to incorporate vertical alignment and proper scaffolding. The workgroup felt it important to emphasize skill progress from introduction, deep understanding, refinement, and mastery.

The result of the debate and collaboration is a set of standards that will best serve the students of South Dakota. Those standards were sent to South Dakota educators for additional feedback and approximately 124 comments were received in response to that survey. Many of the changes made to the standards resulted from the workgroup's desire to clearly communicate the scope and intent of each standard as well as the progression of the overall standards.

Reiner summarized the changes proposed to the standards. In the K-5 grade band, the money standards in grades K-1 were specifically written and added to a second-grade money standard that was already in place to create a clear progression. In third grade, the time standard was updated to include both digital and analog clocks.

SOUTH DAKOTA BOARD OF EDUCATION STANDARDS

Reiner discussed that the workgroup focused on the terms “know from memory” and “fluency.” The workgroup used research to define those terms in the standards. This discussion and the definitions were an important part of the discussion of multiplication skills as students progressed from grade to grade.

Another significant discussion centered on the term “standard algorithm.” The proposed language in the proposed standards is “an algorithm including but not limited to the standard algorithm.” This is important because it is a goal for all students to learn the standard algorithm for addition, multiplication, subtraction, and division, but the students should also be able to use other strategies that are useful to them and have flexibility.

The grades 6-8 workgroup felt the existing standards were already strong. Most changes involved clarifying language, clarifying intent, and ensuring vertical alignment.

The grades 9-12 workgroup focused on determining which standards should be taught in Algebra I and which in Algebra II courses. Some standards were shared between the courses and the workgroup felt that should be clarified to clearly delineate expectations. This workgroup also made changes to clarify the Geometry standards and the language within the standards. The focus in the Geometry standards was on the term “understand.” The workgroup felt it did not adequately convey how students can show proficiency and worked to replace it with terminology for teachers to use in assessing proficiency.

An additional group focused on writing standards for a fourth math course. The fourth course is a flexible course that some schools teach as Senior Math and others offer as pre-calculus. The existing standards were counted as advanced and were not as progressive or cohesive as they could be. The proposed standards are clearer regarding progression and flexibility.

Math Exhibits 1-32 were received into the record and discussed at a prior public hearing. Math Exhibit 33 was received into the record and discussed. Exhibit 33 came from a teacher in the Rapid City Area Schools and raised concern with the broadness of some standards and requested that they be made more specific. All comments will be taken to the workgroup for review and consideration.

In response to Board questions, Reiner stated that the workgroup intentionally embedded post-secondary faculty into the discussions on secondary math standards since remediation is an issue for several students in post-secondary education. The discussions focused on whether the standards would result in students that are proficient when they reach post-secondary settings. In some instances, standards were moved to ensure there was a clear progression and advancement still occurred.

Debi Caskey, Douglas School District, testified in support of the proposed standards. The clarification in the revised standards will make a big difference to teachers and students in the classroom and also in helping parents understand what the standards mean. The addition and expansion of standards in the areas of time and money are good examples of areas where the revision addressed the specific concerns of teachers. The discussion around demonstrating student understanding resulted in welcome changes to the proposed standards as well.

Diane Wimp, Rapid City Area Schools, testified in support of the proposed standards. Wimp served on the workgroup as a table lead. Wimp discussed the standards in the area of mathematical practice and stated that the proposed standards make the skills attainable for students. Wimp also discussed the

SOUTH DAKOTA BOARD OF EDUCATION STANDARDS

crossover she has seen in standards from one subject to another. This gives teachers a common language for successful behaviors. Wimp also discussed the concepts of structuring, and the need for strong skills in these areas. She stated that the proposed standards will give students the chance to be strong in structuring

Sharon Rendon, workgroup member and parent, testified in support of the proposed standards. Rendon led the Algebra team, which had many teachers as part of the group. The biggest accomplishment was the clarification between Algebra I and Algebra II. The incorporation of post-secondary needs helped inform this work, as did the clarity around the Fourth Year Course. Rendon is very supportive of those changes.

June Apaza, Black Hills State University, testified in support of the proposed standards. Apaza specifically addressed the impact of the proposed standards on pre-service teachers, or teachers in training. The proposed standards have two primary strengths for pre-service teachers. The first is that they do an excellent job of identifying the critical standards that teachers must know and be able to teach. The second thing is that the proposed standards build progressions for students that are easy for teachers to understand and implement.

There was no opponent testimony.

The standards hearing closed at approximately 11:08 a.m. MT.

President Aguilar declared a recess at approximately 11:08 a.m. MT.

President Aguilar declared the meeting back in session at approximately 11:21 a.m. MT.

Report of Literacy Education Improvements:

Becky Nelson, DOE division of learning and instruction, and Linda Turner, DOE office of special education, presented an informational update on the statute of improvements to literacy education efforts. Turner addressed the DOE's work with the multi-tiered systems of support initiative, as well as DOE's focus on supporting districts in "response to intervention" models around literacy in particular. Turner also detailed the various components of the state systematic improvement plan, which is required for Special Education Program and is particularly focused on improving reading by fourth grade, especially for students with learning disabilities.

Nelson discussed the supports and technical assistance the DOE offers to districts, including several listservs to provide information and distribute it to school districts. Webinars are hosted to provide additional information on training opportunities and strategist. Technical assistance may be provided on an as-needed basis when districts have individual questions and address them to the DOE.

Nelson also noted that funding was approved in the 2016 legislative session to create an online program to support struggling readers. This program will be in place until May 2019. Participating schools were chosen via a grant application. The program does not replace a school's reading program, but provides supplemental supports. Nelson also discussed professional development opportunities that assist educators with teaching literacy skills and assisting students with reading difficulties.

SOUTH DAKOTA BOARD OF EDUCATION STANDARDS

Turner summarized recent legislative efforts to target literacy education. Through the legislative process, a workgroup was formed which developed a five-year plan to assist struggling readers, specifically those with dyslexia. Both short- and long-term goals were included in the plan. This information, as well as the DOE dyslexia handbook, may be accessed on the DOE website. Turner also discussed the progress of the five-year plan. DOE has also had a presence at numerous conferences to focus on educating and providing resources to students with dyslexia.

Turner also stated that the DOE has done surveys to track how districts are identifying students with dyslexia and the number of students affected. This survey is voluntary, so the information is not exhaustive, but from the responses, there is an increase in students being identified and served. DOE has also recently been awarded grant funds to develop a comprehensive literacy model, taking many components into account and streamlining those. A strong goal is developing and aligning professional learning systems for educators.

In response to Board questions, Turner discussed the provision of services for students with dyslexia and potential overlap with special education services. Turner also noted that conversations around dyslexia continue, not just in the legislature, and that the DOE will continue to work to meet the needs of all students. Nelson and Turner also discussed some grant funds received by the DOE to support literacy development and the progress of meeting grant goals thus far.

Public Comment (with Prior Notice): Dyslexia Education

Summer Boock, parent from the Rapid City Area Schools, presented information on the status of dyslexia education. Boock is the parent of a child with dyslexia. Boock discussed several statistics reflective of the prevalence of dyslexia among students. Boock also informed the Board of several misunderstandings around dyslexia. Boock stated that children with dyslexia can learn reading skills and expressed the need for early and proper identification of dyslexia in students, in order to provide the necessary supports. Boock wants all children to have the opportunity to be tested for dyslexia, because not identifying a student can cause setbacks. She also discussed the need for educators to be trained on making accommodations for students with dyslexia, and to provide additional supports to these students.

In response to Board questions, Boock stated that 13 states do not have a state law on testing students for dyslexia.

Update on Career Launch and CTE Initiatives:

Laura Scheibe, DOE division of career and technical education, presented an informational update on the recent Career Launch initiative. Scheibe stated that the program is a collaboration between the DOE, the Department of Labor, and the Governor's Office to address workforce needs in South Dakota. South Dakota has low unemployment and many companies in South Dakota cannot hire qualified workers. Career Launch also seeks to address the issue of student engagement with their education by making courses more relevant to future career goals.

The program will include components of apprenticeships, internships, job shadowing, career exploration, industry connections, and parent involvement. Schools are facing increased demand in these areas, so this program will help support and extend the work that districts are already doing. The program will begin with 12 new employees in four pilot districts. The pilot districts will have common

SOUTH DAKOTA BOARD OF EDUCATION STANDARDS

goals, but will also be able to build the program to meet the individual needs of their districts and local communities. Measureable results for both the workforce and education fields are the goal, particularly helping students find the path to their desired goal much earlier, to save both time and educational costs.

Secretary's Report:

Secretary Kirkegaard provided the secretary's report and updated the Board on issues including his goals of providing flexibility to schools and bringing a practitioner's perspective to the position. Kirkegaard also provided an update on the legislative session and some pieces of legislation that impact education.

Adjournment:

Motion by Vyas, second by Sly, to adjourn the meeting. Voice vote, all present voted in favor. Motion carried.

The meeting was adjourned at approximately 12:12 p.m. MT.

Ferne G. Haddock

3/19/2018

Ferne G. Haddock
Executive Secretary BOES

Date: 03/19/2018

STATE OF SOUTH DAKOTA
BOARD OF EDUCATION STANDARDS

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

Received
4/12/18
Legislative Audit

THIS IS A PUBLIC DOCUMENT

Date: January 15, 2018

Name of Board Member or Former Board Member: Dr. Becky Guffin

Name of Board, Authority, or Commission: Board of Education Standards

Brief explanation of contract for which a waiver is requested:

a) Parties to the contract:

Dr. Becky Guffin and the Aberdeen School District 6-1, a political subdivision on the State of South Dakota.

b) Board Member's role in the contract:

I am a party to an employment contract with Aberdeen School District to serve as superintendent of the Aberdeen School District.

c) Purpose and objective of the contract:

The purpose and objective of the contract is to provide superintendent services to the Aberdeen School District for a one-year period.

d) Consideration or benefit conferred or agreed to be conferred upon each party:

Salary of \$147,474.00 and benefits to provide superintendent services to Aberdeen School District.

e) Duration of the contract:

July 1, 2017 to June 30, 2018

Signature of Requesting Party: _____



Date: _____

1-15-18

STATE OF SOUTH DAKOTA
BOARD OF EDUCATION STANDARDS

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23 (current member)

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated January 15, 2018, was received from Dr. Becky Guffin. The request was acted upon by the members of the Board of Education Standards during a meeting held on January 26, 2018.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

See attached minutes.

The request for waiver was authorized subject to the following conditions:

Susan K. Aguilar Nunc Pro Tunc January 26, 2018
Signature of Chairperson or Authorized Member Date

Printed Name: Susan Aguilar

Date sent to Auditor-General April 11, 2018 Date sent to Attorney General April 11, 2018

State Authorities/Boards/Commissions - Annual Disclosure Form

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member:

Name of Board, Authority or Commission:

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

1. With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
2. With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
3. With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

1. The entity receives grant money from the State, either directly or by a pass-through grant or
2. The entity contracts with the State or any political subdivision for services.

1. Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed; if applicable
2018 Consolidated Grant Application/ Agreement: Title I Part A, Title II Part A, Title IV Part A, and Title I Part D funds (FY2018 award approx. \$1,078,559)	Aberdeen School District 6-1 and the South Dakota Department of Education (SD DOE)	Grant agreement between my employer and the SD DOE	n/a
2018G-IDEA06001 2018 IDEA Grant Application/ Agreement: sections 611 and 619 funds (FY2018 award approx. \$1,017,679)	Aberdeen School District 6-1 and SD DOE	Grant agreement between my employer and the SD DOE	n/a
2018G-CP06001 2018 Carl Perkins Grant Application/ Agreement: Perkins program funds (FY2018 award approx. \$47,907)	Aberdeen School District 6-1 and SD DOE	Grant agreement between my employer and the SD DOE	n/a
2018G-SNP06001 2018 National School Lunch Program Grant Application/ Agreement: school breakfast, school lunch, commodities, etc. (FY2018 award unknown, funds distributed on a reimbursement basis)	Aberdeen School District 6-1 and SD DOE	Grant agreement between my employer and the SD DOE	n/a
2018G-411 New Teacher Mentoring Program Grant Application/ Agreement (FY2018 award approx. \$44,000)	Aberdeen School District 6-1 and SD DOE	Grant agreement between my employer and the SD DOE	n/a

add row

2. Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23 - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Employment contract to serve as superintendent for Aberdeen School District 6-1 from July 1, 2017, to June 30, 2018.	Dr. Becky Guffin and Aberdeen School District 6-1	Receive salary and benefits to provide superintendent services to Aberdeen School District, a political subdivision of the State of South Dakota	January 26, 2018 (authorization requested)

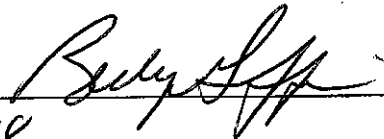
add row

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services -- Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

add row

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member: 

Date: 1-15-18

State Authorities/Boards/Commissions - Annual Disclosure Form

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member:

Name of Board, Authority or Commission:

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

1. With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
2. With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
3. With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

1. The entity receives grant money from the State, either directly or by a pass-through grant or
2. The entity contracts with the State or any political subdivision for services.

1. Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed; if applicable
no disclosures			

add row

2. Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23 - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
no disclosures			

add row

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision
no disclosures		

add row

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member:

Jacqueline Hly

Date:

Jan. 15, 2018

STATE OF SOUTH DAKOTA
BOARD OF EDUCATION STANDARDS

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

Received
4/12/18
Legislative Audit

THIS IS A PUBLIC DOCUMENT

Date: January 15, 2018

Name of Board Member or Former Board Member: Debra Shephard (former member)

Name of Board, Authority, or Commission: Board of Education Standards

Brief explanation of contract for which a waiver is requested:

a) Parties to the contract:

Debra Shephard and Lake Area Technical Institute/Watertown School District

b) Board Member's role in the contract:

I am a party to an employment contract with Lake Area Technical Institute, which is approved by the Watertown School District. The school district is a political subdivision of the state and is under the regulatory oversight of the Board and Department of Education.

c) Purpose and objective of the contract:

The purpose and objective to the contract is to provide adjunct instructor services to Lake Area Technical Institute during the Spring 2018 semester. I will teach three one-half credit courses during the semester.

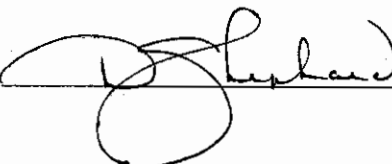
d) Consideration or benefit conferred or agreed to be conferred upon each party:

Salary of \$1410 to provide adjunct instructor services to Lake Area Technical Institute.

e) Duration of the contract:

Approximately January 1, 2018, to March 31, 2018

Signature of Requesting Party:



Date: 1-16-18

STATE OF SOUTH DAKOTA
BOARD OF EDUCATION STANDARDS

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23 (former member)

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated January 16, 2018, was received from Debra Shephard. The request was acted upon by the members of the Board of Education Standards during a meeting held on January 26, 2018.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

See attached minutes.

The request for waiver was authorized subject to the following conditions:

Susan K. Aguilar Nunc Pro Tunc January 26, 2018
Signature of Chairperson or Authorized Member Date

Printed Name: Susan Aguilar

Date sent to Auditor-General April 11, 2018 Date sent to Attorney General April 11, 2018

STATE OF SOUTH DAKOTA
BOARD OF EDUCATION STANDARDS

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Date: July 14, 2017

Name of Board Member or Former Board Member: Donald Kirkegaard

Name of Board, Authority, or Commission: Board of Education Standards

Brief explanation of contract for which a waiver is requested:

a) Parties to the contract:

Donald Kirkegaard and the Meade School District 46-1

b) Board Member's role in the contract:

I am a party to an employment contract with Meade School District to serve as superintendent of the Meade School District.

c) Purpose and objective of the contract:

The purpose and objective to the contract is to provide superintendent services to the Meade School District for a one-year period.

d) Consideration or benefit conferred or agreed to be conferred upon each party:

Salary of \$132,000 and benefits to provide superintendent services to Meade School District.

e) Duration of the contract:

July 1, 2017 to June 30, 2018

Signature of Requesting Party: _____

Donald Kirkegaard

Date: _____

7-13-2017

SOUTH DAKOTA BOARD OF EDUCATION STANDARDS

Date: Monday, July 17, 2017—8:00 a.m. Central Time

Location: Matthews Training Center, Foss Building
523 E. Capitol Avenue, Pierre, SD 57501

Public Telephone Access:
1-866-410-8397/conference code: 8381998525

For live streaming of meeting: <http://www.sd.net/remote1/>

Received
9/21/2017
Legislative Audit

Present: Sue Aguilar, Vice President
Glenna Fouberg, Member
Scott Herman, Member (joined meeting at approximately 8:12 a.m. CT)
Donald Kirkegaard, President
Kay Schallenkamp, Member
Gopal Vyas, Member
Lori Wagner, Member

DOE staff

in attendance: Mary Stadick Smith, Becky Nelson, Abby Javurek, Laura Scheibe, Dorothy Aguilar Black-Bear, Andrea Diehm, Sandra Kangas, Ferne Haddock, and Holly Farris.

Others in

attendance: Dr. Kelly Duncan (former Board member), Bob Mercer (media), Jeff Danielson (Watertown School District), Brian Fields (Beresford School District), Joel Jorgenson (Madison School District), Bob Sittig (Baltic School District), Brian Huepel (Leola School District), Tim Graf (Milbank School District), Mark Naugle (Custer School District), Gary Leighton (Florence School District), Terry Nebelsick (Huron School District), Summer Schultz (Dell Rapids School District), Rob Monson (School Administrators of South Dakota), and other members of the public present in person or via telephone.

Call to Order, Pledge of Allegiance, and Roll Call:

President Kirkegaard called the meeting to order at approximately 8:02 a.m. Central Time.

Adoption of Agenda:

Motion by Aguilar, second by Schallenkamp, to adopt the July 17, 2017, proposed agenda. Voice vote, all present voted in favor. Motion carried.

Approval of Minutes:

Motion by Vyas, second by Wagner, to approve the May 15, 2017, minutes as proposed. Voice vote, all present voted in favor. Motion carried.

Election of Officers:

Fouberg nominated Aguilar to fill the remaining term of the office of vice-president, vacated due to the resignation of Deb Shephard from the Board.

Motion by Fouberg, second by Vyas, to cease nominations and cast a unanimous ballot for Aguilar. Voice vote, all present voted in favor. Motion carried.

Conflicts disclosures (SDCL 3-23-3):

Susan Aguilar requested waivers on two contracts between the Department of Education Child and Adult Nutrition Services division and Lutheran Social Services (LSS). Aguilar's spouse serves on the board of LSS. These contracts were entered into prior to the amendments to the conflict disclosure laws taking effect on July 1, 2017, and so Aguilar is requesting a waiver under the prior provisions of the law in the interest of full disclosure. Aguilar requested the waivers as soon as she became aware of the contracts. The contracts are to provide meals through the school nutrition and child and adult care food programs, which are funded on a reimbursement basis. Aguilar stated that she played no role in the contracts being awarded to LSS and her household receives no income as a result of LSS having the contracts.

Motion by Vyas, second by Schallenkamp, to approve the waiver requests as presented. Voice vote, all present voted in favor (Aguilar and Herman abstained). Motion carried.

Dr. Kelly Duncan, former board member, requested a waiver for her employment contract with the South Dakota Board of Regents to be employed as the dean of the School of Education at Northern State University. The contract was effective prior to July 1, 2017, and so Duncan is requesting a waiver according to the provisions of the law in effect at that time. Duncan previously received a waiver for her employment contract with NSU in 2016.

Motion by Fouberg, second by Aguilar, to approve the waiver request as presented. Voice vote, all present voted in favor. Motion carried.

President Kirkegaard turned the gavel over to Vice President Aguilar at approximately 8:16 a.m. CT.

Holly Farris, board counsel, provided a summary of House Bill 1170 and the associated updates to the conflict of interest disclosure laws affecting state board members.

Kirkegaard requested a waiver for his employment contract with Meade School District, for which he serves as superintendent. Kirkegaard is a direct party to the contract with Meade

Received

9/21/2017

Legislative Audit

School District, and received a waiver for his employment contract in 2016 as well. (A copy of the waiver request is attached to the minutes as Attachment A.)

Motion by Fouberg, second by Vyas, to approve the waiver request as presented. Voice vote, all present voted in favor (Kirkegaard abstained). Motion carried.

Vice President Aguilar returned the gavel to Kirkegaard at approximately 8:22 a.m. CT.

Each current board member submitted an annual disclosure form regarding conflicts of interest. (Copies of the disclosure forms are attached to the minutes as Attachments B-H.) Board members Aguilar, Fouberg, Schallenkamp, and Vyas had no disclosures on their annual forms.

President Kirkegaard disclosed grant agreements between his employer, Meade School District, and the South Dakota Department of Education (DOE) for Title, IDEA, Perkins, and school food service program funds, which are needs-based programs.

Lori Wagner disclosed a contract between her employer, the NSU E-Learning Center, and the DOE for the E-Learning Center to offer college readiness courses.

Scott Herman disclosed a grant agreement between his employer, the Rosebud Sioux Tribe, and the DOE for summer food service program funds.

Secretary's Report:

Mary Stadick Smith, deputy Secretary of Education, presented the Secretary's report. Stadick Smith provided updates on the Department's Every Student Succeeds Act (ESSA) state plan progress and comment period, Governor Dugaard's focus on strengthening career pathways in the K-12 education system, the recent state Special Education programs federal review, and state dyslexia workgroup progress on a five-year plan and updates to the dyslexia handbook.

Public Hearing—Administrative Rules (24:58 Principal Performance Standards and Evaluations)

Article 24:58 (Principal Performance Standards and Evaluations)

Proponent Testimony:

Becky Nelson, DOE director of learning and instruction, testified in support of the proposed rules. Nelson stated that the proposed changes were formulated by gathering feedback from a variety of stakeholders, including the Every Student Succeeds Act (ESSA) educator effectiveness workgroup and the Commission on Teaching and Learning. The Department also sent out a statewide survey to school administrators on the rules for teacher and principal evaluations to gather information. A hearing on these rules was originally scheduled in May, but the

Department determined additional time was necessary to gather information and draft the rules due to comments received from superintendents in the field. The additional information gathered consisted of a webinar held in June and a number of administrators participated. The proposed rules incorporate many, but not all, suggestions made during the webinar.

Nelson stated that the proposed rules change the definitions of assistant principal and principal to align to the recently passed educator certification rules. The proposed changes also incorporate suggestions that assistant principals need not be evaluated on all six domains within the principal standards, but evaluators can choose four of the six domains. This increases flexibility for school districts.

The current rules set out two performance measures: performance and school growth. The proposed changes to the rules would allow principals to set a specific goal aligned to the school improvement plan and could be used as an additional measure of performance. The proposed rules provide more flexibility for goal-setting between the superintendent and the principal. The proposed changes also allow schools to create a summative rating or do separate ratings for school growth and professional practices ratings, which provides additional flexibility. Because the proposed rules add flexibility for schools to formulate individual goals regarding student growth ratings, there is no longer a need for the alternative student growth model. Therefore, that rule would be repealed.

The proposed changes also eliminate the need for a plan of assistance for principals. Further, language was added to clarify that the authority of a school or district to dismiss or non-renew is not superseded by the evaluation requirements in the rules.

In response to Board questions, Nelson stated that feedback indicated superintendents wanted less requirements to evaluate on all domains for assistant principals, as responsibilities for those positions were not the same as principals. The rules reflect adjustments for the roles of assistant principals.

Nelson stated that one public comment was received regarding these rules, from Jennifer Lowery, superintendent of the Tea School District. The comment raises concerns about principals unintentionally being given tenure because of the proposed requirements in the rules. Lowery recommended that two rules could be cut, primarily from the definitions section of the rules. Nelson responded to the comment by stating that the Department addressed the concerns about principal tenure by adding language clarifying that the chapter on principal evaluation was not to supersede district authority to non-renew or dismiss a principal. Nelson also stated that the Department wanted to be very clear that the rules require a principal evaluation model aligned with the principal standards, which are not being changed in the proposed rules. Further, the proposed rules do not require a certain evaluation tool be used, only that the evaluation tool used by a school district must align to the principal performance standards.

In response to Board questions, Nelson stated that over half of superintendents that received the survey responded and close to one-third of principals responded. Nelson also stated that very few schools currently have waivers pertaining to principal evaluations, perhaps less than a dozen. Nelson clarified that, currently, waivers may be obtained for utilizing different standards or growth goals (two separate waivers). Under the proposed rules, waivers for different growth goals would no longer be required, only waivers to evaluate on different principal standards. The student growth waiver would no longer be required because the proposed rules provide schools the flexibility to set whatever goal the district deems necessary.

Nelson also stated that the proposed rules do not mandate a current form or tool, districts need to make sure the principals standards are used on whichever form is used. If a district wanted to use standards different than those already in rule, the district could apply for a waiver. The Department would then evaluate whether or not the standards were acceptable and make a determination on the waiver. Nelson stated that rules are still necessary, despite the fact that districts may still seek a waiver. The priority is to have all districts evaluate principals using the same standards. South Dakota created its own principal standards by modifying certain national standards to fit state needs. But the Department recognizes that some organizations have different standards that a district may feel better suit its needs.

Opponent testimony:

Jeff Danielson, superintendent of the Watertown School District and president-elect of the South Dakota Superintendent's Association (SDSA), testified in opposition to the proposed rules. Danielson stated that the SDSA executive board met in April and its position has remained the same to date. The SASD executive board's position on the proposed rules is that the principal effectiveness model should be a recommended model, not a required model. Districts would still comply with completing evaluations on the proposed timeline, but many superintendents feel that school districts need the ability to evaluate principals without lengthy paperwork which increases the workload on building principals also responsible for teacher evaluations. Danielson stated that principals need latitude to complete teacher evaluations without also being burdened by compliance with principal effectiveness requirements.

Superintendents are concerned that the rules may give principals a level of tenure because they could argue that the principal is not serving at the will of the board, but could defend their jobs by accusing superintendents of not following all the protocol demanded by the proposed principal effectiveness model. Danielson also stated that ESSA's intent was to provide more flexibility and this just rolls over the old model and all its requirements.

Bob Sittig, superintendent of the Baltic School District, testified in opposition to the proposed rules. Sittig stated that recent conversations with South Dakota's congressional delegation indicated that the intent of ESSA was to return control to states at a local level so decisions can be made closest to the students. Sittig stated that the proposed principal effectiveness model is in opposition to that intent. Sittig said that while schools can request waivers, they should not have to.

In response to Board questions, Tim Graf, superintendent at Milbank School District, stated that schools are agreeable with the requirement to complete evaluations, but superintendents feel that districts need the flexibility to change the recommended model as needed. It should be recommended, not required. Terry Nebelsick, superintendent at Huron School District, further stated that the validation of the effectiveness evaluations can be shown during the school accreditation process.

Board discussion focused on how the proposed rules may be modified to provide more flexibility, as sought by the superintendents who testified in opposition. Nelson explained that eliminating the alternative evaluation application would remove flexibility from the rules, as the rules would then require that all school districts would have to use the principal standards in rule and there would be no option for schools to use different standards that the district has formulated. Nelson stated that to add flexibility, the Board could consider removing the requirements to assign professional practice ratings or school growth ratings. The rules would then provide that school districts would be required to complete an evaluation based on the principal standards, but would have flexibility to do the evaluation in individualized formats and assign ratings if the school district felt it necessary. Some Board members raised concerns with whether a focus on only flexibility for school districts would remove consistency in requirements to ensure effective and formative evaluations.

Nelson stated that the current rules would require evaluations yearly for the first four years for principals, and then every other year. Those rules are not being amended. Nelson restated that waivers allow the principal evaluations to be completed using a different set of standards that the Department approves. Receiving a waiver does not eliminate the requirement to complete an evaluation.

Nelson also discussed that school growth ratings in the past were goals based on the school performance index as well as a percentage of teachers with goals on student learning objectives. The proposed rules would allow schools to individually define a goal for school growth and evaluate principals on whether or not that goal was met. An example of this is student achievement on a benchmark assessment. Here, the term growth essentially means improvement.

Nelson requested a recess to formulate some amendments to the proposed rules.

President Kirkegaard declared a recess of the rules hearing at 9:42 a.m. Central Time.

President Kirkegaard declared the rules hearing back in session at 10:35 a.m. Central Time.

Nelson presented language to amend the proposed rules as requested by the Board. Nelson stated that the amendments reflect the superintendents' request for more flexibility and are significantly based on the specific suggestions made by Tea School District Superintendent Lowery in her public comment. The amendments increase flexibility by requiring schools to

evaluate principals but removing requirements to make specific ratings or school growth goals. The reason for eliminating these areas is to eliminate the additional paperwork and documentation that the superintendents found burdensome. The schools will have the option to set and implement goals, but goal-setting and assessment on those goals will no longer be mandated. The districts would be required to evaluate principals based on the standards for principals already in rule.

Nelson reviewed the individual changes proposed as amendments. The professional practice rating and school growth rating definitions were eliminated and the rules renumbered. Language was added stating that the minimal evaluation requirements will be based on the principal framework of the existing principal standards consisting of the six existing domains. The professional practice rating and school growth rating requirements were removed. The remainder of the rules was not changed.

In response to board questions, Nelson stated that the rules do not require a specific evaluation tool, so schools may use whatever is adequate for their local purposes without needing a waiver. The requirement to seek a waiver for evaluating principals on different standards than those in rule will still be necessary. The Department will continue to review these waivers and determine if a school district's proposed alternative principal standards comply with basic professional standards.

Motion by Aguilar, second by Vyas, to amend the rules as proposed with Nelson's suggested edits. Voice vote, all present voted in favor. Motion carried.

Motion by Fouberg, second by Schallenkamp, to approve the rules as amended. Voice vote, all present voted in favor. Motion carried.

The rules hearing closed at approx. 10:46 a.m. Central Time.

First Reading—Administrative Rules (Article 24:55 Public School Accountability):

Laura Scheibe, DOE division of accountability systems, presented the first reading of administrative rule changes to Article 24:55. Scheibe stated that the proposed rules will put in place a large part of what the state ESSA plan lays out for the first year of plan implementation, and then other changes will be incorporated as other indicators are developed.

Scheibe stated that the proposed rule changes can be broadly grouped into three components: indicators, school improvement and support, and goals and annual measures. Many of the proposed changes are a clean-up of the existing rules, where old requirements from the NCLB flexibility waiver are deleted as they are not part of the new system.

Scheibe described the proposed changes regarding accountability indicators. The student achievement indicator includes proposed changes on how points are assigned. Points will now be awarded on a spectrum that rewards student growth and progress, rather than solely

measuring whether a student is proficient or not proficient. The proposed changes to the student attendance indicator adjust the measure of student attendance from 94 percent to 90 percent. This reflects requirements at the federal level to report chronic absenteeism. The federal level also uses a 90 percent measure. State alignment with federal requirements will simplify reporting requirements.

Scheibe discussed the college and career readiness and school performance index indicators. The separate readiness divisions for math, reading, and English language arts will be removed. Multiple options to show readiness for college, careers, and future work will be created, such as utilizing the national career readiness certificate (NCRC), dual credit coursework, and career and technical education concentrator status. Additional options will be built into the rules as ESSA implementation progresses.

English language proficiency is a new indicator addressed in the proposed rules, which is required by ESSA. The indicator measures progress of students whose first language is not English being prepared for academic work and how long it takes such students to meet certain standards for academic participation. Similar to student achievement, points in this area will be awarded on a continuum. Abby Javurek discussed the process to develop this indicator in South Dakota, which involved national experts examining South Dakota data and South Dakota educators who work with the English learner population.

The high school completion indicator as measured will remain unchanged, but the indicator is broken out into two components to satisfy federal requirements. The high school completion indicator calculates the high school completion rate, including GED/high school equivalency and graduation, irrespective of how many years a student took to earn a diploma. The four-year cohort graduation rate, as required by ESSA, will continue to be calculated.

Another change in this area is that all indicators will now be calculated on full academic year students, which are those attending from October 1 to May 1.

In response to Board questions, Scheibe noted that the Board does not need to approve the state plan prior to its submission to the U.S. Department of Education.

Scheibe discussed the school ranking and classification accountability requirements. Several classifications will be removed from this area as they are not required under ESSA. The only rankings required under ESSA involve schools designated for school support. High-ranking schools no longer need to be designated as such.

The new designation of comprehensive support schools is similar to the old designation of priority schools. Designations are based on Title I schools ranking in the bottom five percent of SPI scores and schools with graduation rates under 67 percent. Supports will be more individualized for schools, with many of the system's prescriptive requirements being removed. Evidence-based interventions are required.

The new designation of targeted support schools loosely replaces the old focus school designation. These schools used to be designated strictly by gap group performance, and now other subsets of student performance or disproportionate performance will be considered. Javurek noted that with the small South Dakota population, the rules are sensitive to the fact that there will be some small subgroups. Confidence intervals are built into the rules as a result, to prevent inadequate reporting.

Academic progress used to be measured by annual measurable objectives and only goals for student achievement were included. ESSA requires goals for student achievement, four-year cohort graduation rate, and English learners obtaining proficiency. These goals will all follow a similar formula that involves setting aspirational goals resulting in 100 percent achievement of the benchmark within 13 years. These goals will be set in five-year intervals and based on 2016-2017 school year performance.

In response to Board questions, Scheibe discussed the aspirational goal of getting students to 100 percent proficiency by graduation and whether that was a realistic goal. Scheibe stated that this was an ongoing conversation as the rules were developed. The goal in this area was to incorporate the department's existing aspiration and goal work. The Department's goal is to ensure all schools are included and get the focus they need.

In response to questions about the college and career readiness indicator, Scheibe stated that students can show readiness by taking the NCRC, and that coursework will also be examined. This will pick up students who may not be particularly strong in readiness for a four-year degree school, but pursue a career path. Workgroups for the state plan felt strongly that career and technical education needed to be a stronger focus and that the indicators should not differentiate between college readiness and career readiness, but rather readiness for what comes after secondary education.

Scheibe also discussed that, at this point, data regarding the number of students going on to postsecondary institutes will not be a component of the college and career readiness component of the accountability system, but that information will still be reported out.

Motion by Aguilar, second by Wagner, to move the accountability rules to a public hearing. Voice vote, all present voted in favor. Motion carried.

President Kirkegaard declared a recess at approximately 10:20 a.m. CT.

President Kirkegaard declared the meeting back in session at approximately 10:32 a.m. CT.

NOCTI Exam Cut Score

Erin Larsen, DOE division of career and technical education, presented the cut score for the NOCTI accounting teacher assessment for Board approval. The score applies to the accounting career pathway endorsement for teacher certification and was inadvertently omitted from the

cut score packed presented to the Board at the May meeting. Larsen requested that the criterion reference cut score be set at 55.9, as recommended by the test designer and career cluster advisory committee. Consultation with both NOCTI and the advisory committee indicated that a cut score of 55.9 should be recommended since this is a new test offered in South Dakota. The scores will be monitored to assess whether the score should be modified.

Motion by Aguilar, second by Schallenkamp, to approve the recommended cut score. Voice vote, all present voted in favor. Motion carried.

Report on the South Dakota Comprehensive School Counseling Program Model:

Andrea Diehm, DOE division of career and technical education, presented a report on the comprehensive school counseling program model. The model was created in 2013 and recently revised. The revision process focused on how to support schools and students as a whole, with an emphasis on how students benefit from the services provided and how a school counselor fits into the overall environment at a school.

Components of the model include management and delivery, and alignment to the American School Counselor Association national model. The revised model has added standards for student success, reassignment of non-counseling duties, examples on program implementation, and sample lesson plans for classroom work.

In response to Board questions, Diehm discussed how counselors fit into the role of ensuring students have information about career and workforce pathways.

Proposed Agenda Items for Future Discussion:

The Board requested informational updates from the Department on librarian and paraprofessional certification standards, and a report on educator certificate issuance.

Review of BOES Duties and Responsibilities:

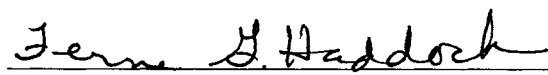
Farris presented an overview of the Board's duties and obligations as outlined by state statutes. The Board requested that the Department collaborate to help revise the Board's mission statement.

BOES Meeting Schedule Update:

The location of the September meeting was changed from Pierre to Aberdeen, to accommodate the standards hearing cycle. The date will remain on September 18.

Adjournment:

The meeting was adjourned at 11:30 a.m. CT.



Ferne Haddock, Ex. Secretary, BOES

9/20/17

Date:

STATE OF SOUTH DAKOTA
BOARD OF EDUCATION STANDARDS

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Date: July 14, 2017

Name of Board Member or Former Board Member: Donald Kirkegaard

Name of Board, Authority, or Commission: Board of Education Standards

Brief explanation of contract for which a waiver is requested:

a) Parties to the contract:

Donald Kirkegaard and the Meade School District 46-1

b) Board Member's role in the contract:

I am a party to an employment contract with Meade School District to serve as superintendent of the Meade School District.

c) Purpose and objective of the contract:

The purpose and objective to the contract is to provide superintendent services to the Meade School District for a one-year period.

d) Consideration or benefit conferred or agreed to be conferred upon each party:

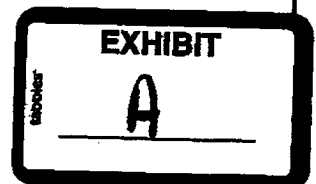
Salary of \$132,000 and benefits to provide superintendent services to Meade School District.

e) Duration of the contract:

July 1, 2017 to June 30, 2018

Signature of Requesting Party: Donald Kirkegaard

Date: 7-13-2017



STATE OF SOUTH DAKOTA
BOARD OF EDUCATION STANDARDS

Received
12/18/2017
Legislative
Audit

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Date: September 5, 2017

Name of Board Member or Former Board Member: Debra Shephard (former member)

Name of Board Authority or Commission: Board of Education Standards

Brief explanation of contract for which a waiver is requested:

a) Parties to the contract:

Debra Shephard and Lake Area Technical Institute/Watertown School District

b) Board Member's role in the contract:

I am a party to an employment contract with Lake Area Technical Institute, which is approved by the Watertown School District. The school district is a political subdivision of the state and is under the regulatory oversight of the Board and Department of Education.

~~c) Purpose and objective of the contract:~~

The purpose and objective to the contract is to provide adjunct instructor services to Lake Area Technical Institute during the Fall 2017 semester. I will teach two one-half credit courses during the semester.

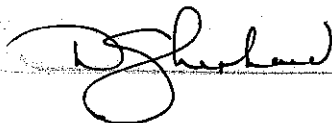
d) Consideration or benefit conferred or agreed to be conferred upon each party:

Salary of \$940 to provide adjunct instructor services to Lake Area Technical Institute.

e) Duration of the contract:

Approximately August 22, 2017, to December 19, 2017

Signature of Requesting Party:



Date: 9-7-17

STATE OF SOUTH DAKOTA
BOARD OF EDUCATION STANDARDS

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23 (former member)

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated September 7, 2017, was received from Debra Shephard. The request was acted upon by the members of the Board of Education Standards during a meeting held on September 18, 2017.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

See attached minutes.

The request for waiver was authorized subject to the following conditions:

Susan K. Aguilar None Pro Tunc, Sept 18, 2017
Signature of Chairperson or Authorized Member Date

Printed Name: Susan Aguilar

Date sent to Auditor-General 12/18/17 Date sent to Attorney General 12/18/17

SOUTH DAKOTA BOARD OF EDUCATION STANDARDS

Date: Monday, September 18, 2017—9:00 a.m. Central Time

Location: Northern State University, Student Center Centennial Rooms A & B West
1200 South Jay Street, Aberdeen, South Dakota

Public Telephone Access:
1-866-410-8397/conference code: 8381998525

For live streaming of meeting: <http://www.sd.net/sdqb6/>

Present: Sue Aguilar, Vice President
Glenna Fouberg, Member
Scott Herman, Member
Kay Schallenkamp, Member
Gopal Vyas, Member
Lori Wagner, Member

Absent: Donald Kirkegaard, President

DOE staff

in attendance: Mary Stadick Smith, Abby Javurek, Laura Scheibe, Becky Nelson, Sam Shaw, Karen Keyser, Nicol Reiner, Teresa Berndt, Erin Larsen, Holly Farris, and Ferne Haddock.

Others in

attendance: Dr. Paul Turman, Dr. Kelly Duncan, Sandra Waltman, Samantha Walder, Dena Sievers, Sandy Ullrich, Katherine Grandstrand, and other members of the public in attendance in person or via phone.

Call to Order, Pledge of Allegiance, and Roll Call:

Vice President Aguilar called the meeting to order at approximately 9:00 a.m. Central Time. Northern State University Provost Alan LeFave welcomed the Board.

Adoption of Agenda:

Motion by Vyas, second by Schallenkamp, to adopt the September 18, 2017, proposed agenda. Voice vote, all present voted in favor. Motion carried.

Approval of Minutes:

Motion by Fouberg, second by Herman, to approve the July 17, 2017, minutes as proposed. Voice vote, all present voted in favor. Motion carried.

Conflicts disclosures (SDCL 3-23-3):

Deb Shephard, former Board member, requested a waiver on a contract for her to serve as an adjunct instructor at Lake Area Technical Institute. The contract is approved by the Watertown School Board, a

political subdivision of the state. Shephard stated that the contract duties are to act as an instructor for two one-half credit classes. Shephard noted that she received a waiver for a similar contract during her service on the board last year, and that she has no authority at LATI to issue or engage in contracts with other entities. Holly Farris, board legal counsel, noted that Shephard is subject to the conflict of interest provisions for a one-year period after her service on the board ended.

Motion by Vyas, second by Wagner, to approve the waiver as requested. Voice vote, all present voted in favor. Motion carried.

Board of Regents Report:

Dr. Paul Turman, vice president of academic affairs for the South Dakota Board of Regents, presented an update to the Board regarding the Regents' progress on proactive admissions to regental institutions. This initiative will notify students receiving a 3 or 4 on the Smarter Balanced assessment that they are eligible for admission to a regental institution. Turman also provided information on work with school districts to develop early college programming to high school students, potentially in the high school classrooms. Turman also provided information on dual credit programming at the regental institutions.

Public Hearing—Administrative Rules (24:55 Public School Accountability System)

The Board of Education Standards convened a public hearing at approximately 9:30 a.m. Central Time.

Article 24: 55 (Public School Accountability System)

Proponent Testimony:

Laura Scheibe, DOE office of accreditation and accountability, testified in support of the proposed rules. Scheibe stated that the proposed rules reflect the South Dakota state plan submitted to the United States Department of Education under the Every Student Succeeds Act (ESSA). South Dakota worked on its plan for approximately one-and-a-half years. Scheibe noted that although no public comments were submitted regarding these proposed rules, during the development of the state plan, SD DOE engaged in stakeholder feedback and requested public comment. The proposed rules reflect a significant amount of public input in that way.

Scheibe stated that additional rules will be necessary in this area, as the accountability system is refined and developed with additional data in coming years. The accountability system is also only one part of the state plan. Other components of the plan are encompassed in other rules or areas.

The first part of the proposed rules makes changes to the definitions of terms and the definition of the accountability system itself. Many revisions in this portion of the rules are clean up to the language.

The proposed rules make amendments to the accountability system indicators, for which schools are held accountable. The proposed rules state that, for the student achievement indicator, schools will be held accountable for a rolling three years' worth of performance on assessments. The assessments may be Smarter Balanced or the alternative assessment. The rules change how schools are awarded points. Previous rules awarded points based on whether students were assessed as proficient or not proficient. Under the proposed rules, points are awarded on a continuum. This rewards schools for helping

students progress at all levels. Students at level one will earn .25 points, level two will earn .50 points, level three will earn 1 point, and level four will earn 1.25 points.

The proposed rules on the student attendance indicator make the primary change of looking at full academic year students, where the existing rules hold schools accountable for students that were enrolled for at least 15 days. The full academic year for accountability purposes is October 1 through May 1 and will account for students enrolled for the majority of that time. Scheibe noted that, although not reflected in the rules, this indicator will serve as the school quality indicator under the state plan.

The proposed student attendance indicator rules also lower the target attendance rate from 94% to 90% to align with federal expectations. ESSA requires states to report on attendance regardless of whether it has been included as the school quality indicator, so South Dakota aligned its attendance rate to simplify reporting and prevent confusion on the report card.

Scheibe stated that the calculation of the high school completion SPI (school performance index) key indicator score will change under the proposed rules. The proposed rules split the high school completion measurement from the four-year cohort graduation rate measurement and consider them separately. These factors are combined under the existing rules, but will now be split apart to fulfill federal requirements. Schools will still be held accountable for the same factors. The completion rate measures whether students receive a diploma or high school equivalency in four years or more.

The proposed rules on the college and career readiness indicator remove separate sections for college readiness in math and English, as well as the calculation of career readiness. The purpose of these changes is to remove the silos between college readiness and career readiness. Currently, they are measured separately, but the goal under the proposed rules will be to measure student readiness for next steps, regardless of what that step is.

Under the proposed rules, student readiness may be measured by assessments. The assessment may be the Smarter Balanced assessment, the ACT, or Accuplacer; or National Career Readiness Certificate (NCRC). The requirement to indicate readiness via the NCRC will also be raised from the bronze level to the silver level.

Calculation of progress towards post-secondary credentials will be developed more in the future. Currently, it may be measured through CTE concentrator status, CTE course completion, and state-sponsored dual credit coursework to indicate student readiness. Success on advanced placement examinations would also measure this indicator. Workgroups in this area felt that if students were successful in earning post-secondary credentials, the students should be considered ready in that area.

The proposed academic growth key indicator rules constitute a clean up to remove references to the 2014-2015 school year, and will measure the indicator with the same method used for the 2015-2016 and 2016-2017 school years. No changes were made to how academic growth is calculated.

The proposed rules also incorporate a brand new indicator to align with federal requirements. ESSA requires, as part of the main accountability system, that states measure how well English learners are moved to proficiency. This is a change because, while this area used to be considered, it was not part of the main accountability system. This indicator will be based on student scores on the ACCESS 2.0 assessment, which is administered every year to measure progress on attaining English language proficiency. If students take the exam, schools receive some credit, but receive no credit for students not taking the assessment. The bulk of the rules on this indicator measure the growth of students who

have taken multiple assessments. Similar to the student achievement indicator, points will be awarded on a continuum to award progress as well as proficiency. Zero points will be awarded to students not taking the assessment, .25 points to students showing no growth (the same or a lower score), .50 points for students showing some growth, 1 point for students becoming proficient or meeting state targets on time, and 1.25 points to students becoming proficient and exiting early. The indicator will look at three years of assessments, similar to the measure of the student achievement indicator. This is in order to increase the N size of students considered and thus hold more schools and districts accountable.

The graduation rate key indicator will continue to be calculated under the current method and will calculate the same four-year cohort graduation rate, as defined in federal law. The proposed rules include amended appendices which describe the various indicator calculations in formula format.

Scheibe stated that the proposed rules also amend the various school classifications, which are how the report card and indicators are implemented. The changes in this section include deletion of several rules. These deletions are the result of input received during development of the state plan, in which stakeholders indicated that the DOE should only label schools which the federal law requires to be classified. ESSA requires classification of comprehensive support and improvement schools and targeted support and improvement schools. Those will now be the only schools to receive formal labels out of the report card. The DOE will still look at and recognize high-performing schools as required under state law, but not via naming exemplary schools.

Comprehensive support and improvement school rules are similar to the prior method of classification. These schools will be classified by looking at the bottom five percent of Title I schools and all schools with low graduation rates, which is 67 percent or below, regardless of Title I status. Comprehensive support and improvement schools will also be categorized by whether or not a certain category of targeted support and improvement schools fail to improve within a certain timeframe.

Targeted support and improvement school classification will focus on subgroup performance within schools under the proposed rules. The proposed rules will require schools to be identified by disproportionality in how a subgroup in a school performs compared to the performance of all the students in the school. This disproportionality will be measured with a 95 percent confidence interval to ensure schools are not identified for school improvement unless there is actual disproportionality. The proposed rules will also identify schools for targeted support and improvement by looking at the subgroup within the school identified by disproportionality, and further identifying whether that identified subgroup is performing at the same level as the bottom five percent of all Title I schools. If so, that school will be classified as a targeted support and improvement school. If a school identified by this second method does not improve subgroup performance within four years, the school will be reclassified as a comprehensive support and improvement school. Both methods will be applied to all public schools, not just Title I schools.

The proposed rules identify that comprehensive and targeted support and improvement schools will receive similar supports. Classified schools must have a comprehensive needs assessment. Comprehensive support and improvement schools must work with a school support team professional. All classified schools must implement evidence-based interventions and must submit annual school improvement plans to the Department. The DOE has more flexibility under ESSA to support schools in individual ways, to meet the unique needs of districts, and attempted to design supports that make sense for individual schools.

The proposed rules state that to exit comprehensive support and improvement status, a school must show it no longer meet the criteria of identification and that some improvements have been made. This serves to prevent a school from exiting where a school has not improved but no longer meets the classification criteria simply because other schools declined in performance accountabilities. Schools may also petition to exit the status early if meeting all goals set out. If comprehensive schools have made no improvements, the schools must be reassessed and have revised supports.

The proposed rules to exit targeted support and improvement status are similar to the exit criteria for the comprehensive classification, but whether or not the gap group has declined is also considered.

The proposed rules also set out goals for academic progress. The existing rules applied the goals to the student achievement indicator. The proposed rules apply the goals to the student achievement, graduation rate, and English language proficiency indicators. The goals follow the same basic model. The proposed rules state that the aspiration is that in thirteen years, a cohort of kindergarten students will have 100 percent proficiency, total graduation rate, and English language learners gaining proficiency on time by the time that cohort of students leaves the K-12 educational system. Scheibe emphasized that this is an aspirational goal.

The rules further set out interim targets and goals to meet the overall aspirational goal. In five years, all schools' and subgroups' goal performance is to match the 50th percentile school identified during the 2016-2017 school year report card. In ten years, all schools' and subgroups' goal is to improve and match performance with the 75th percentile school identified during the 2016-2017 school year. In the remaining three years, schools should be on track to achieve 100 percent proficiency. The aspirational goals and interim goals are detailed in an appendix to the state ESSA plan.

Individual student level goals for English learners are also required under the proposed rules. Goals will be based on a student's first ACCESS 2.0 score. If a student scores at a level one or two, the projected goal for exiting the status will be five years. A student score of level three will project the exit goal at four years. A student score of level four will project the exit goal at three years. Student scores of level five or six are considered proficient. Each student will receive an individual trajectory for exiting.

The final section of the proposed rules covers the administrative implementation of the accountability system overall and contains minimal amendments other than requirements of period reviews of gap group performance and the accountability system as a whole. Scheibe noted that the rules on student transfers during the academic year have been amended. Previously, student achievement and academic growth were the only factor that considered whether a student attended a school for the full academic year. The proposed rules will base all indicators on full academic year.

A new rule is proposed regarding the graduation rate indicator and which school receives credit for a student if the student drops out. A student that drops out after completing less than half of the academic year in the final year will be attributed to the school where the student attended the majority of grades 9-12. If more than half of the year is completed at the school before the student drops out, the student will be attributed to the school where the student last attended. This is a provision from ESSA on which the DOE gathered stakeholder feedback. Stakeholders agreed that this is how student drops should be attributed.

In response to Board questions, Scheibe stated that the change from bronze to silver in the requirement to show proficiency via the NCRC assessment was based on student success rates to date. The success rate so far is around 94 percent. DOE examined how other states measure success on this indicator and

found other states also moving toward a silver level requirement to increase the rigor. The DOE also examined which skills are measured by the various levels of the assessment and found that the skills measured by the silver level were more appropriate for the indicator than those at the bronze level.

Scheibe also stated that, when classifying schools, the bottom five percent must still be classified, regardless of how well all schools are performing in a state. This was something on which the workgroup discussion particularly focused. It is something specifically called out in ESSA and has been part of the past flexibility waivers. It assumes schools can always find room to improve. Mary Stadick Smith, deputy secretary of education, stated that this is one of the reasons for the other academic growth indicators, as that is another lens for schools to show they are making progress and improvements for students. Scheibe also discussed that when applying for early exit from classification, a school has to show it is meeting all of its targets.

Public Comment:

No public comments were submitted regarding the proposed rules.

Opponent testimony:

There was no opponent testimony.

Motion by Schallenkamp, second by Fouberg, to approve the rules as presented. Voice vote, all present voted in favor. Motion carried.

The rules hearing closed at approximately 9:59 a.m. Central Time.

Public Hearing—Standards:

The Board of Education Standards convened the first public hearing on academic content standards at approximately 10:00 a.m. Central Time on the following proposed standards: Health Education, Oceti Sakowin Essential Understandings and Standards, Business Management and Administration, Capstone Courses, Government and Public Administration, Hospitality and Tourism, Marketing, Transportation, Distribution, and Logistics, English Language Arts, and Math. This is the first of four public hearings on these standards.

Becky Nelson, DOE director of the division of learning and instruction, provided an overview of content standards. Nelson noted that the areas presented on may be in different formats, but have the same purpose. Content standards are the expectations for what students should know and be able to do. The content standards provide a road map for teachers, parents, and students, to provide consistency across the state. Nelson stated that the proposed standards do not dictate a set curriculum or tell teachers how to teach the standards. Nelson summarized the standards review and public hearing process, in which workgroups have been meeting for up to two years depending on the content area. Any comments received during the public hearing process will be reviewed and considered by the workgroups. If revisions occur, Department of Education staff will present to the Board on any changes to the proposed standards.

Health Education

Karen Keyser, DOE health and physical education specialist, testified in favor of the proposed standards. Keyser presented an overview of the health education standards review process, which began in July 2016. Committee members representing school districts, communities, and the public met to review the existing health education standards for pre-kindergarten through grade 12. Members reviewed the eight existing health education standards to ensure the essence of the skills-based standards.

Members were asked to conduct a review of the documents regarding the existing standards in South Dakota and standards from two other states, and to identify strengths and weaknesses of those standards. Committee members worked as a whole to review the standards and determined to keep the standards as currently written. The workgroup rationale was that the current standards provide for the greater use of nationally-developed education resources and remain relevant. Committee members also worked in small groups to conduct a review of the performance indicators for each grade span (pre-K to grade 2, grades 3-5, grades 6-8, and grades 9-12). Each small group reported back to the whole group on any changes recommended to a grade span's indicators. The majority of revisions that occurred were relative to the cognitive complexity of the indicators. The remainder of the meetings focused on comparing and contrasting South Dakota's health education standards to other states' standards.

The workgroup consensus was that the South Dakota health education standards include appropriate information and are presented in a user-friendly format. The workgroup's recommendation included removing information that dates the standards and retaining the current presentation formats.

No public comments were submitted regarding the proposed health education standards.

There was no opponent testimony.

Oceti Sakowin Essential Understandings and Standards

Sam Shaw, DOE education specialist, testified in favor of the proposed standards. Shaw discussed the standards workgroup review process, which occurred over four days in two meetings. The review process was not only about revising the standards, but reaffirming the vision of the standards. The original standards were primarily aligned with social studies standards, and the workgroup focused on making the standards flexible enough to engage with students in a variety of content areas while keeping the vision of the Oceti Sakowin elders.

Shaw testified that the objectives included elder affirmation of the focus, the wording and format of the standards, and educator reaffirmation and clarification of wording and format for instructional purposes based on experience. The revisions also ensured historical and contemporary focus useful in all content areas. Shaw noted that the standards were not completely overhauled and the overarching standards remain the same.

The standards under each essential understanding were revised slightly to account for teacher experience and elder expertise. The indicators specific to the grade band connections—which were mostly social studies specific—were moved out of the standards themselves and into an appendix titled “Suggested Approaches for Instruction” as a support tool instead of explicit expectations. The workgroup also reviewed the standards, songs, and all other components to ensure that other content areas could access the Oceti Sakowin essential understandings to increase opportunities for all students to engage with the standards. The overall structure provides an historical overview, the

standards at a glance, the standards themselves, and support components comprising approaches for instruction, maps, and a glossary of terms, as well as other supports.

In response to Board questions, Shaw stated that these standards are taught in many places and in many ways, such as specific Native American studies courses and in different grade levels, in multiple subject areas, and in units in social studies courses, not just in tribal schools. The workgroup tried to make the standards as flexible as possible and provide multiple access points for students to engage in them.

No public comments were received regarding the Oceti Sakowin essential understandings and standards.

There was no opponent testimony.

Business Management and Administration

Erin Larsen, DOE division of career and technical education, testified in favor of the proposed standards. Larsen provided an overview of the standards revision process for all the revised CTE standards (Business Management and Administration, Capstone Courses, Government and Public Administration, Hospitality and Tourism, Marketing, and Transportation, Distribution, and Logistics). The CTE standards are broken into career clusters sharing common professional skills across a wide range of professional to entry-level careers. They are then narrowed into career pathways, which are broken into courses. The courses are analogous to the grade bands in the standards for core content areas.

Over the summer, CTE workgroups were gathered and worked with the National Center for College and Career Readiness. The consultant provided a common process across all six workgroups for CTE standards. The workgroups met for three days for each of the six clusters. The first day was spent reviewing labor market statistics for in-demand careers, and also looked at feedback from employers, post-secondary faculty, and teachers in the field. Workgroups then looked at the existing courses in the clusters and mapped out which courses were no longer needed and courses that should be added. The following two days looked at the individual standards by examining courses and developing new ones. This work was shared with faculty and industry to ensure that feedback was incorporated accurately. The standards, if adopted, would be unpacked this summer and additional guidance would be provided to teachers on transitioning to the new standards. The standards would be fully implemented by the 2020 school year.

The proposed Business Management and Administration standards are focused specifically on students being able to plan and organize productive business operations. The workgroup spent time discussing employability skills and ways to incorporate those skills into each course. The workgroup also discussed changes to human resources procedures, the importance of keyword searches, résumé development changes, and the wide range of technological changes in this content area. As a result of the discussion, a wide range of courses were retired or moved because they were out-of-date or fit into other clusters.

The group developed two new courses: business computer applications and advanced business computer applications. These courses focus on common office software and the skills align with the Microsoft Office specialist certificate, which industry indicated was an important qualification.

Industry and postsecondary feedback appreciated the focus on Excel skills and felt initial drafts of the proposed standards had too broad of a scope of programs. The feedback expressed a preference for students have an in-depth knowledge of fewer programs, as opposed to basic skills in multiple other programs.

Business Management and Administration Exhibit 1 was received into the record and discussed. The comment expressed support for the proposed standards.

There was no opponent testimony.

Capstone Courses

Erin Larsen testified in favor of the proposed Capstone Courses standards. Larsen stated that these standards are the primary vehicles students use for work-based learning within school districts. There are no existing standards in this area, only frameworks, so the workgroup identified specific standards for each capstone experience identified. This was done to create a common experience for students and ensure key components of career exploration are a part of the experience. The proposed standards also give students the opportunity to work with the Board of Regents to ensure these courses count as a CTE credit to qualify for the Opportunity scholarship.

The workgroup discussion commonly centered around employability skills and workers encountering nontraditional workdays in today's work environment. The workgroup also included common elements across the courses, such as including business and industry partnership and engagement with professionals outside the school. The goal was to ensure real-world applications. The workgroup added a new course called Youth Apprenticeship and worked with the Department of Labor to make sure it aligned to that department's apprenticeship requirements as well.

Capstone Courses Exhibit 1 was received into the record and discussed. This public comment expressed concern about the overlap between internships and apprenticeship courses. The comment also expressed that the apprenticeship course should include specific hours identified and that that requirement be included in the internship courses as well. The comment will be taken to the workgroup for review and response.

In response to Board questions, Larsen discussed the difference between an internship and apprenticeship. Larsen stated that an apprenticeship typically has more specific skills outlined and the hours count towards some sort of certification within a field. An internship is typically more generic, and does not count towards a degree or certificate but provides skills and experience. Larsen also stated that the Youth Apprenticeship course is not the same as the Department of Labor apprenticeship program, which are typically paid and involve students working through a technical program.

There was no opponent testimony.

Government and Public Administration

Erin Larsen testified in favor of the proposed Government and Public Administration standards. Larsen stated that there are new career clusters proposes in these standards. The Government and Public Administration standards relate to planning and performing government functions at local, state, and federal levels. The workgroup consisted of social studies teachers and several industry members such as

city planners, state representatives, and other fields. The workgroup discussed the balance between government accountability and efficiency, services offered, and data management.

Four new courses were developed for these standards and also included JROTC courses, which are sometimes offered in school districts. Courses include principles of public administration, international affairs, and community and regional planning.

No public comments were received regarding the proposed Government and Public Administration standards.

There was no opponent testimony.

Hospitality and Tourism

Erin Larsen testified in favor of the proposed Hospitality and Tourism standards. Larsen testified that the workgroup took a two-pronged approach in this area on what areas students can focus on. The workgroup examined students spending time in culinary arts, or in tourism services such as hotel management and event planning. Prior to the revisions, culinary arts were heavily emphasized. The workgroup determined to add an emphasis on a strong tourism component, particularly given the needs of the western part of the state. The workgroup incorporated a course called foundations of travel and tourism, and a hospitality and lodging services course. Two culinary arts courses were added due to the need for more advanced courses, including a course for students to pursue an individualized pathway.

Hospitality and Tourism Exhibits 1-4 were received into the record and discussed. Exhibits 1-4 were in support of the standards, but also included a question regarding responsibility for the cost of certification referenced in the standards. Larsen stated that the referenced certification is a recommendation, not a requirement of the school, so the standards were clarified to that effect.

There was no opponent testimony.

Marketing

Erin Larsen testified in support of the proposed marketing standards. Larsen stated that these standards focus on planning, managing, and performing marketing activities. This is a small career cluster, with approximately six programs in school districts. The workgroup therefore had heavier participation from postsecondary faculty and industry representatives. The workgroup felt that the existing courses were focused on very specific areas like sports marketing, and could be combined to create more comprehensive courses. The workgroup added a new course called marketing strategies. Further, the workgroup made sure all courses included components of marketing research and data management.

No public comments were submitted regarding the proposed Marketing standards, but Larsen noted that the Department and workgroup are working closely with DECA, a student organization, to connect with members and teachers in that area to facilitate additional feedback.

There was no opponent testimony.

Transportation, Distribution, and Logistics

Erin Larsen testified in favor of the proposed standards. Larsen stated that these standards focus on auto body work and traditional concepts, but work to pull in distribution and logistics components where possible. Past workgroups aligned these standards to national transportation industry standards. Those were reviewed and the workgroup made sure the proposed standards were also aligned. The workgroup added a diesel course, in response to industry needs.

The workgroup also discussed incorporation of the distribution and logistics component and how to make students aware of those aspects of the field. A new course called logistics and planning management was added, and work continues to connect with teachers to assist in development of this course.

Industry feedback focused on dual credit opportunities in this area. Many students have expressed an interest in dual credit courses on transportation, but may not have the appropriate background to proceed. Feedback from the postsecondary field encouraged more CTE courses to provide that background.

Transportation, Distribution, and Logistics Exhibits 1-5 were received into the record and discussed. Exhibits 1, 2, and 4 were in support of the proposed standards. Exhibit 3 raised a question about how many credits would be offered for certain courses. The workgroup responded to Exhibit 3 that decisions on course credits were determined at the local level. This answer was submitted as Exhibit 5.

In response to Board questions, Larsen stated that Sioux Falls is currently the only district to offer a diesel course, through a partnership with a postsecondary institution. Partnerships with other postsecondary institutions are being explored for similar offerings. Larsen also discussed that districts offer such courses as part of an approved CTE program. The school has a team with partners and an advisory committee regarding courses that are offered. In some cases, courses are offered as electives and, in other cases, the course counts as a graduation requirement in CTE. The Department works with both Regents and postsecondary institutions to make sure students are prepared for skills in higher education.

There was no opponent testimony.

English Language Arts

Teresa Berndt, DOE reading specialist, testified in favor of the proposed English language arts standards. Berndt provided an overview of the standards review process, which began in spring 2016. The workgroup consisted of English language arts teachers, special education teachers, administrators, parents, and postsecondary faculty. The workgroup met and reviewed the existing South Dakota standards as well as standards from other states to identify strengths and weaknesses. The review process itself was also discussed, to ensure that the process resulted in meaningful suggestions.

The workgroup then broke into small groups to examine the standards by grade level and by the different strands comprising those standards. Strands consist of reading for information, reading for literacy, writing, language, foundational skills, and 6-12 literacy skills for content areas (science, social studies, history, and technical subjects). Grade level discussions also included examinations of the standards for two grade levels above and below a given grade, in order to integrate skills progression. The workgroup also discussed K-12 vertical alignment.

In addition to the workgroup discussions, the Department also hosted a webinar to examine the standards in grades 6-12 literacy to gather additional feedback in that area. A standards toolkit was developed and provided to school districts to facilitate additional discussions on the standards.

Berndt summarized the proposed changes within the English language arts standards. The workgroup proposed changes to clarify language regarding the standard's intent and connections to prior learning, as well as the progression of learning and skills. This was a focal point in all standards. The workgroup also proposed changes to the examples for the standards to support the intent of the standards. Confusing examples or examples that limited how skills were taught were removed.

A notable proposed change was made to the standards regarding reading for information, reading for literacy, and writing. The workgroup felt that the standards needed to incorporate language on student voice and student choice in both reading and writing, in order to allow for self-selected text and independently selected writing topics. The workgroup felt these skills were essential for lifelong learning and best practice supports.

At the elementary level, the workgroup changed the K-4 vertical handwriting progression to include language to teach cursive or print handwriting. The "or" option was not previously included.

In the grades 6-12 literacy standards, the workgroup determined to add language to improve the rigor of those skills and ensure the language in the K-12 reading and writing standards were consistent with the grades 6-12 literacy standards in the content areas of social studies, history, science, and technical writing. The workgroup also proposed inclusion of world literature and global perspectives language to account for additional viewpoints in those standards areas.

English Language Arts Exhibits 1 and 2 were received into the record and discussed. Exhibit 1 raised concerns with the language proposed in the standards. Exhibit 2 questioned language on the DOE standards web page which addressed funding and primary authorship of the proposed standards. Berndt responded that both comments will be taken to the workgroup for review and response. Berndt also responded to comment two and pointed out that the authors of the standards are not listed on the DOE standards landing page, but are on the DOE standards process page, as well as the documents provided to the board as part of the proposed standards.

In response to Board questions, Berndt stated that some schools teach cursive as a progression, but the workgroup saw that other states were following an "either/or" model on that. Berndt also stated that it is a local decision on when to integrate cursive as a handwriting skill. Berndt discussed that districts can offer creative writing as an elective, and there are some components of the standards that allow teachers to work that into their curriculum. Berndt noted that the schools can't mandate that creative writing be taught in certain formats or at a certain time. That regards curriculum, which is a local decision.

In response to Board questions, Dr. Paul Turman discussed teacher preparation program's knowledge of and instruction on the content standards. Turman stated that Regents' teacher education deans and programs do look at the content standards to make sure the preparation programs are aligned with them. Turman noted that it is difficult to prepare teacher prep students for the electives because they may end up at a district that does not offer that course. Embedding concepts across a curriculum may help with that so that concepts are addressed without needing to be a standalone course. Turman also

stated that there will be students that are exposed to a more expansive curriculum than others. Parental involvement regarding exposure to certain subjects or concepts should also be considered.

Becky Nelson stated that there is a difference between district course offerings and standards. Standards set minimum expectations that can be packaged in different ways. Subjects have minimum expectations that teachers can incorporate in different ways.

Samantha Walder, Redfield School District elementary principal, testified in favor of the proposed standards. Walder stated that the workgroup discussed the difference between standards and curriculum many times because educators focus on curriculum on a daily basis. Walder also discussed that teachers may use multiple formats to teach the standards, as that is a local decision in South Dakota.

Walder stated that, when working with the standards, the workgroups made the examples more consistent and scaffolded them across multiple grade levels. The proposed standards now contain specific delineation of skills broken down within the language standards across the standards for consistency from grade to grade. The phrase "with prompting and support" was used in the kindergarten standards, while the phrase "with guidance and support" is used in the lower elementary standards. By the time students enter the grade 6-8 standards, they are able to progress independently.

Walder discussed that her work on standards revision enabled her to go back to her school and work with her reading interventionist, who aligned the school's RTI program to the foundational reading skills scaffolded into the standards.

Walder referred to standards RL10 and RI10, and stated that they were the topic of much discussion. Walder stated that the prior standards had bands of grades for the skills required, which was sometimes difficult to meet. Walder appreciated that the proposed standards reflect the opportunity for each strand to be completed by grade level.

Walder also discussed that the importance of some of the standards revision did not become apparent until she returned to her school. During the revision process, she worked with the fifth grade level, where they also examined the standards two grades below and two grades above. As a teacher, Walder had wondered why some standards only changed by one or two words. The standards review process showed which standards are introductory and which are scaffolded for students to progress. Walder appreciated that there is still the local control component that allows her curriculum leadership team to pull out the standards with the knowledge that the students will see the same standards again in other grade levels for progress. Walder stated that this process is not about a best way to approach the standards, but about allowing teachers to work together with common planning to determine the best strategies for moving students along on a continuum. Educators appreciate the trust to teach the standards needed by their students at that time.

There was no opponent testimony.

Math

Nicol Reiner, DOE mathematics education specialist, testified in favor of the proposed standards. Reiner provided information about the workgroup revision process, which is similar to the English Language Arts process. The workgroup convened in June 2016 and consisted of K-12 educators from regular and

special education, postsecondary education faculty, community members, and parents. At the outset, the group looked at the existing South Dakota standards, as well as standards from other states, and research impacting standards revision. The workgroup determined to focus on two areas: maintaining the level of rigor in the standards and improving clarity.

The workgroup broke into smaller groups to work on sets of standards by grade level and course standards. This allowed each grade and course standard to receive intense focus. The workgroup focused on key knowledge and skills and horizontal and vertical progressions of learning. Throughout the process, the workgroup emphasized horizontal and vertical alignment to ensure coherent and connected progression through the standards. The result of the debate and collaboration is a set of standards that will best serve the students of South Dakota. Those standards were sent to South Dakota educators for additional feedback. Many of the changes made to the standards resulted from the workgroup's desire to clearly communicate the scope and intent of each standard as well as the progression of the overall standards. The workgroup was very purposeful in the use of examples to highlight the intent of the standards but not limiting the standards.

Reiner summarized the changes proposed to the standards. In the K-5 grade band, the money standards in grades K-1 were specifically written and added to a second-grade money standard that was already in place to create a clear progression. In third-grade, the time standard was updated to include both digital and analog clocks.

Reiner stated that a large part of workgroup discussion focused on the terms "know from memory" and "fluency." The workgroup used research to define those terms in the standards. "Fluency" is defined as "skills in carrying out procedures flexibly, accurately, efficiently, and appropriately." This definition is significant because K-5 student fluency is important. "Know from memory" is defined as "quick, effortless recall of facts." That definition is important because it is a goal to work on student fluency to get to the next step of knowing from memory. This discussion and the definitions were an important part of the discussion of multiplication skills as students progressed from grade to grade.

Another significant discussion centered on the term "standard algorithm." The proposed language in the standards is "an algorithm including but not limited to the standard algorithm." This is important because it is a goal for all students to learn the standard algorithm for addition, multiplication, subtraction, and division, but the students should also be able to use other strategies that are useful to them and have flexibility.

The grades 6-8 workgroup felt the existing standards were strong and made few changes. Most changes involved clarifying language, clarifying intent, and ensuring vertical alignment.

The grades 9-12 workgroup focused on determining which standards should be taught in Algebra I and which in Algebra II courses. Previously, some standards were shared between the courses and the workgroup felt that should be clarified to clearly delineate expectations. This workgroup also made changes to clarify the Geometry standards. The focus in the Geometry standards was on the term "understand." The workgroup felt it did not adequately convey how students can show proficiency and worked to replace it with terminology for teachers to use in assessing proficiency.

An additional group focused on writing standards for a fourth math course. The fourth course is a flexible course that some schools teach as Senior Math and others offer as pre-calculus. The standards

were counted as advanced and were not progressive or cohesive. The proposed standards are clearer regarding progression and flexibility.

Math Exhibit I was received into the record and discussed. The comment expressed concern that the proposed standards resemble the prior standards and requested additional clarity. This comment will be taken to the workgroup for review and response.

Sandy Ullrich, Aberdeen School District teacher, testified in favor of the proposed standards. Ullrich stated that proposed math standards teach for an understanding of math, rather than memorization. The standards work toward a deeper understanding number sense, place value, and operations of addition, subtraction, multiplication, and division. Memorization of vocabulary or a standard way to solve a problem is not required. Students will still learn algorithms, but will also understand why it works and how to take numbers apart and put them back together again. She now sees students coming up with new solutions and new ways to do math, because they work on the problems differently. The proposed standards get into the layers of teaching math.

In response to Board questions, Ullrich stated that the proposed standards allow different methods of solving a problem by helping students take numbers apart and do things in steps. Every way a student breaks down a problem can make it less cumbersome.

Dena Sievers, Aberdeen School District teacher, testified in favor of the proposed standards. Sievers spoke about the value of collaboration in revising the math standards. She works with other teachers on how they teach the same concepts over different grades. The proposed standards and the grade bands help with that. The proposed standards provide a common language and share best practices for educators. The standards of mathematical practice are significant because they focus on justifying reasoning for an answer to a problem. Students can find their voice and find what works for them.

There was no opponent testimony.

The standards hearing closed at approximately 11:41 a.m. CT.

Vice President Aguilar declared a recess at approximately 11:41 a.m. CT.

Vice President Aguilar declared the meeting back in session at approximately 11:52 a.m. CT.

2016-2017 Accountability Report Card Statewide Summary

Laura Scheibe, DOE division of accountability and accreditation, presented information on the 2016-2017 statewide report card results. This is the final report card under the ESEA waiver and the full results will be available tomorrow. This year's results show that South Dakota is in a strong place going into the transition to the Every Student Succeeds Act (ESSA). Scheibe discussed the report card results in relation to how accountability indicators will change going into the next report card.

Scheibe detailed information on the English language arts and math results, as well as the attendance, high school completion, and college and career readiness rates.

Status Update on Paraprofessional Certification

Abby Javurek, DOE director of accountability and accreditation, presented information on the status of paraprofessional certification in response to Board comments at the July meeting that this area of certification may need to be reexamined. Javurek provided background on paraprofessional certification in South Dakota, and the requirements for paraprofessionals under federal law. The federal requirements for paraprofessionals were adjusted by ESSA, and South Dakota responded by developing state certification standards for paraprofessionals. Javurek summarized the current certification requirements for paraprofessionals in South Dakota. Javurek also requested information from the Board on additional information it wants to see regarding reexamination of the requirements.

In response to Board questions, Javurek stated that for paraprofessionals to be paid with federal funds, they would need meet certain requirements for credit hours, an associate's degree, or pass the designated test. Paraprofessionals not funded with federal monies would be able to meet other requirements to become certified. The benefit of the current requirements would be to provide assurances regarding ethics and academic qualifications, as well as portability of the certificate. The Department will work to have discussions or a workgroup to try to arrive at a compromise. Javurek also discussed the difference between a background check and an ethics check and the importance of both. Javurek stated that there are no statistics on paraprofessional ethics because that data is not reported, but that the Department can attempt to compile some relevant information for the Board's review.

Elementary Education: Science CKT Subtest Cut Score Approval

Abby Javurek presented information on the science CKT subtest cut score. The CKT test is similar to other elementary tests, which test in four different areas that can be taken individually. The cut score recommended by the workgroup is within the nationally recommended range and is consistent with cut scores in other areas. If adjustments are needed, once more data has been gathered, an adjusted score may be requested.

In response to Board questions, Javurek stated that this is a new assessment, so there is no existing cut score.

Motion by Wagner, second by Fouberg, to approve the cut score as presented. Voice vote, all present voted in favor. Motion carried.

Secretary's Report

Mary Stadick Smith, deputy secretary of education, presented an update on several items, including a potential joint meeting between the Board and the Board of Regents, the Indian Education Summit and Systems Change conference, and proactive admissions efforts. Stadick Smith also discussed college readiness efforts that are ongoing within the Department, and the teacher mentoring program. Stadick Smith noted the Governor's Pathways initiative and the Department's work with the Department of Labor to progress those goals.

Executive Session (SDCL 1-25-2(3))

Motion by Vyas, second by Wagner, to go into executive session pursuant to SDCL 1-25-2(3). Voice vote, all present voted in favor. Motion carried.

The Board went into executive session at approximately 12:38 p.m. CT.

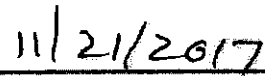
Vice President Aguilar declared the Board out of executive session at approximately 12:55 p.m. CT.

Adjournment:

Motion by Fouberg, second by Schallenkamp, to adjourn the meeting. Voice vote, all present voted in favor. Motion carried.

The meeting was adjourned at approximately 12:59 p.m. CT.





Ferne G. Haddock
Executive Secretary BOES

Date: 11/21/2017

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November 21, 2017

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Martin Guindon, Auditor General
Legislative Audit
427 South Chapelle
Pierre, South Dakota 57501

RE: **SD COMMISSION ON GAMING**
Our file: 0161

Dear Auditor General Guindon:

I am counsel for the South Dakota Commission on Gaming. I have attached for your review and files the minutes of the November 16, 2017, South Dakota Commission on Gaming meeting along with attached statement for the record read to the Commission and entered into the Minutes by the Commission's Executive Secretary, Larry Eliason. I think the purpose of the Statement is self-evident, but by way of brief explanation Executive Secretary Eliason reported to the Commission a potential of conflict of interest pursuant to SDCL § 1-56-11 dealing with officials and horse owners and their positions on the Board of Directors of the Verendrye Benevolent Association and Northeast Area Horse Racing, Inc., the two not-for-profit corporations which run the Fort Pierre and Aberdeen Race Tracks.

If you have any questions regarding the Statement or the operations of the Commission, please do not hesitate to contact me.

Best regards.

Very truly yours,

MAY, ADAM, GERDES & THOMPSON LLP



MICHAEL F. SHAW

MFS:mw
Enclosures
cc/enc: Larry Eliason
Craig Sparrow

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STATEMENT FOR RECORD
South Dakota Commission on Gaming
November 16, 2017, Meeting

SDCL § 1-56-11 requires that any State employee who suspects the existence of a conflict of interest report the matter to the employee's immediate supervisor.

On the agenda items before you today are approval of racing purses and operational expense subsidies for the Verendrye Benevolent Association and North East Area Horse Racing, Inc.

Shane Kramme is the official starter at both racetracks. He is approved by the Commission and is paid for his services. The amount Mr. Kramme is paid for his services as a starter is reasonable for the amount of time involved, the nature of the duties of this position, and his years of experience as a horse race starter. It is possible that a portion of the Commission's subsidy for operational expenses may be used to pay Mr. Kramme. Joe Thorne is a horse owner and in the event one of his horses wins he will receive purse money. A portion of the purse money Thorne receives may come from the Commission subsidy for purse payments.

Shane Kramme is a new member on the Verendrye Benevolent Association's Board of Directors and Joe Thorne is Chairman of the Board.

Thorne competes on the same level as any other horse owner and has no advantage in any race by virtue of his position on the Board. Similarly, Kramme's position as starter and the payment for his services should not be impacted by his role as board member.

The officers of the North East Area Horse Racing, Inc., Bubby Haar, Shannon Yeske, Kent Larson and Ray Sauerwein also own and race horses at the Aberdeen track. Like Mr. Thorne, they compete on the same level and their positions as officers afford them no advantage in races. They also could receive purse money subsidized by the Commission in the event one of their horses finishes a race in a position which would entitle them to a share of the purse.

Mike Schmidt is a director of the Northeast Area Horse Racing, Inc. and is also employed by the Association in the dual positions of general manager and racing secretary. Like Mr. Kramme, he is paid for his services and his service as racing secretary is approved by the Commission. It is possible that a portion of the Commission's subsidy for operational expenses may be used to pay Mr. Schmidt's salary. The Board of Directors of the Corporation set his salary and the Board members have determined that his salary is reasonable for the amount of time involved in both positions and his expertise and experience both as a track general manager and racing secretary.

The Verendrye Benevolent Association and North East Area Racing are nonprofit corporations, not governmental entities. Therefor the state conflict of interest statutes do not apply. Staff does not believe there are actual conflicts of interest in any of the above described situations, however, there is the potential for the appearances of a conflict due to the various individuals roles at the tracks and their service as board members and officers.

I am therefore reporting the same to you pursuant to SDCL § 1-56-1. In my opinion no further Commission action is necessary.

Respectfully submitted this 16th day of November 2017.

Larry Eliason,
Executive Secretary, SDCG.

UNAPPROVED MINUTES

South Dakota Commission on Gaming Administrative Hearings and Quarterly Business Meeting Deadwood City Hall, Deadwood, South Dakota

MINUTES

November 16, 2017

At 9:00 a.m. the meeting was called to order. Commissioner Dennis McFarland, Commissioner Karen Wagner, and Commissioner Karl Fischer were present. Commissioner Tim Holland participated telephonically and Commissioner Wordeman was unable to attend. Staff members present for the meeting were Larry Eliason, Executive Secretary, Mike Shaw, Commission Attorney, and Craig Sparrow, Deputy Executive Secretary.

A roll call was taken and a quorum was present to conduct the meeting.

The meeting was called to order by Commissioner McFarland at 9:00 a.m.

The court reporter for the hearings was Jacque Perli. The following cases were scheduled to be heard:

Administrative Hearings

- In Re: One Seized Bally Double Jackpot 777 Slot Machine
- In Re: One Seized Las Vegas Pachinko Slot Machine
- SDCG vs. B.Y. Development, Inc. dba Cadillac Jack's Casino
- In Re: One Seized Macy Exhaust Slot Machine
- In Re: Request by David J, Klynsma to Remove His Name from the List of Excluded Persons

In Re: One Seized Slot Machine

The purpose of the hearing was to determine if the Bally Double Jackpot 777 slot machine, which was seized from a residence, 1731 Plateau Lane Rapid City, South Dakota, on July 26, 2017, is contraband and may be destroyed pursuant to SDCL 42-7B-39.2. Mr. Jeffrey was served with notice of hearing by certified mail but was not present.

Commissioner Fischer made a motion that the slot machine be declared contraband and be destroyed. Commissioner Wagner seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer	Aye
Commissioner Wagner	Aye
Commissioner Holland	Aye
Commissioner McFarland	Aye

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LEGISLATIVE AUDIT

UNAPPROVED MINUTES

In Re: One Seized Slot Machine

The purpose of the hearing was to determine if the Las Vegas Pachinko slot machine, which was seized from a residence, 5860 Timberline Road Rapid City, South Dakota, on August 17, 2017, is contraband and may be destroyed pursuant to SDCL 42-7B-39.2. Mr. Henrickson was served with notice of hearing by certified mail but was not present.

Commissioner Wagner made a motion that the slot machine be declared contraband and be destroyed. Commissioner Fischer seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer	Aye
Commissioner Wagner	Aye
Commissioner Holland	Aye
Commissioner McFarland	Aye

In Re: One Seized Slot Machine

The purpose of the hearing was to determine if the Macy Exhaust slot machine, which was seized from a residence, 22999 Shields Road Rapid City, South Dakota, on October 10, 2017, is contraband and may be destroyed pursuant to SDCL 42-7B-39.2. Mr. Greene was served with notice of hearing by certified mail and was present.

Commissioner Fischer made a motion that the slot machine be declared contraband and be destroyed. Commissioner Wagner seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer	Aye
Commissioner Wagner	Aye
Commissioner Holland	Aye
Commissioner McFarland	Aye

Request by David Klynsma to Remove His Name from the List of Excluded Persons

The purpose of this hearing is to take action on the request of David J. Klynsma to have his name removed from the South Dakota Commission on Gaming List of Excluded Persons. Mr. Klynsma was present for the hearing and represented by Roger Tellinghuisen, Attorney. The decision on this matter was deferred to Executive Session.

SDCG vs. B.Y. Development, Inc. dba Cadillac Jack's

The purpose of the hearing is to take action on three complaints that were filed against B.Y. Development, Inc. by Brandon Snyder, an enforcement agent for the South Dakota Commission on Gaming, on August 17, 2017. By stipulation of the parties these complaints were consolidated into one action for purposes of pleading and hearing. The matters to be asserted are (1) that a person who was 14 years old was allowed to play a slot machine at Cadillac Jack's on August 8, 2017; (2) that a person who was 15 years old was allowed to play a slot machine at Cadillac Jack's on August 8, 2017; (3) that a person who was 16 years old was allowed to play a slot machine at Cadillac Jack's on August 8, 2017, all in violation of SDCL 42-7B-35. B.Y. Development was represented by Caleb Arceneaux, David Schneiter, and Roger Tellinghuisen, Attorney. Tellinghuisen admitted that violations of the law had occurred. Caleb Arceneaux stated that they have imposed a policy that minors will not be allowed to loiter in the casino. The decision on this matter was deferred to Executive Session.

UNAPPROVED MINUTES

A brief recess was taken at 10:07 a.m.

General Meeting

Commissioner McFarland called the general meeting to order at 10:15 a.m.

Approval of Agenda

No changes to the agenda were noted.

No conflicts of interest were noted on the agenda.

September 6, 2017 Meeting

Commissioner Wagner made a motion to adopt the drafted minutes from the September 6, 2017 meeting. Commissioner Fischer seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer	Aye
Commissioner Wagner	Aye
Commissioner Holland	Aye
Commissioner McFarland	Aye

Remarks by Secretary of Revenue Andy Gerlach

Mr. Gerlach was unable to attend the meeting.

Report on UNLV Sports Betting Training

Craig Sparrow, Deputy Executive Secretary, gave a report on the UNLV Sports Betting Training. This was for information purpose only so no action was taken on this matter.

Report on Global Gaming Exposition

Larry Eliason, Executive Secretary, gave a report on the Global Gaming Exposition. This was for information purpose only so no action was taken on this matter.

Stipulation of Assurance and Voluntary Compliance

Tina Kunka

A monetary penalty of \$100.00 to be paid not later than October 3, 2017 was imposed for a complaint which was filed on August 17, 2017 alleging that the Defendant engaged in conduct constituting grounds for disciplinary action by allowing a patron to place wagers on roulette that exceeded the posted table limits on at least five occasions on August 11, 2017 while working as a dealer at Cadillac Jack's Casino, a licensed gaming establishment.

Commissioner Wagner made a motion to accept the Stipulation of Assurance and Voluntary Compliance and the imposed monetary penalty. Commissioner Fischer seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer	Aye
Commissioner Wagner	Aye
Commissioner Holland	Aye

UNAPPROVED MINUTES

Commissioner McFarland Aye

Demonstration by Avalon Gaming

Avalon Gaming presented a demonstration on TITO and Cashless System for Table Games. This was for information purpose only so no action was taken on this matter.

The Commissioners requested Commission staff to adopt rules for cashless systems and to defer this to the March 2018 meeting.

2018 Renewal Pari Mutuel Business License Applications

2018 Simulcast Provider

Am West Entertainment, LLC

Commissioner Fischer made a motion to approve the renewal of AmWest Entertainment's simulcast provider license. Commissioner Wagner seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer Aye
Commissioner Wagner Aye
Commissioner Holland Aye
Commissioner McFarland Aye

2018 Simulcast Site

Triple Crown Casino

Commissioner Wagner made a motion to approve the renewal of Triple Crown's simulcast site license. Commissioner Fischer seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer Aye
Commissioner Wagner Aye
Commissioner Holland Aye
Commissioner McFarland Aye

Distribution of Deposit in Lieu of Bond

Commissioner Wagner made a motion to approve Resolution 11-16-17-01. Commissioner Fischer seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer Aye
Commissioner Wagner Aye
Commissioner Holland Aye
Commissioner McFarland Aye

UNAPPROVED MINUTES

Termination of Deposit in Lieu of Bond

Commissioner Fischer made a motion to approve Resolution 11-16-17-04. Commissioner Wagner seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer	Aye
Commissioner Wagner	Aye
Commissioner Holland	Aye
Commissioner McFarland	Aye

Proposed 2018 Quarterly Meeting Dates

Executive Secretary Eliason recommended the following tentative quarterly meeting dates for 2017:

Wednesday, March 21, 2018
Wednesday, June 20, 2018
Wednesday, September 12, 2018
Wednesday, November 14, 2018

Commissioner Fischer made a motion to approve the quarterly meeting dates for 2018. Commissioner Wagner seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer	Aye
Commissioner Wagner	Aye
Commissioner Holland	Aye
Commissioner McFarland	Aye

Deadwood Licensing Matters

Key License Approval

Deputy Executive Secretary Sparrow recommended the approval of the following Key License:

- ✓ Joseph Robinson

Key Renewals-2018

Key Renewal Supplement

Deputy Executive Secretary Sparrow recommended the approval of the Key License renewals for 2018 as listed on pages 80-81a of the meeting packet.

Commissioner Wagner made a motion to approve the Key license and Key license renewals as recommended by staff. Commissioner Fischer seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer	Aye
Commissioner Wagner	Aye
Commissioner Holland	Aye

UNNAPPROVED MINUTES

Commissioner McFarland Aye

Business License Approval

Deputy Executive Secretary Sparrow recommended the approval of the following Business license:

- ✓ Approval of Patriot Gaming Electronics, Inc. as an owner of Manufacturer license (**10044-MA**) with the following individuals as Owner and Directors:

- Mark Komorowski **10042-OW**
- Mark Nocco **10043-OW**

Ratification of Licensing Actions by the Executive Secretary per 42-7B-11 (16)

Approval of one new retail license to Michael R. Gustafson and the assignment of the license to Best Western Hickok House (**10470-RT**) effective October 2, 2017.

Commissioner Wagner made a motion to approve the Business License approval as recommended by staff and the Ratification of License actions by the Executive Secretary. Commissioner Fischer seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer Aye
Commissioner Wagner Aye
Commissioner Holland Aye
Commissioner McFarland Aye

Executive Session

At 11:16 a.m. Commissioner Wagner made a motion to go into Executive Session. Commissioner Fischer seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer Aye
Commissioner Wagner Aye
Commissioner Holland Aye
Commissioner McFarland Aye

The Executive Session was concluded at 11:55 a.m.

UNNAPPROVED MINUTES

2018 Live Horse Racing Dates

Verendrye Benevolent Association

Commissioner Wagner made a motion to approve the live racing dates as requested in the Verendrye Benevolent Association application subject to the following conditions:

- 1) The association meets the conditions as set forth by the audit by March 1, 2018.
- 2) The association obtains an insurance policy or policies with limits of \$1 million naming the SD Commission on Gaming and its agents and employees as additional insureds. The policy or policies shall include general liability, liquor liability, jockey insurance, and horse racing activities.
- 3) The association obtains a Bond for \$42,000 to be used if necessary to pay purses, salaries, wages, and payments to vendors for goods and services provided to the association in conducting its racing operations.

Racing dates are:

April 28, 2018
April 29, 2018
May 5, 2018
May 6, 2018

Commissioner McFarland seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer	Aye
Commissioner Wagner	Aye
Commissioner Holland	Aye
Commissioner McFarland	Aye

North East Area Horse Racing, Inc.

Commissioner Wagner made a motion to approve live racing dates as requested in the North East Area Horse Racing, Inc. subject to the following conditions:

- 1) The corporation obtains an insurance policy or policies with limits of \$1 million naming the SD Commission on Gaming and its agents and employees as additional insureds. The policy or policies shall include general liability, liquor liability, jockey insurance, and horse racing activities.
- 2) The corporation obtains a Bond for \$50,000 to be used if necessary to pay purses, salaries, wages, and payments to vendors for goods and services provided to the corporation in conducting its racing operations.

Racing dates are:

May 19, 2018
May 20, 2018
May 26, 2018
May 27, 2018

Commissioner Fischer seconded the motion.

UNNAPPROVED MINUTES

On a roll call vote motion was carried unanimously.

Commissioner Fischer	Aye
Commissioner Wagner	Aye
Commissioner Holland	Aye
Commissioner McFarland	Aye

Larry Eliason, Executive Secretary, made a statement for the record concerning potential conflicts of interest involving certain persons who act as officers and directors of the racing associations and who also own and race horses or act as racing officials at the tracks. Eliason's statement indicated he did not believe that such persons, by their being officers and directors of the associations, had an advantage in receiving any of the funds allocated for the racing operations or purses. The entire statement is attached to the minutes.

Allocations of Funds to Race Tracks for 2018 Racing Season

Commissioner Wagner made a motion to approve Resolution Number 11-16-17-02 with the following condition for Verendrye Benevolent Association.

- 1) The Verendrye Benevolent Association management shall enter into an agreement with the Executive Secretary regarding accounting procedures, and disbursement of funds prior to March 1, 2018.

Commissioner McFarland seconded the motion.

On a roll call vote 3 to 1 the motion was carried.

Commissioner Fischer	Aye
Commissioner Wagner	Aye
Commissioner Holland	Naye
Commissioner McFarland	Aye

Jockey Longevity Bonus for 2018 Racing Season

Commissioner Fischer made a motion approve Resolution Number 11-16-17-03. Commissioner Wagner seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer	Aye
Commissioner Wagner	Aye
Commissioner Holland	Aye
Commissioner McFarland	Aye

Executive Session pursuant to SDCL 1-25-2 (3) and SDCL 42-7B-8 (5) and (4)

Commissioner Wagner made a motion to go into Executive Session. Commissioner Fischer seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer	Aye
Commissioner Wagner	Aye
Commissioner Holland	Aye

UNNAPPROVED MINUTES

Commissioner McFarland Aye

At 12:29 p.m. the Commission went into Executive Session pursuant to SDCL 1-25-2 (3).

The Executive Session was concluded at 12:51 p.m. with the following actions taken.

Decision David Klynsma

Commissioner Fischer made a motion to remove Mr. Klynsma's name from the List of Excluded Persons. Commissioner Wagner seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer Aye
Commissioner Wagner Aye
Commissioner Holland Aye
Commissioner McFarland Aye

Decision B.Y. Development, dba Cadillac Jack's

Commissioner Holland made a motion to impose a monetary penalty of \$25,000.00 per incident for a total of \$75,000.00 to be due not later than January 1, 2018. Commissioner Wagner seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer Aye
Commissioner Wagner Aye
Commissioner Holland Aye
Commissioner McFarland Aye

Commissioner Wagner made a motion to adjourn the meeting. Commissioner Fischer seconded the motion.

On a roll call vote motion was carried unanimously.

Commissioner Fischer Aye
Commissioner Wagner Aye
Commissioner Holland Aye
Commissioner McFarland Aye

With no further business to be discussed the meeting was adjourned at 12:54 p.m.

Respectfully Submitted,

Kathy Fredericksen

Dennis McFarland, Vice Chairman

Larry B. Eliason, Executive Secretary

Please complete this form, sign it and return to us prior to the meeting so we can include your waiver when we discuss it as an agenda item.

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: 7/24/2017

Name of Board Member or Former Board Member: Dave Fleck

Name of Board, Authority or Commission: South Dakota Health and Educational Facilities Authority

Brief explanation of your potential conflict of interest:

I am on the Avera McKennan Board of Directors.

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

I am a board member of the Authority and the Avera McKennan board.

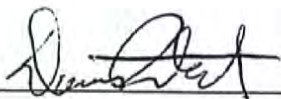
Brief explanation of the essential terms of the contract or transaction.

The South Dakota Health and Educational Facilities Authority will issue the Avera Health Series 2017 bonds for the completion of the designated construction projects.

Brief explanation of why you believe a waiver should be granted:

It is in the best interest of Avera Health and the public that the transaction be completed. I have opted to abstain from discussion and vote. This transaction is fair, reasonable, and not contrary to the public interest.

Signature of Person Requesting Waiver: _____



STATE OF SOUTH DAKOTA

South Dakota Health and Educational Facilities Authority

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (current member)

A written request for waiver of conflict, dated July 24, 2017, was received from Dave Fleck. The request was acted upon by the members of South Dakota Health and Educational Facilities Authority during a meeting held on September 19, 2017.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

Mr. Fleck has disclosed his potential conflict and has abstained from discussion and voting on the South Dakota Health and Educational Facilities Authority (the Authority) agenda item of allowing Avera Health to issue the Series 2017 bond issue through the Authority.

The request for waiver was authorized subject to the following conditions:



Signature of Chairperson or Authorized Member

September 19, 2017
Date

Printed Name: Norbert Sebade

Date mailed to Auditor-General: _____

Please complete this form, sign it and return to us prior to the meeting so we can include your waiver when we discuss it as an agenda item.

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: July 24, 2017

Name of Board Member or Former Board Member: Jim Scull

Name of Board, Authority or Commission: South Dakota Health and Educational Facilities Authority

Brief explanation of your potential conflict of interest:

I have more than a 5% ownership interest in Scull Construction Service, Inc. Scull Construction Service, Inc. is constructing the new gym and fitness center for Kadoka Public Schools.

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

No transaction with a state agency or political subdivision will occur. Payment for work on the contract results from the issuance of bonds through a program administered by SDHEFA, a transaction that may be within the jurisdiction or subject matter of the SDHEFA.

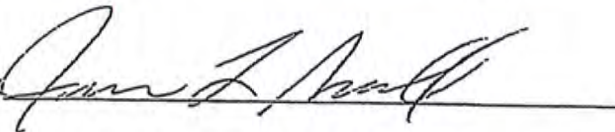
Brief explanation of the essential terms of the contract or transaction.

Construction of a new gym and fitness center for Kadoka. Kadoka Public Schools selected Scull Construction Service, Inc. as the Construction Manager at Risk. The project will be financed by the school district and assisted by the South Dakota Health and Educational Facilities Authority.

Brief explanation of why you believe a waiver should be granted:

The transaction is fair, reasonable, and not contrary to the public interest. SDHEFA was not involved in the selection of the Construction Manager at Risk for the Kadoka Public School project, and I will not vote or participate in any decision by SDHEFA relative to the bonding for the project.

Signature of Person Requesting Waiver: _____



STATE OF SOUTH DAKOTA

South Dakota Health and Educational Facilities Authority

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (current member)

A written request for waiver of conflict, dated July 24, 2017, was received from Jim Scull. The request was acted upon by the members of South Dakota Health and Educational Facilities Authority during a meeting held on August 16, 2017.

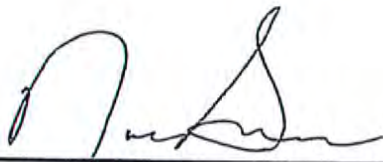
(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

Mr. Scull has disclosed his potential conflict and has abstained from discussion and voting on the South Dakota Health and Educational Facilities Authority (the Authority) agenda item of allowing Kadoka School District to issue the Series 2017 bond issue through the Authority.

The request for waiver was authorized subject to the following conditions:



Signature of Chairperson or Authorized Member

8/16/17
Date

Printed Name: Norbert Sebacte

Please complete this form, sign it and return to us prior to the meeting so we can include your waiver when we discuss it as an agenda item.

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: 7-21-2017

Name of Board Member or Former Board Member: Jim Scull

Name of Board, Authority or Commission: South Dakota Health & Educational Facilities Authority "SDHEFA"

Brief explanation of your potential conflict of interest:

I have more than a 5% ownership interest in Scull Construction Service, Inc. Scull Construction Service, Inc. is constructing a 30-bed skilled nursing facility in Rapid City for the Good Samaritan Society.

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

No transaction with a state agency or political subdivision will occur. Payment for work on the contract results from the issuance of bonds through a program administered by the Colorado Health Facilities Authority. This bond issue requires approval of the SDHEFA.

Brief explanation of the essential terms of the contract or transaction.

Construction of a 30-bed skilled nursing facility for the Good Samaritan Society. The Good Samaritan Society has selected Scull Construction Service, Inc. as the contractor.

Brief explanation of why you believe a waiver should be granted:

The transaction is fair, reasonable, and not contrary to the public interest. SDHEFA was not involved in the selection of the contractor for the Good Samaritan project, and I will not vote or participate in any decision by SDHEFA relative to the bonding for the project.

Signature of Person Requesting Waiver: _____



STATE OF SOUTH DAKOTA

South Dakota Health and Educational Facilities Authority

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (current member)

A written request for waiver of conflict, dated July 21, 2017, was received from Jim Scull. The request was acted upon by the members of South Dakota Health and Educational Facilities Authority during a meeting held on August 8, 2017.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

Mr. Scull has disclosed his potential conflict and has abstained from discussion and voting on the South Dakota Health and Educational Facilities Authority (the Authority) agenda item of allowing the Good Samaritan Society to issue the bonds through the Colorado Health Facilities Authority.

The request for waiver was authorized subject to the following conditions:

William F Lynch 8/8/17
Signature of Chairperson or Authorized Member Date

Printed Name: _____

Date mailed to Auditor-General: _____

Please complete this form, sign it and return to us prior to the meeting so we can include your waiver when we discuss it as an agenda item.

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: August 10, 2017

Name of Board Member or Former Board Member: Dave Timpe

Name of Board, Authority or Commission: South Dakota Health and Educational Facilities Authority

Brief explanation of your potential conflict of interest:

Audit Committee member and stockholder with Fishback Financial Corporation and Board member of First Bank and Trust in Sioux Falls

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

Andes Central School District
financing through First Bank and Trust Brookings

Brief explanation of the essential terms of the contract or transaction.

Construction of new classrooms

Brief explanation of why you believe a waiver should be granted:

Member has opted to abstain from discussion and vote

Signature of Person Requesting Waiver: 

STATE OF SOUTH DAKOTA

South Dakota Health and Educational Facilities Authority

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (current member)

A written request for waiver of conflict, dated August 10, 2017, was received from Dave Timpe. The request was acted upon by the members of South Dakota Health and Educational Facilities Authority during a meeting held on August 16, 2017.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

Mr. Timpe has disclosed his potential conflict and has abstained from discussion and voting on the South Dakota Health and Educational Facilities Authority (the Authority) agenda item of allowing Andes Central School District to issue the Series 2017 bond issue through the Authority.

The request for waiver was authorized subject to the following conditions:



Signature of Chairperson or Authorized Member

8/16/17
Date

Printed Name: Norbert Sebade

Date mailed to Auditor-General: _____

STATE OF SOUTH DAKOTA

South Dakota Health and Educational Facilities Authority

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (current member)

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LEGISLATIVE AUDIT

A written request for waiver of conflict, dated January 31, 2018, was received from Dave Timpe. The request was acted upon by the members of South Dakota Health and Educational Facilities Authority during a meeting held on March 2, 2018.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

Mr. Timpe has disclosed his potential conflict and has abstained from discussion and voting on the South Dakota Health and Educational Facilities Authority (the Authority) agenda item of the Authority's consideration of approving certain documents pertaining to Avera Health's Direct Note Obligation, Series 2018 with BMO Harris Equipment Finance Company and authorizing and approving certain other matters.

The request for waiver was authorized subject to the following conditions:

William F. Lynch 3/28/18
Signature of Chairperson or Authorized Member Date

Printed Name: William F. Lynch

Date mailed to Auditor-General: March 28, 2018

Please complete this form, sign it and return to us prior to the meeting so we can include your waiver when we discuss it as an agenda item.

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: 1/31/2018

Name of Board Member or Former Board Member: Dave Timpe

Name of Board, Authority or Commission:

South Dakota Health and Educational Facilities Authority "SDHEFA"

Brief explanation of your potential conflict of interest:

I am on the Avera Health Plans Board and Finance Committee.

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

I am a board member of the Authority and an Avera Health board/committee member.

Brief explanation of the essential terms of the contract or transaction:

The South Dakota Health and Educational Facilities Authority will consider approving the direct placement taxable loan financing for aircraft through the Obligation Group. The SDHEFA will not issue the debt but consider approving it through the Master Indenture.

Brief explanation of why you believe a waiver should be granted:

It is in the best interest of Avera Health and the public that the transaction be completed. I have opted to abstain from discussion and vote. This transaction is fair, reasonable, and not contrary to the public interest.

Signature of Person Requesting Waiver: _____

Dave A. Timpe

Please complete this form, sign it and return to us prior to the meeting so we can include your waiver when we discuss it as an agenda item.

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: July 28, 2017

Name of Board Member or Former Board Member: Dave Timpe

Name of Board, Authority or Commission: South Dakota Health and Educational Facilities Authority

Brief explanation of your potential conflict of interest:

I am the past Interim CEO for Children's Care Hospital and School that affiliated with Lifescape.

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

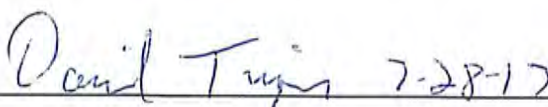
I am a board member of the South Dakota Health and Educational Facilities Authority and a past executive officer for Children's Care Hospital and School.

Brief explanation of the essential terms of the contract or transaction.

To refund the Series 2007 bonds through Lifescape, who will be the borrower. South Dakota Health and Educational Facilities Authority will issue the bonds for Lifescape.

Brief explanation of why you believe a waiver should be granted:

Member has opted to abstain from discussion and vote on this and the transaction is fair, reasonable, and not contrary to the public interest.

Signature of Person Requesting Waiver:  7-28-17

STATE OF SOUTH DAKOTA

South Dakota Health and Educational Facilities Authority

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (current member)

A written request for waiver of conflict, dated July 28, 2017, was received from Dave Timpe. The request was acted upon by the members of South Dakota Health and Educational Facilities Authority during a meeting held on August 16, 2017.

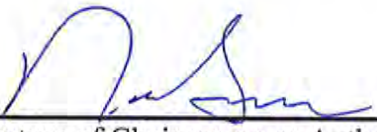
(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

Mr. Timpe has disclosed his potential conflict and has abstained from discussion and voting on the South Dakota Health and Educational Facilities Authority (the Authority) agenda item of allowing Lifescape to refund the Series 2007 bond issue through the Authority.

The request for waiver was authorized subject to the following conditions:

 8/16/17
Signature of Chairperson or Authorized Member Date

Printed Name: Norbert Sebade

Date mailed to Auditor-General: _____

Please complete this form, sign it and return to us prior to the meeting so we can include your waiver when we discuss it as an agenda item.

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: 5/9/2018

Name of Board Member or Former Board Member: Dave Timpe

Name of Board, Authority or Commission:
South Dakota Health and Educational Facilities Authority "SDHEFA"

Brief explanation of your potential conflict of interest:

I am a member of the Avera Health Plans Board and Finance Committee, and Avera Health (an affiliate of Avera Health Plans Board and Finance Committee) has a matter described below which will be pending in front of the members of the SDHEFA for which I also serve as a member.

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

The SDHEFA will be considering an amendment to an existing SDHEFA Series 2012B Bond issue which benefits Avera Health. The purpose of the amendment that is required for the business transaction that benefits Avera Health is to implement a new direct placement floating index rate mode for the Series 2012B Bonds which will continue to be held by US Bank.

Brief explanation of the essential terms of the contract or transaction:

As noted above, the purpose of the amendment that is required for the business transaction that benefits Avera Health is to implement a new direct placement floating index rate mode for the Series 2012B Bonds. This new mode will allow Avera Health to continue to repay the loan of funds from the Series 2012B financing at advantageous rates over a longer period of time than presently provided for in the existing bond documents.

Brief explanation of why you believe a waiver should be granted:

It is in the best interests of Avera Health and the citizens of the State of South Dakota that the transaction be completed to assure continued favorable borrowing rates for, and in turn lower costs to, Avera Health, which promotes the purposes of the SDHEFA. I have opted to abstain from discussion and vote. This proposed business transaction is fair, reasonable, and not contrary to the public interest.

Signature of Person Requesting Waiver: 

STATE OF SOUTH DAKOTA

South Dakota Health and Educational Facilities Authority

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (current member)

A written request for waiver of conflict, dated May 9, 2018, was received from
Dave Timpe. The request was acted upon by the members of
South Dakota Health and Educational Facilities Authority during a meeting held on
May 23, 2018.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

Mr. Timpe has disclosed his potential conflict and has abstained from discussion and voting on the South Dakota Health and Educational Facilities Authority (the Authority) agenda item of the Authority's consideration of an amendment to an existing SDHEFA Series 2012B Bond issue.

The request for waiver was authorized subject to the following conditions:



5/23/18

Signature of Chairperson or Authorized Member

Date

Printed Name: Norbert Sebade

Date mailed to Auditor-General: _____

STATE OF SOUTH DAKOTA

South Dakota Health and Educational Facilities Authority

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (current member)

A written request for waiver of conflict, dated September 2, 2017, was received from Dave Timpe. The request was acted upon by the members of South Dakota Health and Educational Facilities Authority during a meeting held on September 19, 2017.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

Mr. Timpe has disclosed his potential conflict and has abstained from discussion and voting on the South Dakota Health and Educational Facilities Authority the Authority) agenda item of allowing LifeScape to issue the Series 2017 bond issue through the Authority.

The request for waiver was authorized subject to the following conditions:



September 19, 2017

Signature of Chairperson or Authorized Member

Date

Printed Name: Norbert Sebade

Date mailed to Auditor-General: _____

Please complete this form, sign it and return to us prior to the meeting so we can include your waiver when we discuss it as an agenda item.

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: 9-2-17

Name of Board Member or Former Board Member: DAVE TIMPE

Name of Board, Authority or Commission: South Dakota Health and Educational Facilities Authority

Brief explanation of your potential conflict of interest:

I WAS THE INTERIM CEO OF CHILDREN'S CARE HOSPITAL & SCHOOL WHICH AFFILIATED WITH SD ACHIEVE TO FORM LIFESCAPE. IVE HAD NO INVOLVEMENT WITH LIFESCAPE SINCE THE AFFILIATION.

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

LIFESCAPE INTENDS TO SELL BONDS THROUGH THE SD HEFA. I WILL ABSTAIN FROM THE DISCUSSIONS AND VOTE.

Brief explanation of the essential terms of the contract or transaction.

LIFESCAPE BOND ISSUE.

Brief explanation of why you believe a waiver should be granted:

IT'S IN THE BEST INTERESTS OF LIFESCAPE TO PROCEED WITH THE ANTICIPATED BOND ISSUE.

Signature of Person Requesting Waiver: _____

Dave Timpe

STATE OF SOUTH DAKOTA

South Dakota Health and Educational Facilities Authority

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (current member)

A written request for waiver of conflict, dated September 2, 2017, was received from Dave Timpe. The request was acted upon by the members of South Dakota Health and Educational Facilities Authority during a meeting held on September 19, 2017.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

Mr. Timpe has disclosed his potential conflict and has abstained from discussion and voting on the South Dakota Health and Educational Facilities Authority (the Authority) agenda item of allowing Avera Health to issue the Series 2017 bond issue through the Authority.

The request for waiver was authorized subject to the following conditions:



Signature of Chairperson or Authorized Member

September 19, 2017

Date

Printed Name: Norbert Sebade

Date mailed to Auditor-General: _____

Please complete this form, sign it and return to us prior to the meeting so we can include your waiver when we discuss it as an agenda item.

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: 9-2-17

Name of Board Member or Former Board Member: DAVE TIMPE

Name of Board, Authority or Commission: South Dakota Health and Educational Facilities Authority

Brief explanation of your potential conflict of interest:

IM A LIMITED PART-TIME EMPLOYEE OF AUERA HEALTH AND SERVE ON THE FINANCE COMMITTEE AND BOARD OF AUERA HEALTH PLANS.

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

AUERA HEALTH INTENDS TO SEEK BONDS THROUGH THE SD HEFA. I WILL ABSTAIN FROM THE DISCUSSIONS AND VOTE.

Brief explanation of the essential terms of the contract or transaction.

AUERA HEALTH BOND ISSUE.

Brief explanation of why you believe a waiver should be granted:

ITS IN THE BEST INTERESTS OF AUERA HEALTH TO PROCEED WITH THE ANTICIPATED BOND ISSUE.

Signature of Person Requesting Waiver: Dave G. Timpe

MINUTES
SOUTH DAKOTA HOUSING DEVELOPMENT AUTHORITY
BOARD OF COMMISSIONER'S MEETING
SHERATON SIOUX FALLS & CONVENTION CENTER
October 4, 2017

Board Members Present: Brent Dykstra, Vice-Chair
Scott Erickson, Commissioner
Bill Hansen, Treasurer
Rick Hohn, Commissioner
Mark Puetz, Commissioner
David Pummel, Chairman

Board Members Absent: Steve Kolbeck, Commissioner

Staff Present: Mark Lauseng, Executive Director
Brent Adney, Director of Homeownership Programs
Todd Hight, Director of Finance and Administration
Tasha Jones, Director of Rental Housing Management
Lorraine Polak, Director of Rental Housing Development
Mike Harsma, Director of Single Family Development
Sheila Ricketts, Marketing/Executive Assistant
Mary Stewart, HERO State Coordinator

Guests Present: Dixie Hieb, Davenport, Evans, Hurwitz & Smith, Counsel to SDHDA
Tom Caine, Caine Mitter & Associates
Bronson Martin, Caine Mitter & Associates
Patricia Ho, Caine Mitter & Associates
John Wagner, Kutak Rock, LLC

Conflict are at
the end of the
minutes

I. CALL TO ORDER/CONFLICTS OF INTEREST

The meeting was called to order at 8:30 a.m. and roll was called. In accordance with SDCL 3-23-3.1, **Commissioners Puetz and Hansen disclosed permissible conflicts of interest** for which authorization by the SDHDA Board of Commissioners is not required. The Annual Disclosure Forms with respect to the disclosed conflicts are attached to these minutes.

II. APPROVAL OF AGENDA

It was moved by Commissioner Dykstra and seconded by Commissioner Hansen that the Agenda be adopted as presented, but reserving the right to make further changes during the meeting.

Via voice vote, the following votes were recorded:

Voting AYE: Chairman Pummel; Commissioners Dykstra, Erickson, Hansen, Hohn and Puetz.

III. APPROVAL OF MINUTES

It was moved by Commissioner Puetz and seconded by Commissioner Dykstra that the Minutes of the Board of Commissioners' Meeting held on August 29, 2017, be adopted as presented.

Via voice vote, the following votes were recorded:

Voting AYE: Chairman Pummel; Commissioners Dykstra, Erickson, Hansen, Hohn and Puetz.

IV. TREASURER'S REPORT

Todd Hight, Director of Finance, presented the Treasurer's Report; the Supplemental Schedule of Net Position dated June 30, 2017 and the Supplemental Schedule of Operations and Changes in Net Position for the twelve months ending June 30, 2017. It was moved by Commissioner Hansen and seconded by Commissioner Dykstra that the Treasurer's Report be accepted as presented.

Via voice vote, the following votes were recorded:

Voting AYE: Chairman Pummel; Commissioners Dykstra, Erickson, Hansen, Hohn and Puetz.

V. EXECUTIVE DIRECTOR'S REPORT

Executive Director Lauseng thanked the Board of Commissioners for attending the training on October 3, 2017. He mentioned the Board of Commissioners will tour a Governor's House, Technology Heights and Ellis Court following the meeting. Executive Director Lauseng stated there were a record number of applications submitted for this year's Housing Tax Credit, HOME, Housing Trust Fund and Housing Opportunity Fund application round. He said the Task Force Committee Meeting is scheduled for November 7, 2017. Executive Lauseng reported the NCSHA 2017 Annual Conference & Showplace will be October 14-17 in Denver, Colorado. He encouraged commissioners to attend the conference.

VI. PROGRAM REPORTS

The Program Reports were given by Directors and discussed with the Board.

VII. OLD BUSINESS

A. Resolution No. 17-10-48: Resolution to Approve Housing Tax Credit Program Waiver Request for Clear Spring Apartments

After review and discussion, it was moved by Commissioner Puetz and seconded by Commissioner Dykstra that the above Resolution be adopted as follows:

WHEREAS, per Resolution No. 17-04-21, Clear Springs Apartments, Limited Partnership (Owner) received a Reservation of Housing Tax Credits (HTC) for Clear Springs Apartments;

WHEREAS, the HTC Qualified Allocation Plan requires that certain documents, including a housing tax credit syndication agreement and documentation of the ten percent test, must be provided to SDHDA by December 31, 2017;

WHEREAS, Owner has requested an extension to complete and submit these documents by July 1, 2018; and

WHEREAS, the federal requirements allow such an extension;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the request, and the Executive Director is authorized to notify Owner that if the remaining Carryover documentation is submitted to the satisfaction of SDHDA, a Carryover Allocation Agreement may be issued for the housing tax credits originally reserved or in an amount determined to be financially necessary by SDHDA.

Via voice vote, the following votes were recorded:

Voting AYE: Chairman Pummel; Commissioners Dykstra, Erickson, Hansen, Hohn and Puetz.

B. Resolution No. 17-10-49: Resolution to Approve Housing Tax Credit Program Waiver Request for Jefferson Village Apartments

After review and discussion, it was moved by Commissioner Hansen and seconded by Commissioner Hohn that the above Resolution be adopted as follows:

WHEREAS, per Resolution No. 17-04-23, Jefferson Village Apartments, Limited Partnership (Owner) received a Reservation of Housing Tax Credits (HTC) for Jefferson Village Apartments;

WHEREAS, the HTC Qualified Allocation Plan requires that certain documents, including a housing tax credit syndication agreement and documentation of the ten percent test, must be provided to SDHDA by December 31, 2017;

WHEREAS, Owner has requested an extension to complete and submit these documents by July 1, 2018; and

WHEREAS, the federal requirements allow such an extension;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the request, and the Executive Director is authorized to notify Owner that if

the remaining Carryover documentation is submitted to the satisfaction of SDHDA, a Carryover Allocation Agreement may be issued for the housing tax credits originally reserved or in an amount determined to be financially necessary by SDHDA.

Via voice vote, the following votes were recorded:

Voting AYE: Chairman Pummel; Commissioners Dykstra, Erickson, Hansen, Hohn and Puetz.

C. Resolution No. 17-10-50: Resolution to Commit HOME Program Funds for Clear Spring Apartments

After review and discussion, it was moved by Commissioner Puetz and seconded by Commissioner Dykstra that the above Resolution be adopted as follows:

WHEREAS, per Resolution 17-04-21, a Reservation in the amount of \$600,000 was previously awarded to the following HOME Applicant;

WHEREAS, the Applicant has agreed to comply with all HOME requirements; and

WHEREAS, the environmental review has been completed and Applicant has submitted most of the required documentation;

NOW, THEREFORE, BE IT RESOLVED that upon receipt of satisfactory documentation, the Executive Director be authorized to issue a Commitment of HOME Funds for the following:

<u>OWNER/APPLICANT</u>	<u>DEVELOPMENT/ LOCATION</u>	<u>HOME FUNDS GENERAL POOL</u>
Clear Springs Apartments Limited Partnership	Clear Springs Apartments Spearfish, SD	\$600,000

Via voice vote, the following votes were recorded:

Voting AYE: Chairman Pummel; Commissioners Dykstra, Erickson, Hansen, Hohn and Puetz.

D. Resolution No. 17-10-51: Resolution to Extend the Master Mortgage Pooling and Servicing Agreement Between the South Dakota Housing Development Authority (SDHDA) and the Idaho Housing and Finance Association (IHFA) to Service SDHDA Single Family MBS Mortgage Program

After review and discussion, it was moved by Commissioner Dykstra and seconded by Commissioner Hansen that the above Resolution be adopted as follows:

WHEREAS, per Resolution No. 14-08-56, the South Dakota Housing Development Authority (SDHDA) entered into a Master Mortgage Pooling and Servicing Agreement (Agreement) with the Idaho Housing and Finance Association (IHFA) to serve as SDHDA's Master Servicer for a Mortgage Backed Securities (MBS) program;

WHEREAS, pursuant to Section 8.01 of the Agreement, the Agreement shall have an effective date of November 1, 2014, and shall continue for a period of two (2) years with three (3) additional 1-year periods upon the mutual agreement of SDHDA and IFHA;

WHEREAS, Resolution No. 16-10-53 authorized the extension of the Agreement for the first additional 1-year period; and

WHEREAS, SDHDA desires to exercise its right to extend the Agreement for the second additional 1-year period;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby authorizes the SDHDA Executive Director to extend the Agreement for an additional 1-year period, from November 1, 2017, to October 31, 2018, and to execute any additional documents the Executive Director deems necessary in connection with such extension.

Via voice vote, the following votes were recorded:

Voting AYE: Chairman Pummel; Commissioners Dykstra, Erickson, Hansen, Hohn and Puetz.

VIII. NEW BUSINESS

A. Resolution No. 17-10-52: Resolution to Commit HOME Program Funds under the Security Deposit Assistance Program for Mitchell Area Safehouse

After review and discussion, it was moved by Commissioner Hohn and seconded by Commissioner Dykstra that the above Resolution be adopted as follows:

WHEREAS, the following HOME Program application was received for the Security Deposit Assistance Program (SDAP) set-aside; and

WHEREAS, the required documentation has been reviewed and evaluated, and the Applicant has agreed to comply with all HOME requirements;

NOW, THEREFORE, BE IT RESOLVED that the Executive Director be authorized to issue a conditional commitment of HOME funds from the SDAP set-aside for the following:

APPLICANT
Mitchell Area Safehouse

SECURITY DEPOSIT
ASSISTANCE
PROGRAM AMOUNT
\$14,000

Via voice vote, the following votes were recorded:
Voting AYE: Chairman Pummel; Commissioners Dykstra, Erickson, Hansen, Hohn and Puetz.

B. Resolution No. 17-10-53: Resolution to Commit HOME Program Funds under the Security Deposit Assistance Program for Pathways for the Homeless

After review and discussion, it was moved by Commissioner Hansen and seconded by Commissioner Puetz that the above Resolution be adopted as follows:

WHEREAS, the following HOME Program application was received for the Security Deposit Assistance Program (SDAP) set-aside; and

WHEREAS, the required documentation has been reviewed and evaluated, and the Applicant has agreed to comply with all HOME requirements;

NOW, THEREFORE, BE IT RESOLVED that the Executive Director be authorized to issue a conditional commitment of HOME funds from the SDAP set-aside for the following:

APPLICANT
Pathways Shelter for the Homeless

SECURITY DEPOSIT
ASSISTANCE
PROGRAM AMOUNT
\$16,000

Via voice vote, the following votes were recorded:
Voting AYE: Chairman Pummel; Commissioners Dykstra, Erickson, Hansen, Hohn and Puetz.

C. Resolution No. 17-10-54: Resolution to Commit HOME Program Funds under the Homeowner Rehabilitation Program for NeighborWorks Dakota Home Resources Rehabilitation Program

After review and discussion, it was moved by Commissioner Dykstra and seconded by Commissioner Hansen that the above Resolution be adopted as follows:

WHEREAS, the following HOME Program application was received for the Homeowner Rehabilitation Program set-aside; and

WHEREAS, the required documentation has been reviewed and evaluated, and the Applicant has agreed to comply with all HOME requirements;

NOW, THEREFORE, BE IT RESOLVED that the Executive Director be authorized to issue a commitment of HOME funds from the Homeowner Rehabilitation Program set-aside for the following:

<u>APPLICANT</u>	<u>DEVELOPMENT/ LOCATION</u>	<u>HOMEOWNER REHABILITATION PROGRAM AMOUNT</u>
NeighborWorks Dakota Home Resources	NeighborWorks Dakota Home Resources Rehabilitation Program Scattered Sites	\$200,000

Via voice vote, the following votes were recorded:

Voting AYE: Chairman Pummel; Commissioners Dykstra, Erickson, Hansen, Hohn and Puetz.

D. Resolution No. 17-10-55: Resolution to Authorize the Issuance and Sale of South Dakota Housing Development Authority Homeownership Mortgage Bonds, 2017 Series D, in an Aggregate Principle Amount not to Exceed \$80,000,000, Determining the Final Terms Thereof and Setting Forth Covenants and Authorizing Execution of Documents with Respect thereto

After review and discussion, it was moved by Commissioner Dykstra and seconded by Commissioner Erickson that the above Resolution be adopted as follows:

ARTICLE I

CREATION OF SERIES

Section 1.01. Authorization.

(a) **Resolutions.** This resolution, referred to herein as the "2017 Series Resolution," is adopted pursuant to Article II of the Authority's Resolution No. 77-27, adopted June 16, 1977, as amended and supplemented, and entitled: "Resolution Providing for the Issuance of Homeownership Mortgage Bonds of the South Dakota Housing Development Authority," referred to herein as the "Bond Resolution," to authorize the issuance and sale and determination of the terms and provisions of bonds of the Authority which are designated as "Homeownership Mortgage Bonds, 2017 Series D" (the "Series D Bonds"), or such other or additional series designations as an Authorized Officer may deem appropriate, in an aggregate principal amount not to exceed \$80,000,000 (such Series of Bonds are collectively referred to herein as

the "Series Bonds"). All terms defined in Section 103 of the Bond Resolution are used with like meaning in this 2017 Series Resolution.

(b) **Purposes.** It is determined to be in the best interests of the Authority to issue the Series Bonds for the purpose of providing funding for the Authority's Program of making or purchasing Qualified Mortgage Loans to facilitate the development of a sufficient supply of residential housing in South Dakota at prices that persons and families of low and moderate income can afford, which funding may include the refunding of outstanding Homeownership Mortgage Bonds heretofore issued under the Bond Resolution or bonds or other indebtedness incurred by the Authority to finance its Program (the "Refunded Bonds"), and deposit of sale proceeds of the Series Bonds into the Funds and Accounts set forth in Section 2.02 of Article II hereof to be expended for the Program.

(c) **Sale.**

(i) **Contracts of Purchase Relating to Series Bonds.** The Authority authorizes negotiation for the sale of the Series Bonds to one or more of Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), Citigroup Global Markets Inc. ("Citigroup"), J.P. Morgan Securities LLC, Dougherty & Company LLC and Wells Fargo Securities (Wells Fargo Bank, National Association) (collectively, the "Underwriters" or the "Original Purchasers"). Any single investor may also be the sole purchaser of any Series Bonds if so authorized by an Authorized Officer. The Authority hereby approves the use of the form(s) of Contract(s) of Purchase previously used with respect to its 2017 Series A/B/C Bonds, pursuant to which form(s) the Series Bonds are proposed to be sold, executed and delivered. The Chair, Vice Chair or Executive Director (each an "Authorized Officer") is authorized to select the Underwriters for the Series Bonds, to approve the final terms and provisions of the Contract(s) of Purchase relating to each series of the Series Bonds, and to execute the Contract(s) of Purchase for each on behalf of the Authority.

(ii) **Official Statement.** The Authority hereby approves the use of a Preliminary Official Statement, in the form previously used with respect to its 2017 Series A/B/C Bonds, or 2015 Series C Bonds (if any of the Series Bonds are sold to the public as variable rate demand bonds), containing information relating to the Authority and the related Series Bonds and such other information as is deemed appropriate by an Authorized Officer, and hereby approves and ratifies the distribution thereof by the Underwriters. A final Official Statement, substantially in the form of the Preliminary Official Statement except for revisions required or approved by counsel for the Authority, and the officers of the Authority executing the same, and insertion of the final terms of each of the related

Series Bonds, is authorized to be prepared and signed by an Authorized Officer and furnished to the Underwriters.

(iii) *Approval of Continuing Disclosure Agreement.* The Authority hereby approves the use of a Continuing Disclosure Agreement relating to the Series Bonds in the form previously used with respect to its 2017 Series A/B/C Bonds, wherein the Authority will covenant for the benefit of the beneficial owners of the related Series Bonds to provide annually certain financial information and operating data relating to the Authority and to provide notices of the occurrence of certain enumerated events. Said Continuing Disclosure Agreement is approved substantially in the form described and is authorized to be signed on behalf of the Authority by an Authorized Officer.

(iv) *Approval of Interest Rate Hedging Agreements.* The Authority hereby approves the use of interest rate hedging agreements with such financial organizations as an Authorized Officer may specify (each, a "Counterparty"), in particular financial organizations with whom the Authority already has such hedging agreements and the form of the interest rate hedging agreements with such counterparties, consisting of an ISDA Master Agreement, including a Schedule and Credit Support Annex, and one or more Confirmations thereto, relating to any one or more series of the Series Bonds which may be variable rate bonds, which Counterparties and form of agreements satisfy the provisions of the Authority's Interest Rate Swap Policy (collectively, the "Hedging Agreements"), and the Authorized Officers of the Authority are authorized to negotiate the final terms of, approve and execute any such Hedging Agreements; and such execution and delivery shall constitute conclusive evidence of their approval of all changes thereto.

(v) *Continuing Covenant and Standby Bond Purchase Agreements.* The Authority hereby approves the use of a Continuing Covenant Agreement ("CC Agreement") relating to any one or more of the variable rate Series Bonds in substantially the form used in conjunction with the sale of the 2016 Series E Bonds. The Authority also hereby approves the use of a Standby Bond Purchase Agreement or comparable liquidity agreement ("SBPA"), either itself or with a financial organization, relating to any one or more of the Series Bonds which have a tender right, in substantially the form used in conjunction with the sale of the 2015 Series C Bonds. The Authorized Officers of the Authority are authorized to negotiate the terms of, approve and execute such CC Agreement or SBPA. The execution and delivery by any Authorized Officer of such Agreements shall constitute conclusive evidence of both the Authority's and said Authorized Officer's approval of all changes,

modifications, amendments, revisions and alterations made therein and shall conclusively establish said Authorized Officer's absolute, unconditional and irrevocable authority with respect thereto from the Authority and the authorization, approval and ratification by the Authority of the Agreements so executed.

(d) ***Pledge; Outstanding Bonds.*** The pledge made and security interests granted in the Bond Resolution with respect to all Mortgage Loans, Revenues, money, securities, Funds and Accounts therein defined and created, and all covenants and agreements made by the Authority therein, are made and granted for the equal benefit, protection and security of the Holders of all Series Bonds, as well as all Bonds presently Outstanding under the Bond Resolution, without preference, priority or distinction of one Bond over any other of that or any other Series similarly authorized and issued under the Bond Resolution, as fully as though set out at length and resolved herein.

(e) ***Capital Reserve Requirement.*** The Capital Reserve Requirement with respect to the Series Bonds is determined to be 3% of the aggregate Capital Value of the Series Bonds from time to time Outstanding or any lesser amount determined by an Authorized Officer so long as the same does not adversely affect the ratings on the Bonds. Upon issuance, sale and delivery of the Series Bonds, there shall be deposited in the appropriate Account(s) for the Series Bonds in the Capital Reserve Fund from the sources set forth in paragraph (b) of Section 2.02 of Article II hereof, or by transfer from other Accounts therein, the amount, as directed in an Officer's Certificate delivered upon the Issue Date, which is equal to the Capital Reserve Requirement for such Series Bonds.

(f) ***Mortgage Reserve Requirement.*** The Mortgage Reserve Requirement with respect to the Series Bonds shall be 2% of the Mortgage Loans then outstanding, or any lesser amount determined by an Authorized Officer so long as the same does not adversely affect the ratings on the Bonds. Upon issuance, sale and delivery of the Series Bonds, there shall be deposited in the appropriate Account(s) for the Series Bonds in the Mortgage Reserve Fund from the sources set forth in paragraph (b) of Section 2.02 of Article II hereof, or by transfer from other Accounts therein, the amount, as directed in an Officer's Certificate delivered upon the Issue Date, which is equal to the Mortgage Reserve Requirement for such Series Bonds.

Section 1.02. Form of Bonds.

(a) The Series Bonds shall be issuable in the form of fully registered Bonds, of single maturities, subject to transfer, registration and exchange as provided in Article VI of the Bond Resolution. The Series Bonds authorized hereby shall be numbered serially for each Series, and no such Series Bond, whether issued initially or upon reregistration,

transfer or exchange, shall bear the same number as any other Bond of the same Series contemporaneously Outstanding; provided, however, that the form of any of the Series Bonds which are variable rate bonds may be modified in such manner as is approved by the Authority for the purpose of reflecting the addition, substitution or elimination of a CC Agreement or SBPA with respect to such Bonds in accordance with the terms hereof. Following a conversion date for the Series Bonds, the form of such Series Bonds may be appropriately revised to reflect the conversion of the interest rate on such Series Bonds, to delete the provisions of the form of Series Bonds which are then of no further force and effect, to include a description of the post conversion interest rate bonds, the terms upon which such Series Bonds may or are required to be redeemed and any additional security therefor and to make any other changes therein which are necessary or appropriate in such circumstances.

(b) The Series Bonds shall be typewritten or printed in substantially the form specified in an Officer's Certificate.

ARTICLE II

TERMS OF THE SERIES BONDS

Section 2.01. Terms.

(a) ***Determination of Final Terms of Series Bonds and Refunded Bonds.*** The issuance, sale and delivery of the Series Bonds from time to time is hereby approved, subject, however, to the hereinafter-described subsequent negotiation of the final terms of the Series Bonds, if issued, including the Series numbering and lettering, the interest rates on and maturities and redemption provisions of the Series Bonds, any bondholder rights to tender any such Bonds, the purchase price thereof and the underwriting fee; provided, however, that the Series Bonds shall mature no later than 40 years from the date of issuance and bear an interest rate not to exceed 7% per annum with respect to fixed rate bonds and 15% with respect to variable rate bonds. The terms of the Series Bonds and the determination of the Refunded Bonds, if any, to be refunded are subject to further authorization and approval as follows. The Executive Director-Secretary (or Director of Finance if the Executive Director-Secretary is not available) shall consult and coordinate with the Chair (or Vice Chair if the Chair is not available) with respect to the final terms of the Series Bonds and the determination of the Refunded Bonds, if any, and the Executive Director-Secretary (or Director of Finance if the Executive Director-Secretary is not available), after so discussing the final pricing terms and bonds to be refunded, if any, is authorized (subject in all cases to the limitations otherwise set forth herein) to determine the final size of the proposed issuance of the Series Bonds and bonds to be refunded, if any, and to negotiate the final terms of the proposed issuance of the Series Bonds with the Underwriter (which shall be selected from the

Underwriters listed above), including the determination of final interest rates, initial variable interest rates and method of determination of variable rates and modes, tender provisions, provisions of any SBPA (which may initially be self-liquidity), including a mode change concerning such Series Bonds, redemption provisions (if any) and maturities, the sale price to the Underwriter and the net underwriting fee (which shall not exceed 1.5% of the principal amount of the Series Bonds to be issued), provided that all or a portion of any Series Bonds may be sold to a single institutional investor (and any CC Agreement or any SBPA negotiated and finalized in conjunction therewith) if the Executive Director-Secretary (or Director of Finance if the Executive Director-Secretary is not available) determines the same will result in more beneficial financing terms for the Authority.

(b) ***Issue Date; Interest Payment Dates; Denominations and Record Date.*** The Issue Date of the Series Bonds shall be the date of delivery thereof or as may be otherwise specified by an Authorized Officer. The Series Bonds shall be issued in denominations of \$5,000 principal amount, or any integral multiple thereof, or such other denominations as shall be authorized by an Authorized Officer, all specified in the related Series Determinations (hereinafter defined) or such other denominations as shall be authorized by an Authorized Officer, in each case not exceeding the principal amount maturing on any principal payment date. Interest on the Series Bonds shall be payable each May 1 and November 1, or such other dates as may be specified by an Authorized Officer, or such dates set forth in any applicable CC Agreement or SBPA, by check or draft mailed to the person in whose name the Series Bond is registered on the registration books of the Authority maintained by the Trustee at the close of business on the Record Date (as set forth in the Series Determinations) or, upon the written request of a Holder of a Series Bond and payment of any applicable wire transfer fee of the Trustee, by wire transfer on each interest payment date from the Trustee to the Holder thereof as of the Record Date or as set forth in the CC Agreement or applicable SBPA with respect to variable rate Series Bonds purchased thereunder; provided, however, that so long as all of the Outstanding Series Bonds are registered in the name of The Depository Trust Company (“DTC”) or its designee, or other securities depository as permitted by paragraph (e) of Section 2.03 hereof, payment of interest on the Series Bonds shall be made in accordance with operational arrangements of the securities depository as agreed to by the Authority. The principal of, any redemption premium, if any, and interest due on Series Bonds shall be payable at the principal corporate trust office of the Trustee, or in the case of variable rate tender bonds, with respect to the purchase price, at the corporate trust office of the tender agent to be selected by an Authorized Officer, upon presentation and surrender of the Series Bonds on or after the date of maturity or redemption or purchase thereof; provided, however, that so long as all Outstanding Series Bonds are registered in the name of DTC or its designee, or other permitted securities depository, the securities depository may, in its discretion, make a notation on any Series Bond indicating the

date and amount of any reduction of principal except in the case of final maturity, in which case the Series Bonds shall be surrendered to the Trustee for payment or in the case of variable rate bonds, with respect to the purchase price, at the corporate trust office of the Tender Agent. Notwithstanding the foregoing, payments on bonds purchased under a liquidity facility shall be made in accordance with the applicable liquidity facility.

(c) **General Redemption Provisions.**

(i) *Partial Redemption.* If less than all of the Series Bonds of any Series and maturity are to be redeemed at any time, whether by the application of Sinking Fund Installments or otherwise, the Trustee shall select the Series Bonds of said Series to be redeemed among numbers to be assigned by the Trustee to each \$5,000 principal amount or other applicable minimum denomination of any such Series Bond, or such other method as may be authorized by an Authorized Officer; provided, however, that so long as all Outstanding Series Bonds are registered in the name of DTC or its designee, or other permitted securities depository, the Series Bonds to be redeemed shall be selected in accordance with the operational arrangements of the securities depository as agreed to by the Authority.

(ii) *General Provisions.* All actions taken by the Authority and the Trustee in the redemption of Series Bonds shall conform to the provisions of Sections 405 and 409 and Article VII of the Bond Resolution, provided that, pursuant to the provisions of Section 803 of the Bond Resolution, the provisions of Section 704 of the Bond Resolution are hereby modified to require that mailed notice of redemption shall be given not less than 20 days prior to a redemption date and that published notice of redemption of the Series Bonds shall not be required, provided further that, notwithstanding the foregoing, a copy of the notice of the call for any redemption identifying any variable rate Series Bonds to be redeemed may be given by immediate notice, with respect to such Series Bonds, not less than 15 days (20 days if in book-entry-only form), or such lesser time period as may be agreed upon by the Authority and the purchaser of such Series Bonds prior to the date fixed for redemption if authorized by an Authorized Officer, and if Bonds purchased under a SBPA are to be redeemed, the Trustee shall give immediate notice of such Bonds to the SBPA counterparty at least one business day prior to the date fixed for redemption.

(d) **Modes, Tender and Conversion Provisions.** Any variable rate Series Bonds shall have such variable or fixed rate modes, tender

provisions and conversion provisions as are authorized by an Authorized Officer as set forth in the related Series Determinations.

Section 2.02. Establishment and Funding of Accounts Related to Series Bonds.

(a) **Series Bond Clearing Account.** The Trustee shall establish on its books a Clearing Account for each series of the Series Bonds and deposit therein net proceeds of the related Series Bonds upon receipt by the Trustee from the Underwriters. The Trustee shall then transfer or credit amounts therein to other Funds and Accounts for the financing of Qualified Mortgage Loans and for the payment of the Refunded Bonds or costs of issuing the Series Bonds, if any, as directed in an Officer's Certificate.

(b) **Establishment and Funding of Certain Accounts Relating to the Series Bonds.** The following accounts are hereby created relating to the issuance of the Series Bonds and shall be funded from the sources and in the amounts set forth or determined in the manner as follows:

(i) There are established accounts designated as the Mortgage Loan Accounts for each series of the Series Bonds, moneys in which shall be used for the purposes and as authorized by Section 303 of the Bond Resolution. On the date of issuance of the Series Bonds, there shall be deposited by the Trustee into such Mortgage Loan Accounts, as the case may be, from the respective Series Clearing Accounts the amounts as directed in an Officer's Certificate delivered upon the Issue Date.

(ii) There is established within the Capital Reserve Fund, an account designated as such for each series of the Series Bonds. On the date of issuance of the Series Bonds, there shall be deposited by the Trustee into such Accounts, as the case may be, the Capital Reserve Requirement for the respective Series Bonds, from the respective Clearing Accounts as directed in an Officer's Certificate delivered upon the Issue Date.

(iii) There is established within the Mortgage Reserve Fund, an account designated as such for each series of the Series Bonds. On the date of issuance of the Series Bonds, there shall be deposited by the Trustee into such Accounts, as the case may be, the Mortgage Reserve Requirement for the respective Series Bonds, from the respective Clearing Accounts as directed in an Officer's Certificate delivered upon the Issue Date.

(iv) There is established within the Revenue Fund, an account designated as such for each series of the Series Bonds.

On the date of issuance of the Series Bonds, the Trustee shall deposit the accrued interest, if any, received with respect to the sale of the related Series Bonds into the respective Accounts in the Revenue Fund.

(v) Such moneys shall be transferred to each of the Series Accounts of the Revenue Fund from the related Clearing Accounts, and such deposits shall be made into said Accounts on the dates of issuance of the Series Bonds from such sources, all as directed by an Officer's Certificate, and the Trustee shall make deposits and disbursements of Revenues allocable to the Series Bonds into and from said Accounts from time to time in accordance with Sections 402 and 403 of the Bond Resolution or as otherwise directed by an Officer's Certificate.

(vi) Costs of Issuance of the Series Bonds may be paid from the Revenue Fund or Special Program Fund, or any Costs of Issuance Accounts established in connection with the issuance of the Series Bonds, upon receipt by the Trustee of an Officer's Certificate authorizing and directing such payment.

(vii) There shall be established, if so specified in an Officer's Certificate, a Bond Purchase Account on the books of the Trustee (herein, each a "Bond Purchase Account"), for any series of Series Bonds subject to tender rights, in which shall be deposited as and when received, (A) all proceeds of the remarketing of the related Series Bonds, (B) all amounts received under any SBPA with respect thereto and (C) all payments made directly by the Authority with respect to the purchase of such Series Bonds in accordance with the Series Determinations related to such Series Bonds. Money in such Bond Purchase Account, if any, shall be used as provided in the Series Determinations related to such Series Bonds.

(c) **Single Account.** In lieu of establishing separate accounts for each such series of the Series Bonds as provided above in this Section, one or more single accounts may be established upon receipt by the Trustee of an Officer's Certificate directing the same.

Section 2.03. Conditions Precedent to Issuance and Delivery.

(a) **Documents Furnished to Trustee.** For purposes of the Bond Resolution, the Series Bonds are considered as being issued to provide funds for the making or purchase of Qualified Mortgage Loans, the refunding of Outstanding Bonds as set forth in Section 202(2) of the Bond Resolution, or both. In accordance with the provisions of Section 203 of the Bond Resolution, the Executive Director shall furnish to the Trustee on the dates of issuance and delivery of the Series Bonds:

(i) Certified copies of the Bond Resolution and this 2017 Series Resolution.

(ii) An opinion of Counsel to the Authority that the Bond Resolution and this 2017 Series Resolution have been duly adopted by the Authority and are valid and binding upon it and enforceable in accordance with their terms, that the Bond Resolution creates the valid pledge it purports to create, and that the principal amount of the Series Bonds then being issued, when added to the principal amount of other obligations theretofore issued by the Authority, does not exceed any legal limitations.

(iii) An Officer's Certificate, stating:

(A) The Series designations, interest rates, maturities, redemption provisions, tender rights (if any) and any other terms of the Series Bonds then being issued, as well as the form of the Bonds, the purchase price thereof, any underwriting fee and any bonds to be refunded, pursuant to Section 2.01(a) hereof (the "Series Determinations").

(B) The amounts of the proceeds of the Series Bonds then being issued and other funds to be credited to the Funds and Accounts referred to in Section 301 of the Bond Resolution at the time of delivery of such Series Bonds, as provided in this 2017 Series Resolution.

(C) Whether or not interest on the Series Bonds then being issued is to be exempt from federal income taxation.

(D) That upon the issuance of such Series Bonds, the Parity Test and the Cash Flow Test will be satisfied.

(E) That the issuance of such Series Bonds will have no material adverse effect on the ability of the Authority to pay the Principal Installments of and interest on all Bonds.

(iv) An Officer's Certificate:

(A) Identifying the bonds, interest and redemption premiums, if any, to be refunded and identifying separately those bonds to be paid at their respective maturity dates and those to be redeemed at specified Redemption Prices and on specified dates at which such

bonds may be redeemed from funds held in the Redemption Fund and from other funds.

(B) Directing the Trustee to make due publication, if applicable, of a notice of redemption and refunding with respect to any Refunded Bonds to be redeemed prior to maturity.

(C) Stating that funds will be deposited with the Trustee at or before the time of delivery of the Series Bonds then being issued, sufficient to effect retirement of any Refunded Bonds, interest and any redemption premiums thereon.

(b) **Trustee's Certification.** The Executive Director shall then request the Trustee to determine and certify:

(i) That it has received the documents listed in paragraph (a) of this Section 2.03.

(ii) That the amount to be deposited in the Capital Reserve Fund is sufficient to increase the amount in that Fund to the Capital Reserve Requirement effective after the issuance of the Series Bonds then being issued, as computed by the Trustee.

(iii) That upon the issuance of the Series Bonds then being issued, and deposit of amounts in all Funds and Accounts as directed in the Officer's Certificate, the Parity Test will be satisfied.

(c) **Certification under Applicable Federal Tax Law.** If the interest on any of the Series Bonds is to be exempt from federal income taxation, an Authorized Officer is authorized and directed, on the date of delivery of such Series Bonds, to prepare and execute a certificate on behalf of the Authority, setting forth in brief and summary terms the facts, estimates and circumstances on the basis of which the Authority reasonably expects that the proceeds of such Series Bonds will not be used in a manner that would cause such Series Bonds to be arbitrage bonds under applicable federal tax law.

(d) **Execution and Delivery of Series Bonds.** The Series Bonds shall be executed in the name of the Authority by the manual or facsimile signature of the Chair or Vice Chair and countersigned by the manual or facsimile signature of its counsel, attested by the manual or facsimile signature of the Executive Director, shall be authenticated by the Trustee by manual signature in accordance with the provisions of Section 603(A) of the Bond Resolution, and shall be sealed with a printed or actual facsimile of the official seal of the Authority. After receipt of the Trustee's Certificate referred to in paragraph (b) of this Section, the

Authorized Officers are authorized and directed to prepare, execute on behalf of the Authority and deliver to the Underwriters the certificates, opinions and other documents specified in the related Contract of Purchase and the Bond Resolution and this 2017 Series Resolution and to deliver the Series Bonds (then being issued) to the Underwriters or Original Purchaser, as the case may be, after receipt by the Trustee of the purchase price in the amount and in the manner therein specified.

(e) ***Securities Depository.***

(i) For purposes of this Section, the following terms shall have the following meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Series Bond, the person in whose name such Series Bond is recorded as the beneficial owner of such Series Bond by a Participant on the records of such Participant, or such person’s subrogee.

“Cede & Co.” shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Series Bonds.

“DTC” shall mean The Depository Trust Company of New York, New York.

“Participant” shall mean any broker-dealer, bank or other financial institution for which DTC holds Series Bonds as securities depository.

(ii) The Series Bonds shall be initially issued as separately authenticated fully registered Bonds, and one Series Bond of each Series shall be issued in the principal amount of each stated maturity of the Series Bonds of each such Series. Upon initial issuance, the ownership of such Series Bonds shall be registered in the bond register in the name of Cede & Co., as nominee of DTC. The Trustee and the Authority may treat DTC (or its nominee) as the sole and exclusive owner of the Series Bonds registered in its name for the purposes of payment of the principal of or interest on the Series Bonds, selecting the Series Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to registered owners of Series Bonds under the Bond Resolution or this 2017 Series Resolution, registering the transfer of Series Bonds, and for all other purposes whatsoever, and neither the Trustee nor the Authority shall be affected by any notice to the contrary. Neither the Trustee nor the Authority shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Series Bonds under

or through DTC or any Participant, or any other person which is not shown on the bond register as being a registered owner of any Series Bonds, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of, interest, redemption premium or purchase price on the Series Bonds, with respect to any notice which is permitted or required to be given to owners of Series Bonds under the Bond Resolution or this 2017 Series Resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption or purchase of the Series Bonds, or with respect to any consent given or other action taken by DTC as registered owner of the Series Bonds. So long as any Series Bond is registered in the name of Cede & Co., as nominee of DTC, the Trustee shall pay all principal of and interest on, and purchase price of, such Series Bond, and shall give all notices with respect to such Series Bond, only to Cede & Co. in accordance with DTC's Operational Arrangements, and all such payments shall be valid and effective to fully satisfy and discharge the Authority's obligations with respect to the principal of and interest on, and purchase price of, the Series Bonds to the extent of the sum or sums so paid. No person other than DTC shall receive an authenticated Series Bond for each separate stated maturity of each Series evidencing the obligation of the Authority to make payments of principal, interest and purchase price. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Series Bonds will be transferable to such new nominee in accordance with subsection (iv) hereof.

(iii) In the event the Authority determines that it is in the best interest of the Beneficial Owners that they be able to obtain Series Bonds in the form of bond certificates, the Authority may notify DTC and the Trustee, whereupon DTC shall notify the Participants of the availability through DTC of Series Bonds in the form of certificates. In such event, the Series Bonds will be transferable in accordance with subsection (iv) hereof. DTC may determine to discontinue providing its services with respect to the Series Bonds at any time by giving notice to the Authority and the Trustee and discharging its responsibilities with respect thereto under applicable law. In such event the Series Bonds will be transferable in accordance with subsection (iv) hereof.

(iv) In the event that any transfer or exchange of Series Bonds is permitted under subsection (ii) or (iii) hereof, such transfer or exchange shall be accomplished upon receipt by the Trustee of the Series Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance

with the provisions of the Bond Resolution and this 2017 Series Resolution. In the event Series Bonds in the form of certificates are issued to owners other than Cede & Co., its successor as nominee for DTC as owner of all the Series Bonds, or another securities depository as owner of all the Series Bonds, the provisions of the Bond Resolution and this 2017 Series Resolution shall also apply to all matters relating thereto, including, without limitation, the printing of such Series Bonds in the form of bond certificates and the method of payment of principal of and interest on such Series Bonds in the form of bond certificates.

Section 2.04. General Authorization of Officers. The Authorized Officers are hereby authorized and directed to do all acts and things and to execute and deliver any and all documents, filings, certificates and other instruments necessary or desirable to effectuate the transactions contemplated by the Bond Resolution or this 2017 Series Resolution.

ARTICLE III

THE CODE AND RESTRICTIONS

Section 3.01. Tax Covenant and Restrictions.

(a) **General Tax Covenant.** In Section 505 of the Bond Resolution the Authority has covenanted that, if interest on any of the Series Bonds is to be exempt from federal income taxation, it will at all times do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest paid by the Authority on the Bonds shall be exempt from all federal income taxation, and that no part of the proceeds of the Bonds shall at any time be used directly or indirectly to acquire securities or obligations the acquisition of which, from the funds used for that purpose, if reasonably anticipated on the date of issuance of any Bond, would have caused such Bond to be an arbitrage bond, unless such acquisition is at such time permitted by applicable federal tax law and the Treasury Regulations thereunder, as then in effect. The Authority shall at all times do and perform all acts and things permitted by law and the Bond Resolution and necessary or desirable in order to assure that the proceeds of such Series Bonds and the Revenues attributable thereto will be used in a manner consistent with the provisions of applicable federal tax law and applicable Regulations.

(b) **Authority and Effect.** Sections 3.01 and 3.02 of this Article III shall be applicable only to the obligations, covenants, agreements, limitations, conditions and restrictions of and upon the Authority in relation to the Holders of the Series Bonds on which interest is to be exempt from federal income taxation. The meaning of capitalized terms used in Sections 3.01 and 3.02 of this Article III are as defined in Section 103 of the Bond Resolution or in this 2017 Series Resolution. The

covenants and restrictions set forth in Section 3.02 hereof shall apply to Mortgage Loans made in whole or in part from the proceeds of the Series Bonds on which interest is to be exempt from federal income taxation initially deposited into the Mortgage Loan Accounts or Revenues for the Series Bonds on which interest is to be exempt from federal income taxation attributable thereto. The Authority retains the right to impose covenants with respect to Mortgage Loans, Homes and Mortgagors more restrictive than those imposed by applicable federal tax law.

(c) **Amendments.** If and to the extent that applicable federal tax law is amended or additional Regulations are promulgated or rulings given thereunder, and the Authority determines on the advice of counsel that the effect thereof is to add to, delete from or change the restrictions and limitations contained in applicable federal tax law or the Authority's interpretation thereof, any provision of Sections 3.01 and 3.02 of this Article III may be amended or supplemented to conform to applicable federal tax law and the Regulations and rulings thereunder as then in effect, without the consent of the Trustee or Bondholders, as contemplated in Section 801 of the Bond Resolution.

Section 3.02. Compliance With Applicable Federal Tax Law.

(a) **Code Provisions.** If interest on any of the Series Bonds is to be exempt from federal income taxation, the Authority determines to apply the provisions of Section 103 or 143, as applicable, of the Code to the Mortgage Loans to be made or purchased, in whole or in part, from the proceeds of such Series Bonds, and the Authority determines to take all necessary action to insure that the Series Bonds on which interest is to be exempt from federal income taxation meet the requirements of Section 103 or 143 as an issue of Pre-Ullman single-family mortgage revenue bonds or "qualified mortgage bonds", as applicable. In conjunction with the issuance of any Refunded Bonds the Authority covenanted to comply with then applicable federal tax rules and take all action necessary to insure that such Refunded Bonds (or any "new money" Bonds refunded thereby) complied with the requirements of said Section 103 or 143, as applicable (or any applicable prior provisions of the Code), including any Mortgage Loans financed with recycled repayments of Mortgage Loans financed by such Refunded Bonds, so that the interest on the related Bonds would be exempt from federal income taxation; the Authority hereby reconfirms and renews such covenants in conjunction with the issuance of the Series Bonds on which interest is to be exempt from federal income taxation.

(b) **Arbitrage.** The Authority will take all actions as may be necessary to assure that the Series Bonds will meet the requirements of Sections 143(g), if applicable, and Section 148 of the Code, if any, and applicable Regulations, relating to arbitrage, and the Authority will pay or cause to be paid the rebate amount with respect to the Series Bonds on which interest is to be exempt from federal income taxation required by

Section 148(f) of the Code and the Regulations, as provided in the Arbitrage Rebate Certificates executed by the Trustee and the Authority in conjunction with the issuance and delivery of the Series Bonds on which interest is to be exempt from federal income taxation.

Section 3.03. The Authority hereby declares its intention, within the meaning of Section 1.150-2 of the Internal Revenue Code regulations, to facilitate continuous funding of its homeownership program (as described above) by, from time to time, financing mortgage loans and then issuing bonds in one or more series within 18 months thereof to reimburse itself for such financing, all in an amount presently expected to not exceed the amount of the Series Bonds authorized by Article I hereof, and hereby confirms that the Executive Director has been and continues to be authorized to also so declare the intention of the Authority within the meaning of said Section 1.150-2 to issue bonds to reimburse itself for the financing of mortgage loans, provided that the final amount of any such bond issuances shall be determined only by subsequent action of the Authority and any such declaration does not authorize or obligate the Authority to issue any such bonds.

ARTICLE IV

EFFECTIVE DATE

This 2017 Series Resolution shall take effect immediately.

Via voice vote, the following votes were recorded:

Voting AYE: Chairman Pummel; Commissioners Dykstra, Erickson, Hansen, Hohn and Puetz.

Commissioner Dykstra left the meeting at 9:29 a.m.

E. Resolution No. 17-10-56: Resolution to Approve the Fiscal Year 2018 Budget

After review and discussion, it was moved by Commissioner Hohn and seconded by Commissioner Puetz that the above Resolution be adopted as follows:

WHEREAS, the Board has reviewed the proposed fiscal year 2018 budget as presented;

NOW, THEREFORE, BE IT RESOLVED that the proposed budget for fiscal year 2018 is hereby adopted.

Via voice vote, the following votes were recorded:

Voting AYE: Chairman Pummel; Commissioners Erickson, Hansen, Hohn and Puetz.
Excused: Commissioner Dykstra.

F. Resolution No. 17-10-57: Resolution to Approve the Election of Officers for Fiscal Year 2018

After review and discussion, it was moved by Commissioner Hohn and seconded by Commissioner Puetz that nominations cease and the above Resolution be adopted as follows:

BE IT HEREBY RESOLVED that the officers of South Dakota Housing Development Authority Board of Commissioners for fiscal year 2018 are as follows:

Chairman – David Pummel
Vice-Chair – Brent Dykstra
Secretary – Mark Lauseng (SDCL 11-11-12)
Treasurer – Bill Hansen
Assistant Treasurer – Todd Hight

Via voice vote, the following votes were recorded:

Voting AYE: Chairman Pummel; Commissioners Erickson, Hansen, Hohn and Puetz.

Excused: Commissioner Dykstra.

G. Resolution No. 17-10-58: Resolution to Approve the Homeownership Education Resource Organization (HERO) Funding

After review and discussion, it was moved by Commissioner Hansen and seconded by Commissioner Erickson that the above Resolution be adopted as follows:

WHEREAS, HERO is an affiliate created and supported by South Dakota Housing Development Authority (SDHDA) as an independent 501(c)(3);

WHEREAS, BE IT KNOWN that the cost of providing education and counseling services in South Dakota is projected at \$773,273 for the fiscal year 2018; and

WHEREAS, HERO continuance is dependent upon the financial support of SDHDA;

NOW, THEREFORE, BE IT RESOLVED that during fiscal year 2018, SDHDA shall financially support HERO up to \$436,283 for the purpose of providing homebuyer education in South Dakota.

Via voice vote, the following votes were recorded:

Voting AYE: Chairman Pummel; Commissioners Erickson, Hansen, Hohn and Puetz.

Excused: Commissioner Dykstra.

IX. DATE OF NEXT MEETING AND ADJOURNMENT

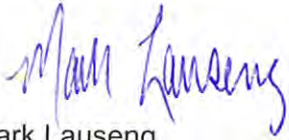
The next Board of Commissioners' Meeting has not been scheduled. It was moved by Commissioner Puetz and seconded by Commissioner Hohn that the meeting adjourn. The meeting adjourned at 9:43 a.m.

Via voice vote, the following votes were recorded:

Voting AYE: Chairman Pummel; Commissioners Erickson, Hansen, Hohn and Puetz.

Excused: Commissioner Dykstra.

Respectfully submitted,



Mark Lauseng
Secretary

State Authorities/Boards/Commissions - Annual Disclosure Form

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member:

Name of Board, Authority or Commission:

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

1. With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
2. With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
3. With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

1. The entity receives grant money from the State, either directly or by a pass-through grant or
2. The entity contracts with the State or any political subdivision for services.

1. Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed; if applicable

add row

2. Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23 - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized

add row

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision
Construction Contract	Puetz Corporation	SD Dept. of Transportation; SD Bureau of Adm Office of State Engineers

add row

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member: 

Date: 10-4-2017

State Authorities/Boards/Commissions - Annual Disclosure Form

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member:

Name of Board, Authority or Commission:

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

1. With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
2. With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
3. With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

1. The entity receives grant money from the State, either directly or by a pass-through grant or
2. The entity contracts with the State or any political subdivision for services.

1. Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed; if applicable
SDHDA Awards and Grants	SDHDA and Southeast Council of Governments	SECOG Employee	N/A
SDHDA Awards and Grants	SDHDA and Inter-Lakes Community Action Partnership	Unpaid ICAP Board Member	N/A
SDHDA Awards and Grants	SDHDA and Sioux Empire Housing Partnership	Unpaid SEHP Board Member	N/A

2. Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23 - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1. add row

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1. add row

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit. add row

Signature of Member:

Bill Hansen

Date:

10/4/17

**BOARD OF REGENTS
MINUTES OF THE MEETING
August 8-10, 2017**

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**BOARD OF REGENTS
MINUTES OF THE MEETING
August 8-10, 2017**

The South Dakota Board of Regents met on August 8-10, 2017 at River Rock Lodge in Pierre, South Dakota with the following members present:

Bob Sutton, President
Kevin Schieffer, Vice President
John Bastian, Secretary
Conrad Adam, Regent
Jim Thares, Regent
Jim Morgan, Regent
Randy Schaefer, Regent
Pam Roberts, Regent
Joan Wink, Regent

Also present during all or part of the meeting were Mike Rush, Executive Director and CEO; Guilherme Costa, Board of Regents' General Counsel; Paul Turman, System Vice President for Academic Affairs; Nathan Lukkes, System Assistant Vice President for Research and Economic Development; Michele Anderson, System Internal Auditor; Monte Kramer, System Vice President of Finance and Administration; Molly Hall-Martin, System Director of Student Preparation & Success; Molly Weisgram; System Director of Student Affairs and Executive Assistant to the CEO/Board; Janelle Toman, System Director of Communications; Leah Ahartz, System Budget Manager; Jay Perry, System Assistant Vice President for Academic Affairs; Mary Ellen Garrett, System Accounting Director; Ben Schaap, Regents Fellow; Jammie Raske, Senior Information Technology Specialist; Barry Dunn, President SDSU; José-Marie Griffiths, President DSU; Tom Jackson Jr., President BHSU; Marjorie Kaiser, Superintendent SDSBVI/SDSD; Jan Puszynski, Interim President SDSM&T; Tim Downs, President NSU; James Abbott, President USD; Jeff Mehlhaff, LRC Analyst; Brittani Skipper, BFM Analyst; and Bob Mercer, Aberdeen American News/AP.

TUESDAY, AUGUST 8, 2017

PLANNING SESSION

Regent Bob Sutton called the meeting to order at 3:00 p.m. with the following members in attendance:

ROLL CALL:

Conrad Adam – PRESENT
John Bastian – PRESENT
Jim Morgan – PRESENT*
Pam Roberts – PRESENT
Randy Schaefer – PRESENT
Jim Thares – PRESENT
Joan Wink – PRESENT
Kevin Schieffer – PRESENT
Bob Sutton – PRESENT

*Regent Morgan arrived after the roll call vote.

Regent Sutton introduced new regent Jim Thares. Regent Thares explained that he was honored to join the group and shared his biographical information.

PLANNING SESSION

Regent Sutton welcomed the attendees to the 2017 Board of Regents retreat.

Board Operations and Priorities for 2017-2018

Dr. Mike Rush, Board of Regents' Executive Director, described the purpose of this planning session topic. He described the way in which the system works, explaining the Academic and Business Affairs Councils and how information and ideas get vetted with the many different groups involved in the regental system. He talked about the structure of the Board meeting itself and invited feedback on how the agenda is organized and the committee work is communicated. Additionally, he discussed two newly proposed committees: Audit Committee and Athletics Committee. He provided rationale for the additional Board committees and insight into how he envisions these committees will work.

Regent Sutton shared insights from the recently attended Association of Governing Boards (AGB) Leadership Institute in Washington, D.C. He said AGB personnel talked about the many things that the South Dakota Board of Regents does well. They also introduced new ideas. He explained that the Leadership Institute provided an opportunity for the SDBOR Executive Director and President to identify expectations of one another. Their time with AGB reinforced the idea that many of the issues that challenge South Dakota higher education are national issues. He said he contends that the Board could be focused on more strategic issues. He also feels the Board must be focused on addressing the lack of funds for students that exists as a result of the lack of a state needs-based scholarship. Without a needs-based scholarship, South Dakota is at a huge disadvantage. He also said the Board needs to be more thoughtful about reaching different

demographics, recognizing the Native American Reservations and the growing populations of students of color in the Sioux Falls school district. He said 40% of the graduating class in Sioux Falls will be students of color in the near future. He also recognized that South Dakota higher education builds its own facilities, which is an enigma when compared to other states. This presents additional challenges that most other state's university systems do not have to balance. Regent Sutton noted that the job of a regent is a time-consuming endeavor and includes a steep learning curve. He said a good orientation process is critical. He also questioned whether or not a regent must sit on every building committee meeting. Lastly, he recognized CEO assessments as another critical aspect of the Board's role. He explained that as the Board approaches the Executive Director evaluation, which will occur in the upcoming executive session, he solicited feedback from each regent prior to this meeting. He introduced the idea that he may solicit the perspective of presidents in the future as well.

Additionally, he noted that in the future he would like the Board to consider self-evaluations as a tool for sharpening the effectiveness of Board operations. He said the best practice of self-evaluations was a topic discussed and highly recommended at the AGB Leadership Institute.

After Regent Sutton invited feedback on Board operations generally, Regent Bastian noted that he appreciates the way in which the Board committees do their work in the presence of the whole Board. Regarding the publishing of Board materials, he wondered if some materials could be released before the official mail out date in order to provide more time to review.

Regarding the institutional items of information, the Board discussed whether it would be more effective to provide newsletter type of information to regents on Fridays rather than to include them in the Board packet.

When discussing whether or not the Board committees should be meeting on more strategic academic or financial issues, Regent Schieffer suggested that the chairs of the committee be the ones to determine whether they call a strategy meeting.

Dr. Rush also suggested that perhaps Board members may want to attend the Academic or Business Affairs Council meeting when there are more strategic issues being discussed.

Regent Sutton asked whether there should be more open discussion at the committee meetings. He said at present the committees only work through agenda items, they do not address strategic direction as an open topic.

BHSU President Tom Jackson, Jr. noted that presidents represent many constituent groups at their institutions so an open discussion may be difficult because they want to make sure their responses are thoughtful.

Regent Sutton said that past Board Chairs have noted that it is important for the Board to move into a more strategic focus, rather than to work in the weeds.

SDSU President Dunn said SDSU is preparing a document that compiles accomplishments toward the institution's strategic plan. He said it might be good for the Board to have a similar-type of document that helps it understand where it is relative to its goals.

Referencing the Board self-evaluation examples provided in the agenda item, Dr. Rush described this process as being a best practice and discussed the types of evaluations the Board could elect to use.

Regent Schieffer recognized self-evaluations as important and highly recommended. He said he would be interested to get other perspectives, such as inviting presidents or senior staff to evaluate the Board and the regents.

Regent Morgan said in his experience, the most useful information from a self-evaluation comes back in the comments section. He said if the Board does a self-evaluation the comments section should be emphasized. The Board generally said they liked the example provided in Attachment II because it prompts more information.

Dr. Rush noted that AGB offers a self-evaluation service that helps facilitate the process.

Regent Thares said that because the Board is small and there are many new members, it seems like not a lot of information would be gathered through a self-evaluation. He said that it seems more impactful to get the perspectives of the presidents and the senior staff.

Regent Wink said that she would like to hold onto the idea of a peer review. She said that these can be helpful.

Dr. Rush said self-evaluations prove useful because they include Board processes which can be helpful in adjusting the way the Board functions.

Dr. Rush said that in the interest of time, the By-Laws review would be discussed during the agenda item on Thursday. However, he addressed one element of the By-Laws, which has to do with the Audit and Athletics Committees considered during the June 2017 BOR meeting. He said at that time, the Board expressed interest in these being Standing Committees. Therefore, until the second reading of the revised By-Laws, the Audit and Athletics Committees would be created as Special Committees so as not to impede these groups from starting their work.

Regent Morgan asked how the Audit and Athletics Committees would function. Dr. Rush said the Audit Committee has a Charter that will help guide its operations, but he envisions an initial meeting of both committees before the October Board meeting to discuss and determine the ways in which they will work.

President Sutton noted that the Audit Committee is not only about finances. It can also look at compliance.

BHSU President Jackson, Jr. said that there is an enormous amount of time spent on the accreditation process at the institutions. He suggested that perhaps some of this information could be used by the Audit Committee.

After Regent Sutton emphasized the importance of governance, Dr. Rush explained that as part of the By-Laws review, it is suggested that the Committee on Planning and Resource Development take governance as part of its responsibilities.

A copy of the Board Operations and Priorities 2017-2018 item can be found on pages 2807 to 2813 of the official minutes.

IT WAS MOVED by Regent Bastian, seconded by Regent Schieffer, that the Board of Regents dissolve into Executive Session at 4:17 p.m. on Tuesday, August 8, to discuss personnel matters, pending and prospective litigation, contractual matters, and to consult with legal counsel; that it rise from Executive Session and adjourn for the day at 7:00 p.m.; that it resume the regular order of business at 8:00 a.m. on Wednesday, August 9, 2017; and that it report its deliberations while in executive session during the appropriate Board agenda item. Motion passed.

WEDNESDAY, AUGUST 9, 2017

Regent Sutton reconvened the meeting of the Board of Regents at 8:10 a.m.

PLANNING SESSION – CONTINUED

Efficiencies in the Regental System

Dr. Mike Rush, Board of Regents' Executive Director, introduced the item entitled Efficiencies in the Regental System by explaining that the Joint Committee on Appropriations (JCA) recently requested information about the things done within the regental system to promote efficiency. The JCA asked that the Board and the institutions demonstrate a commitment to student success, affordability, and performance while being financially responsible to the students and taxpayers of South Dakota, by providing a preliminary assessment of opportunities to maximize results through efficiencies at their July 26 meeting in Aberdeen. Board of Regents staff developed a response to the query by developing a list of recent activities, initiatives and policy revisions underway to address the three objectives denoted above.

Dr. Rush said that after presenting this report to the JCA on July 26, the group explained that they would like to see more of these efforts toward efficiency.

Dr. Paul Turman, System Vice President for Academic Affairs, reiterated that South Dakota is fourth highest in the country when looking at net price. He said that the lack of state aid in South Dakota is also relevant. That said, he noted that South Dakota public institutions' cost to degree is much less than peer institutions in the United States, meaning that South Dakota is doing a very good job with less resources when compared to other institutions throughout the country. He presented the various activities discussed with the JCA.

Discussion ensued about guided pathways as well as the change from 128 to 120 credit hours required to earn a degree. The Board and presidents discussed the types of programs that require more than 120 credit hours and recognized that this is often tied to accreditation requirements.

President Dunn pointed out the consequences of a low cost to degree. He said the system can offer a low cost to degree because it does not pay its faculty and staff competitive wages compared to other institutions. He said SDSU can only pay faculty 65% of the national average, which can trigger education quality issues.

In response to a comment about using lecturers, who require less pay than full professors, President Abbott noted that the regental institutions are small and many departments cannot afford to employ lecturers because they still need to have full time faculty since lecturers cannot design curriculum or teach graduate courses.

Regent Schieffer asked how many full professors are necessary for each institution and how that data compares to peer institutions. He said the legislature and others are looking for ways to create efficiencies, and this is an answer that is important for the regents to have available.

Regent Schieffer asked for additional information about (1) the section size analysis, (2) instructor versus full professor ratio, and (3) program redundancy. He said questions about these topics are being asked and, without clear answers, they are difficult to defend. He asked that these be examined and decided upon by the Board, putting the regents in a better position to defend. He emphasized that the financial analysis related to each of these areas needs to be included since money is the overall motivation of looking at these issues.

Regent Sutton noted that leadership, such as shared administrators, is another area to examine.

Dr. Rush described a process called program prioritization that the Board might want to consider to create additional efficiencies.

Dr. Turman suggested that another area the Board may want to explore is program productivity and whether or not the current required number of graduates in a program over a certain period of time is appropriate. He said perhaps the Board would prefer a higher number of required graduates for a program to continue to operate.

Regent Roberts noted that personnel expenses are the majority of the institutional budgets. She asked if there is a process in place to analyze whether or not a position should be filled when vacancies arise. Presidents acknowledged that there is a process in place to review the vacancies and whether or not they should be filled and, if so, where.

Regents said it would be helpful to have more education on the institutions' position-review processes.

President Abbott emphasized the importance of national benchmarks, similar to what Regent Sutton described when Avera chose to consolidate leadership positions. He highlighted the critical importance of understanding the different types of programs being offered, which dictate the requirements for things such as section size, etc.

Interim President Puszynski also provided the reminder that there are other expectations of the universities, such as research, that can only be conducted by full professors.

Regent Sutton summarized the entire discussion by saying that the Board would like more information so the Board can make good decisions and then defend these decisions to the legislature and broader public when necessary.

A copy of the Efficiencies in the Regental System item can be found on pages 2814 to 2833 of the official minutes.

University Center – Sioux Falls

Dr. Jay Perry, Assistant Vice President for Academic Affairs, described the information provided in the retreat agenda item and summarized the wide variety of actions undertaken since August of 2015 to implement the ten specific directives provided by the Board to reshape the University Center-Sioux Falls (UC-SF).

Dr. Craig Johnson, Executive Director of the UC-SF, said the consultant's report was an important effort for the UC-SF. He acknowledged that the process brought people to the table individually and collectively that otherwise would not have occurred. He described the things that are working well and the challenges that remain.

In response to a reference about the advising process being adopted at the UC-SF, Regent Schaefer asked the presidents involved in the UC-SF for their perspectives. President Griffiths said that the intrusive advising model that is being adopted at the UC-SF is critical. President Dunn said that the provosts from SDSU and DSU need to do a good job of fully describing their degree offerings so that the UC-SF advisors and Provost Moran at USD can understand these programs and best help students.

Dr. Johnson touched on the primary recommendations made by the consultants in regards to the UC-SF and described the next recommended actions from his perspective.

Regent Schaefer said #13 "Develop a community-based career development program" is exactly where we need to go. He said there are opportunities system-wide as there is not a sustainable career development program in place currently. In regard to #10 "Find a way to lower the UC tuition rate for lower division courses," he said there needs to be a financial commitment from the Sioux Falls business community.

Dr. Johnson said the conversation with the Sioux Falls business community has started, but he said it is difficult to fundraise from the local community when there are no state dollars contributing to direct costs.

To address a question about whether state dollars contribute to the direct costs of the UC-SF, Dr. Kramer confirmed that the direct operating expenses are covered by the revenues generated by the UC-SF only. However, he said the campuses indirectly support the UC-SF in several ways, such as the time it takes planning which programs they will offer at the UC-SF, all of which are reflected as indirect costs. He said how the facilities are financially supported is another issue because the Board holds the debt for all regental buildings and HEFF dollars are allocated to the institutions.

He said we do not include the facilities costs because those are held by the Board. Debt is owned by the Board, not the institutions. In other words, the campus financial statements do not include the proportional debt attributed to the campuses. We have the same issue across the system (central management of HEFF and bonding debt). Therefore, some universities partially subsidize other universities.

Regents Schaefer and Schieffer said they would like an informational item that clearly shows the direct costs of the UC-SF. They would like to see this for the individual universities as well. Dr.

Kramer said he could add additional information to the operating statements and provide them to the Board.

Dr. Johnson responded to a question about the goal of lowering costs to \$199 as described in recommendation #10. He said when comparing off-site centers in surrounding states with lower rates, 47% of their funding came from state money. He reiterated that the UC-SF is not trying to become a community college. It is trying to add a community college like function to the menu of offerings.

Dr. Perry noted that the UC-SF is working to create a community college like function without the most important element of a community college, which is the ability to be a financially viable option – one that allows access to populations in Sioux Falls that would otherwise not be able to access higher education.

Dr. Johnson said that Sioux Falls is an attractive enough location that if it could offer a financially viable option for higher education, it could also be an importer of individuals which would positively contribute to the workforce.

It was suggested that more effort be placed in the area of recruiting financial support from the Sioux Falls community and that the ability to change state law to allow public money to be spent at the UC-SF should be advocated by the community of Sioux Falls.

Dr. Johnson said that it is yet to be determined whether these programs will resonate with the students and the work place. He also said that the community will be watching the UC-SF's behavior in the next 6-12 months to see if it takes action and starts to adopt the recommendations of the FutureWorks report or other signs that change is happening.

President Dunn said that the community of Brookings has invested \$10 million over the last 10 years in buildings on the campus of SDSU, which provides a model for the UC-SF and the Sioux Falls community.

Regent Schaefer asked about Dr. Johnson's recommendation that the new advisory board for the UC-SF should exclude a representative from the university partners and Board office. He asked how that would engender more trust and communication when those are two key issues.

Dr. Johnson said that the MOU that gives USD the management rights to the UC-SF has not been fully exercised. He is asking for more trust by the partner institutions until trust is broken. He said he would be happy to compromise this recommendation by including the provosts of the partner institutions and Dr. Perry from the Board office, if necessary.

When further asked about the composition of the advisory board, Dr. Johnson said that it will be difficult to get business executives to the advisory board meetings; instead it should include individuals those executives trust.

Regent Schieffer pushed back on the compromise position of having the provosts from DSU and SDSU along with Dr. Perry from the Board office as part of the advisory board membership. He said the UC-SF Executive Director is accountable for the center. By including only the Executive

Director in the membership, rather than leadership from DSU, SDSU and the Board office, this accountability will be demonstrated to the community members.

President Abbott said the point of the advisory committee is to give the Sioux Falls community members a voice.

In response to a question by Regent Schieffer, Dr. Johnson said that there are people that think the Executive Director position should have more ability to make decisions, such as determine when/how to use space when it becomes available onsite. The current thinking is that when there is an issue, the three partners should come to a collaborative decision. He asserted that the MOU intends that he can make decisions independently, but this is not what has been happening. He described a recent situation related to a vacant suite of offices and disagreement about how it should be used. Nonetheless, he reiterated that the successes far outweigh the remaining difficulties especially related to academic programming.

Dr. Johnson said that at some point a change of leadership might be necessary, which might help with the trust factor.

In response to a question by Regent Morgan, Dr. Johnson described a space study conducted by SDSU two years ago to explore moving the nursing program to the UC-SF. This study showed that adding a program like this might require an addition to the UC-SF. He additionally explained that a transition to hybrid course offerings could provide more available space.

Regent Schieffer urged the UC-SF to look at how it is using and booking its space, considering the seeming vacancy of the building. Additionally, he emphasized that they need to find a resolution to the space issue in regards to the SDSU nursing program.

Regent Schieffer further asked for clarification about the changes in head count and credit hours. Dr. Johnson said that at this point it appears that there could be a 5-10% increase in credit hours since last fall with a near even head count.

Regent Sutton said next steps from this conversation include (1) understanding how the community group of leaders responds to a funding proposal and (2) work through space allocation issues that incorporates partner institutions' programming and space utilization.

Regent Schieffer asked if there is objection to the community steering committee recommendation as written in the item.

Regent Schaefer reiterated the importance of improved communication amongst the three partner institutions.

IT WAS MOVED by Regent Schieffer, seconded by Regent Bastian, to modify the MOU to reflect recommendation #2 under III.2 of the report put forth by the Executive Director of the UC-SF offered in the related agenda item. Motion Passed.

Regent Sutton said with this approval, the Board should also receive a report of who is appointed to this committee and get a periodic report of its meetings and related developments.

A copy of the University Center – Sioux Falls item can be found on pages 2834 to 2848 of the official minutes.

High School to College Transitions

Dr. Paul Turman, System Vice President for Academic Affairs, explained that for the past three years, the Board of Regents has prepared an annual Matriculation dashboard that depicts the postsecondary placement for South Dakota high school graduates. Data depicted in this tool indicates that on average, 67% of South Dakota high school graduates each year pursue postsecondary opportunities within 16 months of graduation, with just under 36% of those students who enrolled in postsecondary did so directly into the regental system.

He said over the past decade, the Board of Regents has also aggressively pursued programs and activities intent on providing South Dakota students with opportunities that will improve their successful transition into postsecondary education. For instance, concurrent credit coursework has been delivered through partnerships between regental institutions and local school districts. More recently the creation of the High School Dual Credit (HSDC) program has greatly expanded access to General Education courses allowing students to enroll in existing face-to-face and distance courses delivered in the regental system.

He said at its June 2017 meeting, the Board engaged in discussion about the potential for further expanding the HSDC program to include an Early College model at the Harrisburg school district, the implications of which would result in similar expansion to other school district partnerships. Also at this meeting, representatives from Governor Dugaard's office provided an overview of the current career pathway initiative which has a number of implications for potential partnerships between districts and regental institutions.

Regent Sutton described the HSDC program as one where two strategic priorities collide. He said it provides affordability and access to students; however, it has the significant potential for revenue loss for the regental system.

Dr. Turman said one of the other challenges of the HSDC program is that it creates an imbalance within our own system. For instance, BHSU delivers a lot of dual credit hours to students who enroll elsewhere (particularly SDSM&T and SDSU), so BHSU gets revenue it otherwise would not get, and SDSU loses revenue from these students who enroll there (but who earned HSDC from another institution). There is an impact on staffing at the campuses that lose revenue and have a lower demand for those courses.

Regent Morgan asked how often the institutions have had to add another section to accommodate the additional HSDC students. Dr. Turman indicated that adding 3,000 students cannot be added to the margins so feels confident that additional sections have been added. This is especially true for the more popular courses. For less popular courses, there is room to increase enrollment without increasing costs.

President Dunn said there are ripple effects to the HSDC program. It is expensive to add another section because there is overhead and they have to hire another instructor.

Dr. Turman said there have been appropriate structures put in place to ensure that the dual credits earned through the HSDC program apply to a degree and that a student will be successful if he or she takes the courses. The regental system has imposed the following requirements for students to be eligible to participate in the HSDC program: students (1) must be juniors or seniors to qualify to take dual credit coursework and (2) must have a certain GPA or class standing. He said because technical institutes have not implemented similar requirements, students may start going to the technical institutes for dual credit courses as early as the freshman year in high school and then transfer these credits into the regental system. He said we now have students coming to us who are on academic probation from the start and who have a number of credits that have no equivalency in the regental system. We need to collaborate and collectively manage the HSDC program to ensure that we do not become the entity that delivers the junior and senior years of the high school curriculum.

Regarding the Early College model, Dr. Turman said that the question is what the correct price point is to offer the courses in this model. He pointed out the revenue models related to concurrent credit and dual credit, noting that the system earns more with the dual credit model. If a special price point is added for the Early College model, Dr. Turman said that we could risk losing the opportunity to deliver these courses if we say we would expect the school districts or students to pay a higher cost.

In response to a comment by Dr. Turman, Regent Sutton asked what the public's reaction would be to limiting the number of dual credits a student can bring with him or her into the regental system. Dr. Turman responded by saying that there is not currently a lot of guidance for students on what courses they should take. It is possible that with more data, we may be able to show that a limit is useful to the students because they are not taking courses that are relevant to their degree.

Regent Roberts suggested that dual credit funding be discussed with the Governor now that the HSDC program has been in place for a few years.

Dr. Rush said because we are not in control of all the variables we need to be careful of the limits we place on this programming. Students will find a way around our limits because others will offer the opportunities without the same limits.

Dr. Turman asked whether the Board is supportive of taking the high school dual credit approach to starting the relationship with the Harrisburg school district. The regents agreed that this should move forward as a pilot.

Regent Schieffer said it is important to continue to calibrate the price point. It needs to make sense for the regental system but it also needs to have the high school pay before a bill is sent to the student. He wants to be sure that the state is not being double-billed to educate the same students.

A copy of the High School to College Transitions item can be found on pages **2849** to **2868** of the official minutes.

Regent Sutton said that if there are no objections, he would propose that the Board move into executive session at 4 p.m. to finish a discussion they started in the prior evening's executive session. There was no objection.

65% Degree Attainment Goal

Dr. Paul Turman, System Vice President for Academic Affairs, described past efforts of the regental system that sought to implement new and innovative ways of supporting students. He referred to past performance funding models which helped to seed the integration of co-requisite remediation and other activities encouraged by Complete College America. He provided the Board information about the current engagement with AAC and the Math Discipline Council related to approaches for improving remedial math performance and options for developing alternative math pathways.

After explaining that the national mathematics association and many higher education institutions are moving away from the requirement that every student take Algebra in order to graduate, the group asked questions about what types of math skills students need to know if they are, for example, an English teacher. They discussed the current applied Algebra class called 103 Quantitative Literacy, which has not been particularly popular with students.

Regent Morgan said the regental system should take a hard look at the pre-requisites that it requires, which we presumably believe are necessary for students to graduate and be successful.

President Jackson said that failure in a single math class can oftentimes determine whether a student is going to graduate.

President Downs said that it is more and more common to advise students to take math in their second year, which allows them time to gain confidence. This is done for a student who is not comfortable with math and is not in a math-intensive major.

Dr. Turman said that advisors should encourage students to take the general education core within their first or second year.

In response to a question by President Abbott, Dr. Turman explained that students must take their general education requirements within their first 90 credits so there is flexibility on what classes they can take in their first years. Some classes are prerequisites so they really should be taken early if a student is to say on track for graduating in four years.

Regent Adam said that he would argue that students are more successful in College Algebra in their first semester of their first year of college because the further they are from taking a math course, the less successful they are likely to be. He also asked about the Math Emporium model at USD, which he understands has been a challenge. President Abbott said that after the initial signs that the Math Emporium model was successful, it has shown not to be successful in the last two years. He said they are bound and determined at USD to rectify the problem and are investing toward a resolution starting this fall.

Regent Morgan said recognizing that not much progress has occurred in math remediation over the last several years, he would be supportive of further investigating the option of changing the math requirement dependent on the students' degree program. The other regents agreed, and Regent Sutton said we need to ensure that we are not unnecessarily weeding out students with College Algebra.

It was emphasized that a change to the math requirement would not be put in place to lessen the knowledge required of our students but to provide different pathways to the education they need for their degree programs.

Dr. Turman also provided the Board an update on the Proactive Admission project which is being launched this Fall in partnership with the Department of Education. He also discussed the College Application Campaign and said this program will reach all school districts in the state by the 2018-19 academic year.

Regent Sutton asked whether Dr. Rush is leading a group of partner agencies and institutions to encourage efforts for sharing responsibility of the 65% degree attainment goal. Dr. Rush explained that efforts have incorporated the technical institutions, and we have relationships with tribal institutions as well. Dr. Turman noted that he is meeting with the private institution presidents on August 30 to discuss Shared Responsibility, SARA and the 65% Degree Attainment Goal. As part of the Lumina Grant effort, he hopes to find a time in September or October for all groups to meet in Pierre to discuss.

Regent Schieffer asked for a current status report on the percentage of degree attainment and how this is calculated.

A copy of the 65% Degree Attainment Goal item can be found on pages 2869 to 2878 of the official minutes.

FY19 Budget Development

Dr. Monte Kramer, System Vice President of Finance & Administration, and Leah Ahartz, System Budget Manager, asked the Board to review the draft list of budget requests in order to provide guidance toward creating the final budget requests. They explained that after final review by the Board the budget proposal will be developed and submitted to the Governor's budget office (Bureau of Finance and Management) by the end of August.

They summarized the budget priorities previously discussed, which included: Shared Responsibility Student Aid Program, REED 100 Gigabit Network, General Fund M&R Recovery, and Student Success Initiatives.

Regent Sutton asked for feedback on the Shared Responsibility, M&R Recovery, and REED 100GB Network.

President Dunn said that we will not get close to achieving a 65% degree attainment goal without a more substantial needs-based scholarship. President Downs agreed.

Regent Schieffer said priority 1 (Shared Responsibility) should be priorities 1, 2 and 3. He said we should craft a solid presentation that compares South Dakota to other states and show that we have failed South Dakota's students in need.

In the student success initiatives category, President Dunn noted that while he believes in the math initiative at SDSM&T, it is important to recognize that many legislators believe the best and

brightest do not need additional support. Regent Sutton said if this moves forward we need to reframe and educate people that this is not remedial math, as that phrase is typically understood.

In response to a comment by Regent Sutton that the Board needs to consider whether or not the items have a chance to be funded, Dr. Kramer said that the math initiative at SDSM&T has had traction in the past. However, he recommended that the high school piece to the math initiative be dropped as he feels it jeopardizes the other part of the program. He added that it will be important to show the legislature the data that shows that this program continues to be successful.

Regent Roberts said that she struggles with the small dollar requests. She would prefer to focus on the top three big items. However, she said asking for \$14 million in this budget year does not make sense.

It was noted that the legislature will not allocate an amount of money without knowing how the dollars will specifically be spent. The group continued to discuss how to prioritize the items and what specific strategies they will use for the request.

A copy of the FY19 Budget Development item can be found on pages 2879 to 2931 of the official minutes.

IT WAS MOVED by Regent Bastian, seconded by Regent Adam, to dissolve into Executive Session at 4:00 p.m. on Wednesday, August 9, 2017 to continue the discussion of personnel matters. Motion passed.

THURSDAY, AUGUST 10, 2017

PLANNING SESSION – CONTINUED

Regent Sutton resumed the meeting at 8:00 a.m. Regent Wink recognized President Downs for Northern State University's recently concluded accreditation process for which NSU received a very high rating.

FY19 Budget Development – Finalization

Dr. Monte Kramer, System Vice President of Finance & Administration, handed out a summary of the Board of Regents' budget request based on the previous day's discussion. The summary included the base budget requests ranked in the following order: (1) Shared Responsibility Student Aid Model, (2) General Fund M&R Recovery, and (3) Mathematics Success Initiatives. The one-time budget request included the REED 100 Gig Network.

Regent Schieffer suggested that the name of the Shared Responsibility Student Aid Model be changed to be more obvious on its face. Regent Sutton explained that the idea is to move away from the needs-based scholarship vernacular because we want to introduce the idea that many stakeholders should all share in the responsibility of creating an educated citizenry.

Dr. Turman provided the history of the legislation that created the needs-based scholarship. He introduced the name “Dakota’s Promise,” which was at one time considered but did not make it into the legislation that created a needs-based scholarship.

The Board said they like the name Dakota’s Promise and suggested that it be officially used when referring to the Shared Responsibility Student Aid Model.

Interim President Puszynski recommended that the math success initiatives request, which originally only included SDSM&T, be expanded to a system-wide request. The presidents agreed and said they would like to further develop their math success initiatives as well.

Regent Schieffer asked whether a system-wide request would muddy the waters, especially related to the idea and common understanding of remedial math. Discussion ensued about how this should be framed, and some recommended this being framed as a retention issue.

Regent Schieffer emphasized that the definitions of remediation are important. There are two fundamental concepts in a system-wide request: (1) helping students achieve the level of competency they need in order to be college-ready, and (2) helping students achieve success in a certain discipline that requires intensive math skills. He said both are student success and retention issues.

The group discussed whether this could be successful as a system-wide request with different programs as well as the appropriate dollar amount for each request.

Dr. Rush recommended that the higher-end math skills be wrapped into one request (SDSU and SDSM&T) and the requests from the other four institutions be framed as a student success request (BHSU, NSU, DSU, and USD).

Regent Roberts said she recognizes the need for resources for student success. She suggested that 3-A be Mathematics at SDSM&T and SDSU at \$504,000 and 3-B be Student Success Initiatives for \$395,000 (\$165,000 each). Each president should be prepared to explain their proposed programming with the dollars requested. The group concurred.

Regarding the REED Network, President Griffiths suggested that Phase 3, which includes the cable being run to west river locations, be recognized in the request so that the full picture is revealed.

President Dunn said that the capital projects were not discussed and he asked for consideration of the Precision Agriculture building.

Dr. Kramer said that if there are no general funds tied to the project, it would not need to be included in the budget request. He said this project could be included in the list of legislation to be approved for the October BOR meeting.

The Board said they support the project with other funds. Because the \$31 million for the Precision Agriculture building would come from a tax, funded similarly to the ADRDL project, they would not need to include it in the budget request.

President Dunn said that when trying to raise private funds for projects, the question presidents are frequently asked is whether the Board supports these projects. Being able to say that the Board supports the project is critical in terms of engaging in successful fundraising.

Dr. Rush said that Precision Agriculture and MadLabs have had initial support shown by the Board because they have gone through the first steps of the building process.

The group described the budget process going forward. The Board submits its formal request to the Governor on September 1 and then meets with the Governor and his staff in late September. In early December, the Governor presents his recommended budget to the Legislature, at which point the Board learns which of its requests were incorporated in the Governor's recommended budget.

Regent Sutton asked whether there are any other projects in this list that the Board wants to include in the budget request to the Governor.

President Dunn asked whether salary policy should be included. It was clarified that we have been asked not to include salary policy since this is determined by the Governor. The Board said we need to make the strong statement that salary policy is the number one request in the narrative.

President Griffiths said DSU's effort in K-12 education regarding cyber security is capturing attention. She wondered whether the Board needs to show its support in some way.

Regent Sutton said the items that show up on the larger list of proposed projects are supported. If they do not show up on the budget request list, it just means the Board is not requesting general funds for them at this time.

There was discussion about how projects would be handled if individual legislators pitched them as separate bills during legislative session. The Board agreed that as special bills are presented, the Board will meet by a special telephonic meeting to discuss and give direction to the related institutional president on how to proceed.

Regent Thares said he feels that the regental system's entire need should be known even if we do not ask for that total amount. He suggested that we frame the request in such a way that it is seen as an investment in a major industry/huge economic driver in South Dakota. He said the Board is not in the business of providing a cheap education but rather a quality education at an affordable price.

Tuition and Fees

Regent Sutton introduced this topic by providing a quick summary of how the Board sets tuition and when in the process this happens. He noted that recently the media incorrectly reported the expectation that the Board would be voting on a proposal to increase tuition and fees at this meeting, which is not the case.

He asked Dr. Kramer to provide a historical perspective for how tuition has been set in the past and how that has changed over time. Dr. Kramer was also asked to comment on the state funding gap and how it came to be.

Dr. Kramer said various factors need to be considered when determining the tuition structure. These include (1) the overall cost of attendance and how it compares to surrounding states, (2) the fact that tuition and fees are picking up a much bigger proportion of the operating and facility costs, which is likely impacting enrollments, (3) the lack of state-funded scholarships and (4) declining enrollments. He said at this point in time 58% of the budget is funded by the students (tuition and fees) and 42% is coming from the state.

Dr. Kramer explained that the tuition structure has gone through several iterations of standardization and differentiation over the years. He provided the logic for standardization, which in essence happened because all money went into the same central account and the money was then divided among the institutions based on the enrollments at each institution. He said in 2012, the Board implemented differentiation to recognize the importance of the research mission and the additional costs associated with it. He noted that the differentiation in 2012 also came at a time when the revenue brought in by each institution was kept by that institution. In addition to the recognition that research institutions cost more to operate, the 2012 change was intended to provide more funding to three of the schools that were identified as needing more resources based on the Revenue Gap Funding Formula.

Dr. Kramer described the return to standardization in March 2017.

Dr. Kramer acknowledged his belief that differential tuition makes sense. He explained that almost every state has a higher tuition rate for its doctoral level institutions because they cost more to operate. Of the 46 states that have both comprehensive and doctoral level institutions, 43 states have differential rates. The differentials range from 3.3% to 85%.

He said South Dakota is one of few states that does not have a differential.

Regent Schaefer said he likes the differential tuition but feels that there should be more than two segments. He said his problem with the differential during 2012-2017 was the two categories of institutions. One included the research universities, which combined SDSU, USD and SDSM&T. The other was the comprehensive universities, which combined DSU, NSU and BHSU. He felt that including DSU with NSU and BHSU didn't make sense because DSU has higher faculty costs because of its unique mission and programs that are technology-intensive. He prefers individualized differential tuition by institution.

Dr. Kramer explained that the ranking structure of comprehensive versus research-level institution is a national ranking structure that is widely used in higher education.

Dr. Kramer described examples of how the system currently differentiates its tuition and fees, such as through required laptop fees and general activity fees.

In response to a question by Regent Bastian, Dr. Kramer said that as of 2011, each institution pays into the tuition and fee pool but they take out what they put in. The only reason they have to pay into the pool at all is that it is required by statute. He acknowledged that this change drove the change to move to the differential tuition that occurred in 2012.

Dr. Kramer further described how South Dakota's tuition and fees compare when looking at its regional competitors. He commented on how other states are working to recruit South Dakota students, often charging South Dakota students their resident tuition rate.

Dr. Kramer also described the way the tuition and fee proposals (excluding discipline fees) have traditionally been built. The proposal only accounts for increases to the following: (1) salary policy, (2) health insurance, and (3) CPI inflation.

In response to a question by President Dunn and Regent Sutton, Dr. Kramer provided more information about the Minnesota and South Dakota reciprocity program. Dr. Kramer said that although we have reciprocity with Minnesota, many Minnesota institutions give South Dakota residents the Minnesota resident rate.

Regent Schieffer said for the 14 institutions where South Dakota students can go out of state and pay less than the in-state South Dakota tuition rate, it would be helpful to know how many South Dakota students attend those institutions. Dr. Paul Turman later provided the requested numbers, which showed that over a five year period 3,220 students were lost to these 14 institutions.

The discussion moved to the difficulty of recruiting students when there are few scholarships to attract students to our institutions.

In response to a question about whether scholarship money would significantly change South Dakota's higher education enrollment challenges, the group felt it would be interesting to analyze changes in Wyoming's enrollment since implementation of its recent scholarship program.

Dr. Kramer said the system continues to show success in recruiting nonresidents, but the competition is getting fierce.

He said South Dakota is one of the last in the country for state aid.

Regent Schieffer asked whether institutions are using tuition to fund institutional scholarships. Dr. Kramer said that institutional scholarships are not funded through tuition or the general activity fee. He said other fund sources like athletics receipts, auxiliary business profits, rentals, etc.. are used. Dr. Kramer said that campuses offer the scholarships and gain revenue because these student would not had otherwise been recruited.

Presidents provided examples of the strategy used when deciding who and how much to offer in scholarships for recruitment purposes.

Regent Thares asked about how much money it would take to have the state pay 50% of the cost. Dr. Kramer answered roughly \$20 million.

Regent Sutton asked that Dr. Rush bring this to the Board in October or December to discuss what the Board learned today. He wants to discuss such things as the Board's philosophy on tuition differentials as well as BHSU's fee proposal as a different philosophy.

A copy of the Tuition and Fees item can be found on pages 2935 to 2950 of the official minutes.

SD Higher Education Enhancement Initiative Proposal from Black Hills State University

Dr. Rush introduced this discussion item by explaining that the Council of Presidents and Superintendents (COPS) have been in discussion about alternate ways of funding program enhancement and faculty salaries. This proposal provided by President Tom Jackson, Jr. requests the establishment of the South Dakota Higher Education Enhancement Initiative which seeks to address these issues.

When speaking to the importance of faculty salary needs in South Dakota, the presidents provided examples demonstrating the difficulty of retaining their best faculty. When institutions lose highly productive faculty, it damages departments and drains the institution of any grants these faculty members have been awarded.

President Jackson described his proposal as a \$40 million dollar proposal over 10 years. This includes \$25 million for campus enhancements based on the percentage of students at each campus and \$15 million to supplement faculty salaries based on the BOR faculty salary needs survey.

Regent Sutton asked for more information about movement to midpoint in state government and the regental system.

Regent Adam said that from the student perspective this proposal would be difficult. He said tuition has increased about \$5,000 for the student over the last 10 years, and this proposal would increase tuition by another \$6,000 over the next 10 years for a four-year degree. He said this runs counter to the Board's affordability priority.

Regent Roberts said that the legislature will not provide salary policy above what other state employees are getting, so we will have to find other fund sources besides general funds to increase faculty salaries.

Regent Sutton asked at what point students leave an institution because there are subpar faculty. President Dunn explained that SDSU received results from a recent campus climate survey. He noted that from the results it appears that students are rating their faculty lower than students at peer institutions rate their own faculty.

There was an acknowledgement that the Board's only authority is raising tuition and fees but the elasticity threshold in what we can charge the students has been crossed. There needs to be an alternative funding source.

Regent Morgan said the tourism tax idea is interesting because no one chooses vacations based on the state that has the lowest tourism tax. He said it would be worth having a conversation with the Governor's office about it. Otherwise, we can only get more money by taxing our students or taxing our residents.

When considering ways to continue the conversation, Regent Morgan suggested using the Board's committees. He said these types of initiatives could come through the committee process to then be considered as proposals by the full Board.

The Board was interested in continuing the conversation as a committee meeting topic. It was also suggested that the Business Affairs Council, Academic Affairs Council, and COPS be included in the discussions.

A copy of the SD Higher Education Enhancement Initiative Proposal from Black Hills State University item can be found on pages 2932 to 2934 of the official minutes.

LUNCH MEETING WITH AREA LEGISLATORS

Representative Tim Rounds (District 24), Representative Mary Duvall (District 24), Representative Jim Schaefer (District 26B), Representative Bob Glanzer (District 22), and Senator Jim White (District 22) met with Board members to informally discuss collaboration with technical education, remediation and retention strategies, student preparation for higher education, and the state's high school dual credit program.

REGULAR SESSION

BOARD WORK

3-A Approval of the Agenda

IT WAS MOVED by Regent Roberts, seconded by Regent Schieffer, to approve the agenda including an additional executive session to continue to discuss personnel matters from 4:00-5:00 p.m. on Wednesday, August 9 as well as additional agenda items 5-L Exclusion Resolution and 5-M University Centers. Motion passed.

3-B Declaration of Conflicts

Regent Sutton noted that he filed his annual disclosure with the Board. Regent Sutton's annual disclosure can be found on pages 2801 to 2806 of the official minutes.

3-C Approval of the Minutes

IT WAS MOVED by Regent Schieffer, seconded by Regent Morgan, to approve the minutes of the meeting on June 27-29, 2017. Motion passed.

3-D Rolling Calendar

The Board acknowledged the presidents' concerns with proposed dates, which were recommended to be held a week later than usual. It was decided to not adopt the recommended dates as outlined on the agenda item and instead stay with the week in August traditionally used for the retreat, which is August 7-9, 2018.

IT WAS MOVED by Regent Schieffer, seconded by Regent Thares, to approve the date and location of next year's Board of Regents meeting to be held on August 7-9, 2018, in Pierre. Motion passed.

A copy of the Rolling Calendar can be found on pages 3064 to 3068 of the official minutes.

CONSENT AGENDA

IT WAS MOVED by Regent Wink, seconded by Regent Schieffer, to approve consent agenda items 4-A(1) through 4-F. Regent Wink noted a necessary correction to agenda item 4-B(1) which incorrectly references USD in the draft motion rather than NSU. Motion passed.

CONSENT - ACADEMIC & STUDENT AFFAIRS

4-A(1) New Specialization Requests – SDSM&T – Geology and Geological Engineering

South Dakota School of Mines & Technology (SDSM&T) requests authorization to offer a Mining Engineering Specialization with the Geology and Geological Engineering Doctor of Philosophy (Ph.D.) in program.

A copy of the SDSM&T's request for a Mining Engineering Specialization can be found on pages **3069** to **3077** of the official minutes.

4-A(2) New Certificate Requests – USD – Medical Product Development and Manufacturing

University of South Dakota (USD) requests authorization to offer a Medical Product Development and Manufacturing Specialization with the Masters of Science (M.S.) in Biomedical Engineering program.

A copy of USD's request for a Medical Product Development and Manufacturing Specialization can be found on pages **3078** to **3081** of the official minutes.

4-B(1) New Certificate Requests – NSU – Chinese (Undergrad)

Northern State University (NSU) requests authorization to offer an undergraduate certificate in Chinese. The certificate will provide a credential to students with Chinese language skills and is designed to allow students to market themselves to potential employers who desire candidates with Chinese language and cultural proficiencies.

A copy of NSU's request for an undergraduate certificate in Chinese can be found on pages **3082** to **3087** of the official minutes.

4-B(2) New Certificate Requests – USD – Spanish Translation (Graduate)

The University of South Dakota (USD) requests authorization to offer a graduate certificate in Spanish Translation. The certificate will provide a credential to students with capacity for Spanish translation, and has students explore theory and ethics, in order to meet the region's needs for professional translation services.

A copy of USD's request for a graduate certificate in Spanish Translation can be found on pages **3088** to **3093** of the official minutes.

4-C Agreements on Academic Cooperation – SDSM&T

South Dakota School of Mines & Technology (SDSM&T) seeks approval to enter into an agreement on academic cooperation with the Universidad Peruana de Ciencias Aplicadas (UPC), Peru. SDSM&T currently has an MOU with UPC Peru and would like to begin an exchange program with them.

A copy of SDSM&T's Agreement on Academic Cooperation can be found on pages **3094** to **3098** of the official minutes.

4-D(1) Articulation Agreements – SDSU

South Dakota State University (SDSU) requests approval to enter into eleven new articulation agreements with Lake Area Technical Institute as noted within the item.

A copy of SDSU's Articulation Agreements can be found on pages **3099** to **3100** of the official minutes.

4-D(2) Articulation Agreements – USD

The University of South Dakota (USD) requests approval for articulation agreements between Western Iowa Tech Community College, Western Dakota Technical Institute, Southeast Technical Institute, Mitchell Technical Institute, Lake Area Technical Institute, Avera Hospital, Rapid City Regional Hospital, and Sanford Hospital as noted within the item.

A copy of USD's Articulation Agreements can be found on pages **3101** to **3104** of the official minutes.

4-E Request to Seek Accreditation – DSU

Dakota State University (DSU) requests approval to seek accreditation from the National Association of Schools of Art and Design (NASAD) for their Digital Arts and Design program.

A copy of DSU's request to seek accreditation can be found on pages **3105** to **3108** of the official minutes.

4-F Graduation Lists

Black Hills State University (BHSU), Northern State University (NSU), South Dakota State University (SDSU), and University of South Dakota (USD) request approval of the attached graduation lists for Summer 2017. DSU and SDSM&T recognize their summer graduates at May commencement.

A copy of the graduation lists can be found on page **3109** of the official minutes.

PLANNING & RESOURCE DEVELOPMENT

5-A Welcome by SDBOR Executive Director Mike Rush

Executive Director Mike Rush welcomed the attendees of the Board of Regents meeting to Pierre.

5-B Reports on Individual Regent Activities

Regent Morgan said the recent Governor's Workforce Development Conference in Sioux Falls was a very good opportunity to bring together all levels of education in South Dakota as well as the business community for one conversation. That effort was important to helping move education forward in South Dakota. He said Regent Sutton and President Dunn were both panelists.

Regent Bastian said he recently had the opportunity to appear before the new Board of Technical Education to emphasize the Board of Regents' willingness to work together with them. At that meeting, he said he discussed the 65% degree attainment goal. Additionally, he said he emphasized Dr. Rush's background in serving technical institutes in his former role and offered assistance where useful.

Regent Adam said he attended the Law School Task Force meeting earlier this week. He said there is a wide variety of information being gathered to help the Task Force make a recommendation. The Task Force has a goal of delivering a recommendation by December 1.

5-C Reports from Individual Presidents and Superintendents

President Griffiths said the opening event for the Beacom Institute of Technology is August 20 and hopes that all will attend. She also noted that DSU will host the European Union Ambassador to the United States in October. She would like to invite the regents and the presidents to stay for lunch on Thursday of the October Board meeting to meet with the Ambassador.

President Downs announced the opening of the NSU Wolves Memorial Suites, which is filled to full capacity this fall. He noted that the construction of the other new residence halls and the new science building is on schedule.

President Dunn said the Animal Disease Research and Diagnostic Laboratory (ADRDL) ground breaking is being held on August 31 with a football game following.

President Jackson said that the BHSU football field replacement is on schedule and will be ready next week.

Interim President Puszynski said SDSM&T's new turf, which was paid for by the city, was recently installed. He also acknowledged that several important meetings took place related to SURF in July.

5-D Report and Actions of Executive Session

Upon convening at 3:00 p.m. on Tuesday, August 8, 2017, the Board dissolved into executive session at 4:17 p.m. to discuss personnel matters, pending and prospective litigation, contractual

matters, and to consult with legal counsel. The Board rose from Executive Session and adjourned for the day at 7:00 p.m. The Board resumed the regular order of business at 8:00 a.m. on Wednesday, August 9, 2017. The Board dissolved into Executive Session at 4:00 p.m. on Wednesday, August 9, 2017, to discuss personnel matters before rising from Executive Session to resume the regular order of business. While in executive session, the Board discussed the items just described, which are also shown on the published agenda, and gave directions to its executive director and general counsel concerning these matters.

IT WAS MOVED by Regent Bastian, seconded by Regent Schieffer, that the Board approve directions given to the executive director and the general counsel with respect to matters discussed in executive session, that it:

1. Approve awarding one (1) year of prior service credit toward tenure and one (1) year of prior service credit toward promotion for Brian Bengs, Assistant Professor (NSU); and awarding two (2) years of prior service credit toward tenure and two (2) years of prior service credit toward promotion for Joseph Tinguely, Assistant Professor (USD).
2. Award the title of Professor Emeritus of Biology for Dr. R. Neil Reese (SDSU). The resolution of recognition can be found on page 2951 of the official minutes.
3. Approve the personnel actions as submitted by the Board office, campuses, and special schools. A copy of the personnel actions can be found on pages 2952 to 3063 of the official minutes.

Motion passed.

5-E Report of the Executive Director

Dr. Mike Rush referenced the Interim Actions report in the published agenda.

A copy of the Interim Actions of the Executive Director can be found on pages 3110 to 3112 of the official minutes.

5-F South Dakota School for the Deaf Task Force Report

Regent Schieffer said the School for the Deaf Task Force is on track to have its recommendation ready by December 1. He said the deaf community has an emotional attachment to the school so if the numbers prove out they will keep the school in its current location. That said it is reasonable to conceive that a part of the property, perhaps the unused track, could be sold.

Dr. Mike Rush, Executive Director and CEO, provided a brief overview of the steps taken up to this point in preparation for a recommendation. He noted that a request for information (RFI) was sent to several developers in the Sioux Falls area. He said there have been several responses and further discussions with the developers will occur in the near future.

President Dunn asked whether SDSU Extension was included in the task force hearings. It was acknowledged that SDSU Extension was involved. Regent Schieffer said the group recognizes that Extension would have to find a different space if the property was sold and that there would be costs associated for SDSU Extension if they had to move. This would also mean lost revenue to the School for the Deaf if it was not able to rent to SDSU Extension any longer.

Regent Schieffer said the next steps include a meeting on August 30, informal discussions with those who respond to the RFI, and continued communication with the stakeholders.

A copy of the South Dakota School for the Deaf Task Force Report can be found on pages **3113** to **3119** of the official minutes.

5-G University Center – Sioux Falls New Vision, Mission, and Values Statements Report

Dr. Jay Perry, System Assistant Vice President for Academic Affairs, explained that the FutureWorks report, received by the Board at its June 2017 meeting, included a recommendation for new mission, vision, and values statements for the UC-SF. He said the proposed statements emerged through discussion among the consultants, the project Steering Committee, and the project Planning Group. Those groups identified certain principles as important to the future of UC-SF. The principles identified were that the UC-SF must be community-facing, must offer demand-driven programming, and must be student-centered.

In response to a question by Regent Thares, Dr. Perry acknowledged there has been no financial commitment from business partners and the local community yet but there has been interest.

Dr. Rush said this fall is the first full-scale test of the new associate degree programs. In another year or so we will be better positioned to ask for a financial commitment.

Regent Sutton said he likes the vision statement and the capturing of individual prosperity in it.

IT WAS MOVED by Regent Adam, seconded by Regent Schieffer, to approve the new vision, mission, and values statements for the University Center-Sioux Falls. Motion passed.

A copy of the UC-SF New Vision, Mission, and Values Statements can be found on pages **3120** to **3121** of the official minutes.

5-M University Centers – Capital University Center and BHSU-RC

Dr. Mike Rush, Board of Regents Executive Director, provided an update on the Capital University Center (CUC). He said the viability of the USD Nursing program is unknown, and USD will make a decision on how to go forward in March 2018. He said he visited with Pierre and Fort Pierre city leaders asking them to co-fund the director position and focus on workforce development efforts; however, they are a long way from having a workable model.

Janelle Toman, System Director of Communications and former CUC Executive Director, said her current role at CUC is limited to touching base with the staff to see whether they need any help and signing checks for the CUC Foundation when necessary. She said enrollment is up in the BS in Nursing program offered through USD. Other programs have a very small enrollment and are not projected to increase. She noted that student interest is mostly focused on online coursework.

In response to a question by Regent Sutton, Dr. Rush said CUC is not a viable option under the current model. He said the only viable option is a community effort.

Regent Schieffer said he is increasingly concerned about the CUC. He heard three years ago that they needed time to make it work, and he went along with the plan despite hesitation. In three years, all the data points have worsened. He said spending resources at CUC does not make sense. He said he is finished talking about a transition, noting that it is not working and should be wound down. He asked others to give him an argument as to why his sentiment is wrong.

President Abbott noted that although the enrollment has increased for the BS in Nursing it is still not meeting initial projections. He said USD will lose \$250,000 per year from CUC based on the current student enrollment.

Regent Schieffer said he is not in favor of continuing because he does not see a solution on the horizon. Regent Schaefer agreed and said he does not want to spend any more time studying and transitioning.

President Dunn noted that SDSU is projected to lose roughly \$150,000 per year from CUC. President Dunn said that SDSU will be fully responsible for the cost of operations at CUC going forward and they do not offer many courses there.

In response to a question from Regent Sutton, President Abbott said that if CUC is wound down, any student who has started a program will be able to finish it.

Regent Bastian said that he would like to fully understand the consequences of ending Board of Regents' operational responsibility at CUC. He wants to know about the lease obligations, the impact on students, and the process and impact of winding down.

Dr. Kramer said the CUC facility is owned by the CUC Foundation, and we lease it from them. The lease payments of \$84,768 per year are paid from the following sources: \$50,000 from HEFF and another \$34,768 per year are appropriated general funds. He said the operating costs, currently paid by SDSU, cover staff costs. USD manages and pays the nursing staff. He said personnel costs were partially subsidized with approximately \$150,000 from the Board office, in the last fiscal year, which is no longer happening. Those costs are being absorbed by SDSU.

He said we have the money from general funds this year and the HEFF amount. He said we would need to give the Foundation notification. He said the HEFF amount would go back into the HEFF funds and the \$34,768 from general funds would not be appropriated to the Board for the CUC lease.

He said if the Board would choose to wind down CUC, the \$50,000 of HEFF goes back to M&R and the general funds appropriation of \$34,768 for the CUC lease would stop.

Regent Schaefer asked Dr. Rush to gather the information to immediately research the unwinding process at CUC (how soon can we unwind, costs, etc.). Regent Schieffer added that he would like to see any other options to make the CUC immediately viable. They said this information should be reported back to the Board at its October meeting.

Regarding the BHSU-RC, President Jackson reported current issues and trends. He said there are three staff advisors onsite. Both USD and SDSU offer courses there. He said the center engages an advisory board that includes 11 community members. He described pilot programs that are

being tested at the center. He also explained that in fall 2016, 66.4% of credit hours were produced by full-time faculty and 33.6% were produced by adjunct faculty. He noted that the enrollment is currently flat.

Regent Schieffer commended President Jackson's efforts and initiatives at the BHSU-RC. He said when that center was transitioned to BHSU, the numbers were more hopeful than have proved out. That said, it is in better shape than UC-SF or CUC. He asked whether President Jackson had solutions for how to make BHSU-RC more successful.

President Jackson said the most potential for enrollment growth for the BHSU-RC is to capture students within Rapid City. He said their challenge is to recruit these students who often do not go to college or who start but do not finish.

Regent Schieffer asked whether the pilot program related to block scheduling will stimulate morning classes considering that the center is quiet during the day and busy at night. President Jackson confirmed that the block scheduling is designed to run during the mornings or over the weekends.

Regent Schieffer directed President Jackson to run some projections for the next 4-5 years.

5-H Amendment to the By-Laws (First Reading)

Dr. Mike Rush, Board of Regents Executive Director, explained that during the course of working to create the Audit Committee and the Athletics Committee, it became evident that revisions were needed to the By-Laws. This item seeks to make necessary changes to Article III of the By-Laws (which addresses Standing Committees) to create the Audit Committee and the Athletics Committee as Standing Committees, and to make other changes to better align the By-Laws and the operations of the Board.

He noted that an additional change will be made to the naming of the Athletics Committee. The word "Advisory" will be struck to all reference to the Athletics Advisory Committee.

IT WAS MOVED by Regent Bastian, seconded by Regent Adam, to approve the first reading of the amendments to the By-Laws, as shown in Attachment I and reflected in Attachment II, and also leave out the term "Advisory" from the Athletics Advisory Committee name as well as change the language in Section 2.0 Membership to have the last sentence read "The terms and qualifications of regents are subject to SDCL Ch. 13-49." Motion passed.

A copy of the Amendment to the By-Laws (First Reading) can be found on pages **3122** to **3142** of the official minutes.

5-I Creation of Athletics Advisory Committee

Dr. Mike Rush, Board of Regents Executive Director, explained that after the discussion at the June 2017 Board Meeting, it was decided that the Athletics Committee will be created as a Special Committee in the Board's By-Laws, in order to avoid waiting until the second reading of the comprehensive revisions to the By-Laws have been approved. As part of the comprehensive

review of the By-Laws, the Athletics Committee will eventually be codified in the By-Laws as a Standing Committee.

IT WAS MOVED by Regent Thares, seconded by Regent Morgan, to approve the creation of the Athletics Committee as a Special Committee of the Board. The word “Advisory” in the committee name was struck consistent with the action in 5-H. Motion passed.

A copy of the Creation of Athletics Committee can be found on pages 3143 to 3144 of the official minutes.

5-J Creation of Audit Committee and Approval of Audit Committee Charter

Shelly Anderson, Internal Auditor for Board of Regents, explained that additional language had been added to the draft Audit Committee Charter since the Board initially reviewed it during the June 2017 Board meeting. She explained that after the discussion in June, it was decided that the Audit Committee will be created as a Special Committee in the Board’s By-Laws, in order to avoid waiting until the second reading of the comprehensive revisions to the By-Laws have been approved. As part of the comprehensive review of the By-Laws, the Audit Committee will eventually be codified in the By-Laws as a Standing Committee.

Dr. Rush said the Audit Committee includes internal controls as part of its responsibilities.

Shelly Anderson asked for nominations for two additional audit committee members who are not Board members and who have a finance background. She asked that suggestions be sent to her for President Sutton’s consideration. It was clarified that these committee members would not be paid and would be asked to work as volunteers.

IT WAS MOVED by Regent Thares, seconded by Regent Adam, to approve (1) the creation of the Audit Committee as a Special Committee of the Board, and (2) the Audit Committee Charter. Motion passed.

A copy of the Creation of Audit Committee and Approval of Audit Committee Charter can be found on pages 3145 to 3148 of the official minutes.

5-K Resolution Requesting the Grant of Easements to the City of Sioux Falls

Nathan Lukkes, Assistant Vice President of Research & Economic Development, explained that the USD Research Park, Inc. is requesting the grant of an easement to the City of Sioux Falls for street/highway right-of-way, water, sanitary and storm sewers, drainage, other utilities or structures associated with the operation and maintenance of the street/highway. The foregoing will facilitate the City of Sioux Falls taking responsibility for the operation and maintenance of those portions of W. Nobel Street and N. Frances Avenue to include the water, sanitary and storm sewers, drainage, other utilities or structures associated with the operation and maintenance of the street.

Additionally, in reviewing the manner in which prior streets in the area were dedicated, he noted that questions arose regarding the process used to effectuate the August 2007 street dedication for North Career Avenue. As such, the Commissioner of School and Public Lands suggested addressing the aforementioned street dedication in the resolution and request the Commissioner

draw up the necessary documents to ratify and effectuate the same, removing the potential for future controversy regarding the validity of the dedication.

IT WAS MOVED by Regent Schaefer, seconded by Regent Thares, to approve and adopt the Resolution set forth in Attachment I, requesting the Commissioner of School and Public Lands to proceed with the easements as stated therein. Motion passed.

A copy of the Resolution Requesting the Grant of Easements to the City of Sioux Falls can be found on pages 3149 to 3164 of the official minutes.

5-L Exclusion Resolution

DSU President Griffiths explained that the National Defense Security Service is asking for a quorum of the governing Board to have some level of security clearance in addition to certain personnel at DSU. She said that they need a quorum of regents to be cleared and, with that, the Board needs to decide which members will be excluded from the security clearance.

In response to a question about whether one of these regents being excluded should later need to be included, it was confirmed that the Board could do a new resolution allowing their inclusion.

IT WAS MOVED by Regent Bastian, seconded by Regent Morgan, to approve the Exclusion Resolution included as Attachment I.

ROLL CALL:

Adam – AYE
Bastian – AYE
Morgan – AYE
Roberts – AYE
Schaefer – AYE
Thares – AYE
Wink – AYE
Schieffer – AYE
Sutton – AYE

Motion passed.

A copy of the agenda item entitled Exclusion Resolution can be found on pages 3165 to 3166 of the official minutes.

ACADEMIC AND STUDENT AFFAIRS

6-A BOR Policy 4:10 Revisions – Tenure on Appointment (Second Reading)

Dr. Paul Turman, System Vice President for Academic Affairs, stated that over the past two years the Board of Regents has received a number of requests seeking tenure on appointment for administrators. He explained revisions in Section C.8.3, which have been made to update the policy to align with current practice of asking presidents to have the institutional promotion and

tenure committees provide a recommendation when tenure on appointment requests are submitted to the Board. He said the revisions in Section C.1.3 have been proposed to denote a potential avenue for institutions to allow faculty previously granted tenure at an institution outside the regental system the capacity to go up for review after one year of service to the new institution. No additional changes have been made to the proposed revisions since the approval of the first reading at the May 2017 BOR meeting.

IT WAS MOVED by Regent Morgan, seconded by Regent Adam, to approve the second and final reading of the proposed revisions to BOR Policy 4:10 as presented. Motion passed.

A copy of the proposed revisions to BOR Policy 4:10 – Tenure on Appointment can be found on pages 3167 to 3177 of the official minutes.

6-B BOR Policy 1:7:2 Revisions – Academic Affairs Council (Second Reading)

Dr. Paul Turman, System Vice President for Academic Affairs, explained that BOR Policy 1:7 identifies the Board’s councils and appointed committees. He said that during the November 2016 Academic Affairs Council (AAC) meeting, the AAC discussed reviews being undertaken by a number of the other councils to update the policy framework for councils’ roles and responsibilities. During its November 2016 and April 2017 meetings, the AAC identified a number of areas within BOR Policy 1:7.2 where emphasis could be added and additional updates/modifications were made for review. AAC members were supportive of the proposed revisions provided in Attachment I of the agenda item. No additional changes have been made to the proposed revisions since the approval of the first reading at the May 2017 BOR meeting.

IT WAS MOVED by Regent Morgan, seconded by Regent Wink, to approve the second and final reading of the proposed changes to BOR Policy 1:7:2 - Academic Affairs Council as presented. Motion passed.

A copy of the proposed revisions to BOR Policy 1:7:2 can be found on pages 3178 to 3179 of the official minutes.

6-C BOR Policy 4:11 Revisions – Rank and Promotion (Second Reading)

Dr. Paul Turman, System Vice President for Academic Affairs, explained that during the 2013 round of COHE negotiations the series of Lecturer and Librarian ranks were created but BOR Policy 4:11 Rank and Promotion was not updated to reflect the changes that were made to the COHE agreement. The proposed revisions seek to align the Rank and Promotion requirements with the current negotiated agreement by establishing three new sections that differentiate the requirements for the Librarian Ranks, Lecturer Ranks, and Research Ranks from the current Professorial Ranks. No additional changes have been made to the proposed revisions since the initial reading of the proposed revisions at the June 2017 BOR meeting.

IT WAS MOVED by Regent Morgan, seconded by Regent Wink, to approve the second and final reading of the proposed revisions to BOR Policy 4:11 – Rank and Promotion as presented. Motion passed.

A copy of the proposed revisions to BOR Policy 4:11 can be found on pages **3180** to **3194** of the official minutes.

6-D BOR Policy 4:43 Revisions – Emeritus Status (Second Reading)

Dr. Paul Turman, System Vice President for Academic Affairs, explained that with the inconsistency in workload and discipline standards across the six Regental institutions, the Academic Affairs Council (AAC) was asked to consider the removal of the formal Board approval for emeritus recognition. Specifically, each campus has developed separate policies/guidelines that manage this process. Some require vetting through a formal committee, and others rely on the Provost’s office to submit requests for approval by the Board. Similar processes unfold regarding the application of “distinguished professor” designations at individual campuses.

He said with this in mind the revisions to BOR Policy 4:43 depicted in Attachment I of the item were advanced for discussion and consideration by AAC. Under the proposed revisions, campuses would be responsible for developing their own guidelines/procedures for determining emeritus status, distinguished professor, and/or resolutions of recognition eligibility for its various faculty and staff. These recognitions without formal benefit to faculty/staff would be approved at the institutional level and would not require formal approval by the Board of Regents. No additional changes have been made to the proposed revisions since the approval of the first reading at the June 2017 BOR meeting.

Regent Morgan asked whether the Board would get an annual report of those awarded emeritus status. Dr. Turman said that this could be done as well as a report of the distinguished professors.

IT WAS MOVED by Regent Morgan, seconded by Regent Wink, to approve the second and final reading of the proposed revisions to BOR Policy 4:43 – Emeritus Status as presented. Motion passed.

A copy of the proposed revisions to BOR Policy 4:43 can be found on pages **3195** to **3200** of the official minutes.

6-E BOR Policy 2:3 Revisions – Admissions (Second Reading)

Dr. Paul Turman, System Vice President for Academic Affairs, explained that the Academic Affairs Council (AAC) has received a number of updates related to the Proactive Admission project during several meetings over the past two years. Discussions continue to unfold with the South Dakota Department of Education with a goal of implementing the process for notifying South Dakota high school students in September of their senior year.

He said BOR Policy 2:3 – System Undergraduate Admissions does not currently provide the policy framework that would allow for the admission of high school students just based on their performance on the Smarter Balanced assessment test administered to all South Dakota students at the conclusion of the eleventh grade. To address this issue, revisions have been made to the current admission policy to provide a mechanism for institutional admission personnel to process student applications once they arrive without having to evaluate students against the three other criteria that are currently used to determine admission. The first reading of the proposed revisions was approved by the Board during the June 2017 meeting, and no additional changes have been made to the proposed revisions since the initial reading.

IT WAS MOVED by Regent Morgan, seconded by Regent Bastian, to approve the second and final reading of the proposed revisions to BOR Policy 2:3 – System Undergraduate Admissions as presented. Motion passed.

A copy of the proposed revisions to BOR Policy 2:3 can be found on pages 3201 to 3215 of the official minutes.

6-F USD Programs Approved for WICHE Graduate Exchange Program

Dr. Jay Perry, System Assistant Vice President for Academic Affairs, explained that the Western Interstate Commission for Higher Education (WICHE) operates the Western Regional Graduate Program (WRGP). The WRGP includes master's and doctoral degree programs that are of demonstrated quality and not widely available in the WICHE region. Students from the WICHE states seeking degrees in these programs may attend approved WRGP programs and pay resident tuition rates; in the case of the new programs from USD, the resident graduate tuition rate is \$314.70/credit hour. WICHE invites universities to nominate programs. This year eight programs were nominated from the University of South Dakota (USD) and approved by WICHE.

Dr. Turman noted that the Board is supposed to approve these programs and the sequence in which that is done is currently unclear. He said he will verify whether the Board has to approve prior to submitting these programs to WICHE.

A copy of the USD Programs approved for WICHE Graduate Exchange Program can be found on page 3216 of the official minutes.

6-G 2017 Credits to Degree Report

Dr. Paul Turman, System Vice President for Academic Affairs, noted that in October 2011 the Board of Regents adopted a policy change establishing new credit hour limits for undergraduate degree programs. While the regental system previously had observed – by convention, but not as a matter of policy – unofficial requirements of 128 credit hours for bachelor's degree programs and 64 credit hours for associate's degree programs, the above policy change established firm requirements of 120 hours and 60 hours for these respective program types. This report tracks the effects of this policy change by examining the number of credit hours completed by regental graduates in recent years.

In response to the discussion during the retreat the previous day, Dr. Turman said this is a report that can be used to combat some of the arguments presented by critics.

A copy of the Credits to Degree Report can be found on pages 3217 to 3222 of the official minutes.

6-H Teacher Education Report 2016

Dr. Paul Turman, Vice President for Academic Affairs, noted that this report provides a data-driven snapshot of the five teacher education programs in the public university system (i.e., at BHSU, DSU, NSU, SDSU, and USD). Data are shown for a variety of performance measures,

including student enrollments, academic performance, degree completions, graduate placement, and labor force outcomes.

He emphasized that Board policy states that students cannot teach in South Dakota if they cannot pass the PRAXIS exam in their content area.

He recognized the increased ability to retain teacher education candidates over the last several years, from 30% to 52%. Also, he said the year-long residency has matured the candidates and helped them to secure jobs after graduation.

Lastly, he touched on why there are five teacher education programs in the regental system. He said the data bears out that teacher education candidates tend to get jobs near the post-secondary institution they attend. This is critical for the school districts throughout the state.

A copy of the Teacher Education Report 2016 can be found on pages 3223 to 3235 of the official minutes.

6-I Institutional Items of Information

The Board received Institutional Items of Information submitted by the institutions and special schools.

A copy of the Institutional Items of Information can be found on pages 3236 to 3288 of the official minutes.

BUDGET AND FINANCE

7-A BOR Policy 5:13 – Fleet Vehicle Usage (First Reading)

Dr. Monte Kramer, System Vice President of Finance & Administration, met with representatives from South Dakota Fleet and Travel Management, the Office of Risk Management, the Bureau of Administration, and General Counsel for the Governor regarding the use of state fleet vehicles. The regental system has been given permission to use state vehicles to support student recruitment and related activities. A Board policy has been drafted to serve as a guide for the campuses and to ensure proper use of state vehicles by the campuses.

IT WAS MOVED by Regent Roberts, seconded by Regent Adam, to approve the first reading of the new BOR Policy 5:13 – Fleet Vehicle Usage. Motion passed.

A copy of the proposed new BOR Policy 5:13 can be found on pages 3289 to 3291 of the official minutes.

7-B Building Committee Report

The building committee report was provided to the Board.

A copy of the Building Committee Report can be found on page 3292 of the official minutes.

7-C Banner Student Update and Funding Proposal

Dr. Monte Kramer, System Vice President of Finance & Administration, proposed utilizing a portion of the System Tuition Pool Reserve to support campus costs to implement the Banner Student Project. The Business Affairs Council (BAC) has endorsed allocating \$200,000 to each campus and RIS, and providing up to \$300,000 in loans to the universities from the system tuition fund. The loans would have to be paid back in FY20 and FY21.

He said the Banner Student project has been launched. The steering committee met for a kick-off meeting. Staffing has also been identified for the functional groups. He explained that he needs Board action on how the central office can financially support the institutions, which includes a combination of grants and loans.

Dr. Kramer said the go-live is projected for roughly 22 months.

IT WAS MOVED by Regent Roberts, seconded by Regent Morgan, to authorize an allocation of \$200,000 to each campus and to RIS, and to make available loans up to \$300,000 per campus from the System Tuition Reserve Fund. Loans would be paid back one-half or more in FY20, and the balance in FY21. Motion passed.

A copy of the Banner Student Update and Funding Proposal can be found on pages **3293** to **3303** of the official minutes.

7-D FY18 Operating Budgets

Dr. Monte Kramer, System Vice President of Finance & Administration, provided some information about the FY18 operating budget for the six universities, NSU K-12 E-Learning, SDSU Extension, Agricultural Experiment Station, the Sanford School of Medicine, the two special schools, the Office of the Executive Director, and System Issues.

He said these operating budgets took into account the 1.7% decrease to FY17 general fund base or an overall decrease to the general fund base of \$3,675,961. The change in funding of \$3,675,961 includes: base budget cuts totaling (\$1,000,675), a reduction of (\$907,302) in M&R base funding, a decrease of (\$2,589,441) in utility funding, \$412,798 increase for the growth in the South Dakota Opportunity Scholarship, \$145,383 increase for the Postsecondary Scholarship Fund, \$146,493 increase for the K-12 Teacher's Salary increase at the Special Schools, \$120,286 increase to the Dakota Lakes Research Farm and a decrease of (\$3,502) for the lease payment adjustments.

IT WAS MOVED by Regent Roberts, seconded by Regent Bastian, to approve the FY18 operating budgets as shown in Attachment II. Motion passed.

A copy of the FY18 Operating Budgets can be found on pages **3304** to **3327** of the official minutes.

7-E FY18 Minnesota Reciprocity

Regent Sutton asked Regent Schieffer to take the role of Chair for this agenda item as he will abstain from the discussion and vote.

IT WAS MOVED by Regent Roberts, seconded by Regent Schaefer, to approve the Minnesota reciprocity rates for FY18 and authorize the Executive Director to execute the Memorandum of Understanding. Motion passed, Regent Sutton abstained.

A copy of the FY18 Minnesota Reciprocity can be found on pages **3328** to **3334** of the official minutes.

7-F FY19 Budget Request

Dr. Monte Kramer, System Vice President of Finance & Administration, presented the final recommendation of the Board regarding the budget priorities for FY19 based on the Board's discussion during its planning session the previous day. The list of priorities was distributed at the meeting in the revised Attachment I.

Dr. Kramer clarified that the narrative about the REED Network would include information about Phase 3, addressing western South Dakota. The group queried whether the federal government would be willing to participate in the cost that would run the cable from eastern South Dakota to western South Dakota. Dr. Kramer said that given the federal funding for SURF and the need for the high speed, there may be an opportunity for federal funding, but further investigation is needed to determine if there is a real possibility.

IT WAS MOVED by Regent Roberts, seconded by Regent Adam, to approve the FY19 Budget Request to include the priorities identified in the attachment, to direct the staff to prepare and submit the FY19 Budget Request detail and justification to the Bureau of Finance and Management, and to refine any budget request figures and narratives as necessary. Any needs for federal and other expenditure authority, full-time equivalent (FTE), South Dakota Opportunity Scholarship and utility adjustment requests should be included. Motion passed.

A copy of the FY19 Budget Request can be found on pages **3335** to **3336** of the official minutes.

7-G SDSU Lincoln Hall Renovation Preliminary Facility Statement

Dr. Monte Kramer, System Vice President of Finance & Administration, explained that South Dakota State University (SDSU) requests approval of its Preliminary Facility Statement to begin planning for the renovation of Lincoln Hall that currently houses the music department. The music department will move to the newly completed Performing Arts Center Addition in the fall of 2019 freeing up approximately 18,000 net square feet of classroom and office space in Lincoln Hall. He noted that if approved, a regent would need to be appointed to the building committee for the project.

Dr. Kramer said the HEFF money is from SDSU's M&R allocation.

IT WAS MOVED by Regent Roberts, seconded by Regent Schieffer, to approve SDSU's Preliminary Facility Statement to plan for the renovation of Lincoln Hall. Motion passed.

A copy of the SDSU Lincoln Hall Renovation Preliminary Facility Statement can be found on pages 3337 to 3341 of the official minutes.

7-H SDSU Pugsley Center Renovation Preliminary Facility Statement

Dr. Monte Kramer, System Vice President of Finance & Administration, explained that South Dakota State University (SDSU) requests approval of its Preliminary Facility Statement to begin planning for the renovation of the Pugsley Center. Currently, the music and theater departments occupy approximately 13,000 net square feet within the Pugsley Center, including Christie Ballroom which is more than 50% of this space. In the fall of 2019, the music and theater departments at SDSU will move to the newly completed Performing Arts Center Addition. This will create an opportunity for SDSU to maximize the use of the existing Pugsley Center space, upgrade the building's performance, and enhance opportunities for academic use. He noted that if approved, a regent would need to be appointed to the building committee for the project.

IT WAS MOVED by Regent Roberts, seconded by Regent Wink, to approve SDSU's Preliminary Facility Statement to plan for the renovation of Pugsley Center. Motion passed.

A copy of the SDSU Pugsley Center Renovation Preliminary Facility Statement can be found on pages 3342 to 3347 of the official minutes.

7-I BOR Policy 5:5:4 – Tuition and Fees: Fees (First Reading)

Dr. Monte Kramer, System Vice President of Finance & Administration, reviewed the changes to BOR Policy 5:5:4 – Tuition and Fees: Fees. The substantive changes related to the student approval process when the general activity fee (GAF) is increased above inflation. The policy has also been reformatted to conform with the new format for Board policies.

Regent Bastian asked about the NSU Exchange Program Fee. Dr. Kramer explained that NSU had been charging their exchange students the GAF and USF fees. When rolled into tuition, NSU started charging the exchange fee which is equivalent to the USF and GAF fee. The other schools do not charge a fee because they have a balanced exchange program where the students pay their home institution tuition and fees.

IT WAS MOVED by Regent Roberts, seconded by Regent Wink, to approve the first reading of the revisions to BOR Policy 5:5:4 – Tuition and Fees: Fees. Motion passed.

A copy of the proposed revisions to BOR Policy 5:5:4 can be found on pages 3348 to 3353 of the official minutes.

7-J BOR Policy 6:4 – Capital Improvements (Emergency Approval)

Dr. Monte Kramer, System Vice President of Finance & Administration, explained this policy has been updated to conform with the new format for Board policies, which includes the addition of a purpose and definition sections. No substantive changes have been made to BOR Policy 6:4 –

Capital Improvements. The action indicates emergency approval to avoid two readings considering that the only changes relate to formatting.

IT WAS MOVED by Regent Roberts, seconded by Regent Wink, to approve the first and final reading of BOR Policy 6:4 – Capital Improvements. Motion passed.

A copy of the proposed revisions to BOR Policy 6:4 can be found on pages 3354 to 3361 of the official minutes.

7-K BOR Policy 6:5 – Building Committee (Emergency Approval)

Dr. Monte Kramer, System Vice President of Finance & Administration, stated this policy has been updated to include the purpose and definitions and put in the new format. No substantive changes have been made to BOR Policy 6:5 – Building Committee. The action indicates emergency approval to avoid two readings considering that the only changes relate to formatting.

IT WAS MOVED by Regent Roberts, seconded by Regent Bastian, to approve the first and final reading of BOR Policy 6:5 – Building Committee. Motion passed.

A copy of the proposed revisions to BOR Policy 6:5 can be found on pages 3362 to 3364 of the official minutes.

7-L BOR Policy 6:6 – Maintenance and Repair (Emergency Approval)

Dr. Monte Kramer, System Vice President of Finance & Administration, stated this policy has been updated to include the purpose of the policy and definitions and put in the new format. He said some clarification has been added to the policy. The action indicates emergency approval to avoid two readings considering that the majority of changes relate to formatting.

IT WAS MOVED by Regent Roberts, seconded by Regent Schieffer, to approve the first and final reading to BOR Policy 6:6 – Maintenance and Repair. Motion passed.

A copy of the proposed revisions to BOR Policy 6:6 can be found on pages 3365 to 3376 of the official minutes.

7-M BOR Policy 6:7 – Building Plaques (Emergency Approval)

Dr. Monte Kramer, System Vice President of Finance & Administration, stated this policy has been updated to include the purpose of the policy and definitions and put in the new format. The action indicates emergency approval to avoid two readings considering that the only changes relate to formatting.

IT WAS MOVED by Regent Roberts, seconded by Regent Schieffer, to approve the first and final reading to BOR Policy 6:7 – Building Plaques. Motion passed.

A copy of the proposed revisions to BOR Policy 6:7 can be found on pages 3377 to 3383 of the official minutes.

7-N Resolution to Remove USD Commons from the Auxiliary Facilities System

Dr. Monte Kramer, System Vice President of Finance & Administration, asked the Board to authorize the removal of the Commons, a facility on the campus of the University of South Dakota, from the University of South Dakota Housing and Auxiliary Facilities System (the “System”) created pursuant to the Amended and Restated Bond Resolution adopted by the Board on October 21, 2004, as amended and supplemented. The Commons was formally the dining facility for the residence hall complex comprised of Beede/Mickelson and Richardson/Olson halls. The Commons closed the summer of 2014 when the Muenster University Center food service operations were expanded.

IT WAS MOVED by Regent Roberts, seconded by Regent Bastian, to remove the USD Commons from the Auxiliary Facilities System.

ROLL CALL:

Adam – AYE
Bastian – AYE
Morgan – AYE
Roberts – AYE
Schaefer – AYE
Thares – AYE
Wink – AYE
Schieffer – AYE
Sutton – AYE

Motion passed.

A copy of the Resolution to Rename USD Commons from the Auxiliary Facilities System can be found on pages **3384** to **3388** of the official minutes.

ADJOURN

IT WAS MOVED by Regent Bastian, seconded by Regent Morgan to adjourn at 4:20 p.m.

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State Authorities/Boards/Commissions - Annual Disclosure Form

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Bob Sutton

Name of Board, Authority or Commission: South Dakota Board of Regents

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

1. With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
2. With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
3. With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

1. The entity receives grant money from the State, either directly or by a pass-through grant or
2. The entity contracts with the State or any political subdivision for services.

1. Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed; if applicable
Clinical teaching services (physician assistant) from 6/19/17 - 6/30/18, not to exceed \$34,375 (Contract Number U18-087).	Avera Queen of Peace and the University of South Dakota	I am an employee of Avera Health. I have no active role in the contract.	N/A
Clinical teaching services (physician assistant) from 6/19/17 - 6/30/18, not to exceed \$6,375 (Contract Pending).	Avera Sacred Heart Hospital and the University of South Dakota	I am an employee of Avera Health. I have no active role in the contract.	N/A
Clinical teaching services (physician assistant) from 7/1/17 - 6/30/18, not to exceed \$4,250 (Contract Pending).	Avera St. Benedict Health Center and the University of South Dakota	I am an employee of Avera Health. I have no active role in the contract.	N/A
Clinical teaching services (physician assistant) from 6/19/17 - 6/30/18, not to exceed \$6,375 (Contract Number U18-103).	Avera St. Luke's and the University of South Dakota	I am an employee of Avera Health. I have no active role in the contract.	N/A
Medical student teaching services from 7/1/17 - 6/30/18, not to exceed \$715,000 (Contract Number U18-196).	Avera McKennan Hospital & Health Center and the University of South Dakota	I am an employee of Avera Health. I have no active role in the contract.	N/A
Medical student teaching services from 7/1/17 - 6/30/18, not to exceed \$4,600 (Contract Number U18-125).	Avera Queen of Peace Hospital and the University of South Dakota	I am an employee of Avera Health. I have no active role in the contract.	N/A
Medical student teaching services from 7/1/17 - 6/30/18, not to exceed \$7,100 (Contract Number U18-117).	Avera St. Luke's Hospital and the University of South Dakota	I am an employee of Avera Health. I have no active role in the contract.	N/A
Clinical teaching agreement - Pillar 3 Coordinator from 7/1/17 - 6/30/18, not to exceed \$82,000 (Contract Number U18-168).	Avera McKennan Hospital and University Health Center and the University of South Dakota	I am an employee of Avera Health. I have no active role in the contract.	N/A

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed; if applicable
Clinical teaching services (physician assistant) from 6/19/17 - 6/30/18, not to exceed \$138,075 (Contract Number U18-177).	Avera McKennan and the University of South Dakota	I am an employee of Avera Health. I have no active role in the contract.	N/A
Medical student teaching services from 7/1/17 - 6/30/18, not to exceed \$33,000 (Contract Pending).	Avera Sacred Heart Hospital and the University of South Dakota	I am an employee of Avera Health. I have no active role in the contract.	N/A
Nurse practitioner student preceptor payments for services rendered by the clinical agency from 5/1/16 - 4/30/18, not to exceed \$20,000 (Contract Number E0014318).	Avera St. Luke's and South Dakota State University	I am an employee of Avera Health. I have no active role in the contract.	6/29/16 (writing); 6/30/16 (meeting)
Research sub-award(s) pertaining to the Center for Genetics and Behavioral Health (FY18 - \$198,777; FY19 - \$196,760; FY20 - \$209,250; FY21 - \$216,514; FY22 - \$242,625)	Avera Institute for Human Genetics and the University of South Dakota	I am an employee of Avera Health. I have no active role in the contract.	N/A
Donations, sponsorship and other support provided by Avera McKennan to SDSU for symposiums, pharmacy program and software in 2016/2017 academic year totaled \$346,281.47.	Avera McKennan and South Dakota State University	I am an employee of Avera Health. I have no active role in these contracts.	8/2/16 (writing); 8/4/16 (meeting)
Donations, sponsorship and other support provided by Avera Health to SDSU for scholarships, career fair(s) and pledge(s) in 2016/2017 academic year totaled \$1,505,775.	Avera Health and South Dakota State University	I am an employee of Avera Health. I have no active role in these contracts, with the exception of the career fair sponsorship in the amount of \$775, which I authorized in my capacity as an employee of Avera Health.	8/2/16 (writing); 8/4/16 (meeting)

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed; if applicable
Donations, sponsorship and other support provided by Avera McKennan to USD for physician CME, donations, health clinics, lab/research and residency programs in 2016/2017 academic year totaled \$4,097,528.32.	Avera McKennan and the University of South Dakota	I am an employee of Avera Health. I have no active role in these contracts.	8/2/16 (writing); 8/4/16 (meeting)
Donations, sponsorship and other support provided by Avera Sacred Heart to USD for scholarships and residency programs in 2016/2017 academic year totaled \$97,817.72.	Avera Sacred Heart and the University of South Dakota	I am an employee of Avera Health. I have no active role in these contracts.	8/2/16 (writing); 8/4/16 (meeting)
Donations, sponsorship and other support provided by Avera Health to USD for scholarships and career fair(s) in 2016/2017 academic year totaled \$216,100.	Avera Health and the University of South Dakota	I am an employee of Avera Health. I have no active role in these contracts, with the exception of the career fair sponsorship in the amount of \$100, which I authorized in my capacity as an employee of Avera Health.	8/2/16 (writing); 8/4/16 (meeting)
Donations, sponsorship and other support provided by Avera St. Mary's to NSU for music camp in 2016/2017 academic year totaled \$500.	Avera St. Mary's and Northern State University	I am an employee of Avera Health. I have no active role in the contract.	8/2/16 (writing); 8/4/16 (meeting)
Donations, sponsorship and other support provided by Avera St. Luke's to NSU for Gypsy Days, Northern Nights and pledge(s) in 2016/2017 academic year totaled \$151,700.	Avera St. Luke's and Northern State University	I am an employee of Avera Health. I have no active role in these contracts.	8/2/16 (writing); 8/4/16 (meeting)

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed; if applicable
Donations, sponsorship and other support provided by Avera Health to NSU for scholarships and career fair(s) in 2016/2017 academic year totaled \$4,076.50.	Avera Health and Northern State University	I am an employee of Avera Health. I have no active role in these contracts, with the exception of the career fair sponsorship in the amount of \$76.50, which I authorize in my capacity as an employee of Avera Health.	8/2/16 (writing); 8/4/16 (meeting)
Donations, sponsorship and other support provided by Avera Health to DSU for career fair(s) in 2016/2017 academic year totaled \$380.	Avera Health and Dakota State University	I am an employee of Avera Health. I authorized the career fair sponsorship in my capacity as an employee of Avera Health.	8/2/16 (writing); 8/4/16 (meeting)

add row

2. Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23 - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized


add row

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

add row

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member: 

Date: 8-9-17

The South Dakota Board of Regents adjourned its regular business meeting on August 10, 2017 and will meet again in regular session on October 3-5, 2017 in Madison, South Dakota.

I, Mike Rush, Executive Director and CEO of the South Dakota Board of Regents, declare that the above is a true, complete and correct copy of the minutes of the Board of Regents meeting held on August 8-10, 2017.

A handwritten signature in black ink that reads "Mike Rush". The signature is written in a cursive, flowing style.

Mike Rush
Executive Director and CEO

SOUTH DAKOTA SCIENCE AND TECHNOLOGY AUTHORITY

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23 (current member)

RECEIVED
SEP 28 2017
LEGISLATIVE AUDIT

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated August 1, 2017, was received from
Ron W. Wheeler. The request was acted upon by the members of the South Dakota Science and
Technology Authority board of directors during a meeting held on September 21, 2017.


(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

Mr. Wheeler is particularly qualified for the position given his long-standing relationship with SDSTA and his familiarity with government. The compensation paid and to be paid is substantially similar to that paid to others providing similar services. terms of the contract are fair, reasonable, and not contrary to the public interest.

The request for waiver was authorized subject to the following conditions:


Signature of Chairperson or Authorized Member

9/21/17
Date

Printed Name: Casey C. Peterson

Date sent to Auditor-General 9-27-2017 Date sent to Attorney General 9-27-2017

SOUTH DAKOTA SCIENCE AND TECHNOLOGY AUTHORITY

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

RECEIVED
SEP 28 2017
LEGISLATIVE AUDIT

Date: August 1, 2017

Name of Board Member or Former Board Member: Ron W. Wheeler


Name of Board, Authority or Commission: Science and Technology Authority

Brief explanation of contract for which a waiver is requested:

- a) Parties to the contract
South Dakota Science and Technology Authority ("SDSTA")
Ron W. Wheeler
- b) Board Member's role in the contract
Party to the Contract
- c) Purpose and objective of the contract
Assist in directing SDSTA's governmental affairs program; coordinate with elected officials and agencies; maintain and foster private funding sources
- d) Consideration or benefit conferred or agreed to be conferred upon each party
Ron W. Wheeler: provide services to SDSTA as described above
SDSTA: Payment of the sum of \$5,000.00 per month effective February 15, 2015, through January 15, 2019. All compensation paid and payable to Ron W. Wheeler under the contract is described in Modification #3, attached hereto and incorporated herein by this reference.
- e) Duration of the contract
January 4, 2014, through January 3, 2019
- f) Other
I believe the terms of the contract are fair, reasonable, and not contrary to the public interest because I am particularly qualified to provide the services and the fees paid are substantially similar to those charged by others providing similar services.

The terms of the contract were disclosed to the SDSTA board of directors and approved by the SDSTA Board of Directors on December 12, 2013 (before the contract was executed). The terms were again disclosed to the SDSTA board at its regular meeting

held on June 16, 2016. The contract has not been amended or the term extended since October of 2015.

Signature of Requesting Party  Date August 1, 2017
Ron W. Wheeler

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MICHAEL F. SHAW
BRETT KOENECKE
CHRISTINA L. KLINGER
JUSTIN L. BELL
DOUGLAS A. ABRAHAM
KARA C. SEMMLER
KATIE J. HRUSKA
TERRA M. FISHER

August 7, 2017

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VIA EMAIL & FIRST CLASS MAIL
(MHeadley@sanfordlab.org)

Mike Headley
Executive Director
South Dakota Science & Technology Authority
630 East Summit Street
Lead, SD 57754

RE: Disclosure and Request for Waiver - Mr. Ron W. Wheeler
MAGT File: 4427

Dear Director Headley:

Enclosed please find an original Request for State Board Waiver filed with me by board member Ron W. Wheeler. The subject contract was originally disclosed and approved well before the 2016 legislature applicable to SDSTA board members went into effect on July 1, 2016, and was last amended well before that legislation went into effect. Out of an abundance of caution, however, Mr. Wheeler has filed the request within 45 days of the effective date of the 2017 amendments to SDCL Ch. 3-23.

Please include this request as an agenda item for the September 21 board meeting. There is no need for a special meeting to address this request.

By email copy of this letter, I am advising the members of the board of this request.

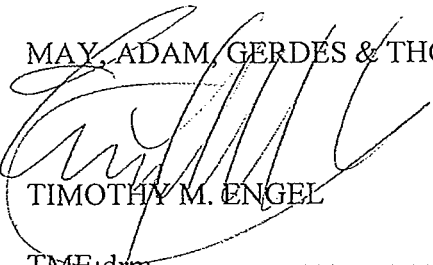
MAY, ADAM, GERDES & THOMPSON LLP
503 SOUTH PIERRE STREET • P.O. BOX 160
PIERRE, SOUTH DAKOTA 57501-0160

Mike Headley
August 7, 2017
Page 2 of 2

Please do not hesitate to contact me with any questions.

Sincerely

MAY ADAM, GERDES & THOMPSON LLP



TIMOTHY M. ENGEL

TME:drm

cc (email only): Ron W. Wheeler
 Casey Peterson
 Dana Dykhouse
 Pat Lebrun
 Paul Christen
 Ani Aprahamian
 Robert Wilson
 Jan Puszynski

**South Dakota Science and Technology Authority Board of Directors
Meeting Minutes
Thursday, September 21, 2017
Lead, South Dakota**

The Board of Directors of the South Dakota Science and Technology Authority (SDSTA) convened at 8:08AM Mountain Time (MT) on Thursday, September 21, 2017 in the Education and Outreach (E&O) Building Conference Room at the South Dakota Science and Technology Authority, 630 East Summit Street, Lead, South Dakota.

MEMBERS OF THE BOARD IN ATTENDANCE

Mr. Paul Christen (in person)
Secretary/Treasurer Patricia Lebrun (in person)
Chairperson Casey Peterson (in person)
Dr. Jan Puszynski (in person)
Vice Chairperson Ron Wheeler (by phone)
Dr. Robert Wilson (by phone)

**RECEIVED
SEP 28 2017
LEGISLATIVE AUDIT**

MEMBERS OF THE BOARD ABSENT

Dr. Ani Aprahamian
Mr. Dana Dykhouse

SDSTA STAFF

Mr. Tim Engel, Legal Counsel
Ms. Nancy Geary, Chief Financial Officer
Mr. Mike Headley, Executive Director
Ms. Sharon Hemmingson, Business Services & Contracts Manager
Ms. Mandy Knight, Administrative Services Manager
Mr. KC Russell, Cultural Diversity Coordinator
Mr. Allan Stratman, Engineering Director
Ms. Connie Walter, Communications Director

ALSO PRESENT DURING ALL OR PART OF THE MEETING

Ms. Billi Bierle, Sanford Lab Homestake Visitor Center Executive Director
Dr. Becky Bundy, E&O Education Specialist (BHSU)
Ms. Donna Christen, wife of Board Member Mr. Christen
Ms. Julie Dahl, Education and Outreach Deputy Director (BHSU)
Dr. Peggy Norris, Education and Outreach Deputy Director (BHSU)
Dr. Ben Sayler, Sanford Science Education Center Director
Mr. Jim Sheridan, guest of Board Member Mr. Christen
Mr. Al Van Zee, Journalist for Black Hills Pioneer

ITEM 1. CALL TO ORDER

Chairperson Peterson called the meeting to order at 8:08 AM (MT). Roll call was held. All attendees were present in person except Mr. Wheeler and Dr. Robert Wilson, who joined by telephone. Dr. Ani Aprahamian and Mr. Dana Dykhouse were absent.

Chairperson Peterson then asked audience members to introduce themselves.

ITEM 2. APPROVE AGENDA

Chairperson Peterson asked if there were any modifications to the agenda and hearing none asked for a motion to approve the agenda.

Motion by Mr. Christen and second by Ms. Lebrun to approve the agenda as presented. Motion passed unanimously.

ITEM 3. APPROVE MINUTES

Chairperson Peterson asked for comments, changes or corrections to the Minutes of the June 22 and June 28, 2017 meetings. There were none.

Motion by Mr. Wheeler and second by Dr. Wilson to approve the Minutes of the June 22, 2017 and June 28, 2017 meetings as presented. Motion passed unanimously.

ITEM 4. DISCLOSURE UNDER SDCL CH. 3-23

SDSTA Legal Counsel Mr. Tim Engel said changes to the state's disclosure laws were discussed over the past several board meetings and there are two agenda items relating to this topic. First, the law that went into effect July 1, 2017 requires board members to disclose contracts they have with state agencies or political subdivisions. He said this particular disclosure included in the board packet from Chairperson Peterson does not require board approval and is only informational. Chairperson Peterson has an ownership interest in an entity in those kinds of contracts. Mr. Engel said it was necessary for Chairperson Peterson to provide the disclosure and said it will be recorded in the minutes of this meeting and the completed form will be filed with the Attorney General and Auditor General. Chairperson Peterson asked if there were any questions; there were none.

ITEM 5. WAIVER UNDER SDCL CH. 3-23

Mr. Engel said this next item will require board action. He reminded the board that when Vice-Chair Wheeler's contract was entered into (prior to existence of the state statutes), under existing SDSTA policy, there was a disclosure and discussion and determination that it was in the best interest of the SDSTA to enter into the contract. Mr. Wheeler's contract has not been changed since this new law went into effect but Mr. Wheeler and Mr. Engel thought it prudent that Mr. Wheeler provide this disclosure and request for waiver again, both of which are located in the board packet. Mr. Engel noted again that the SDSTA policy is more restrictive than the state law. He suggested a discussion and then for Mr. Wheeler to leave the room (step away from the phone) until a motion is made.

Mr. Engel asked if there were any questions for Mr. Wheeler. Chairperson Peterson asked what is the contract term? It was stated that the contract term continues to January 15, 2019.

Dr. Wilson asked if this subject is a personnel issue and subject to discussion in executive session? Mr. Engel replied by law this discussion is required to be held in public. Mr. Headley pointed out that under this contract Mr. Wheeler is not an SDSTA employee but a private contractor. Under the contract, Mr. Wheeler provides governmental consulting services and fundraising services; he is compensated \$5,000 per month. Mr. Wheeler noted that he was compensated \$10,000 per month the first year of the contract and then discussed with Mr. Headley that the work he was and is providing is not taking as much time. He said compensation was reduced to \$5,000 per month thereafter.

Mr. Engel then asked Mr. Wheeler to step away from the phone and asked if there were any questions on this topic.

Mr. Wheeler excused himself from the meeting at 8:17am.

Dr. Wilson said he is unfamiliar with consulting rates and asked how Mr. Wheeler's original dollar amount was determined. Chairperson Peterson said Mr. Wheeler's rate was determined based on his compensation as a former SDSTA employee. Mr. Headley also said it was determined commensurate to time spent on SDSTA business each month. Dr. Wilson made clear Mr. Wheeler plays a valuable role and his compensation is reasonable. Dr. Wilson said the question is for his edification on compensation for state employees. Chairperson Peterson said for comparison, the SDSTA advocacy firm, Lewis-Burke

Associates, charges \$250,000 per year and Mr. Headley said Mr. Wheeler is involved in many of the same projects as Lewis-Burke Associates.

Motion by Mr. Christen and second Dr. Wilson to find the terms of the contract are fair and reasonable and in the public interest and to grant the waiver under SDCL CH. 3-23 for Mr. Wheeler. Motion passed unanimously.

Mr. Wheeler rejoined the meeting at 8:23am after the motion was made.

ITEM 6. REPORT FROM AUDIT COMMITTEE

SDSTA Board member and Audit Committee Chair Pat Lebrun reported that the audit committee met by telephone on August 21 but she had technical difficulty and was unable to join the meeting. She was briefed after the teleconference but asked Mr. Christen to provide an update to the board since he headed the meeting in her absence. Mr. Christen said he met with SDSTA Chief Financial Officer Ms. Nancy Geary and the auditor from the Department of Legislative Audit. He said the auditor is doing a good job and said the report would be ready for the December board meeting. Ms. Lebrun concurred and said the Audit Report would be reviewed at the December board meeting and approval would be requested at the March 2018 board meeting.

Chairperson Peterson questioned why Auditor Al Schafer said after this year the audit would go into a three-year rotation? Was it based on the rules for single audit of federal funds? Mr. Christen and Ms. Lebrun responded "yes".

Chair Peterson thanked the Audit Committee for holding the meeting and the time involved.

ITEM 7. FINANCIAL REPORT

SDSTA Chief Financial Officer Ms. Geary said the August Financial report was included in the board packet and she said she also distributed copies of the SDSTA Annual Financial Report (compilation) dated June 30, 2017 to board members physically present at the meeting. She asked if the board would review and comment on the report by next week as time is limited to complete the audit. Ms. Geary said she would contact Chairperson Peterson directly. She then answered questions about the August Financial report.

Chairperson Peterson asked why there was a decrease in pension deferred inflows as he read the explanation but it was still unclear? Mr. Engel said his understanding is that there have been systematic changes within the South Dakota Retirement System (SDRS) as state employees are retiring faster than they have in the past. There was also comment about changes to formulas and additional liabilities. After much discussion, Ms. Geary said she would follow up with the state and provide a clearer explanation to Chairperson Peterson prior to the December meeting.

Ms. Geary said she also distributed a copy of a letter to board members from the SD Investment Council in regard to interest proration. Ms. Geary said the council is projecting a 1.25% rate for fiscal year 2017, payable in fiscal year 2018. The SDSTA projected 1% last year and the actual rate was 1.35%. She asked if the board would like to change the interest rate based on the Investment Council's projections. Chair Peterson said he does not see any reason to change it from the 1%. All Board members concurred.

Motion by Mr. Christen and second Ms. Lebrun to continue the interest earning accrual at 1% for fiscal year 2017. Motion passed unanimously.

Ms. Geary then referred to the Fiscal Year End 2017 Inventory Listing or fixed asset report included in the board packet. She said depreciated and non-depreciated items are included along with listed assets which are government property. She noted that all the property has been assigned to Fermilab since the contract was transferred from Lawrence Berkeley National Lab prior to fiscal year-end.

Ms. Geary then discussed the Fiscal Year End 2017 Per Diem Listing. Mr. Wheeler noted that when he signed his consulting contract with SDSTA, he made a deliberate decision to decline per diems and that is why his name is not included on the list.

Motion by Ms. Lebrun and second by Mr. Christen to accept the financial report as presented. The motion passed unanimously.

ITEM 8. REPORT FROM THE EXECUTIVE DIRECTOR

ITEM 8A. SDSTA Update

Mr. Headley began with a slide presentation and discussed safety performance and said there have been four recordable injuries for SDSTA employees for 2017 which is a reasonable number but it is certainly higher than the SDSTA would like it to be. He said the SDSTA is making some changes to the safety programs to address lessons learned that have manifested from the recent safety incidents. He said the Environment, Safety and Health (ESH) Director position has been posted and there have been good resumes. An ESH candidate will be interviewed on site in early October and perhaps a few more later in October. Mr. Headley said the SDSTA has engaged a headhunting firm that does numerous work with ESH-related hires and resumes being sent from the firm are quite good.

Mr. Headley went on to discuss current science at the Davis Campus and said the Large Underground Xenon (LUX) detector has been relocated to the SLHVC. In regard to the Majorana Demonstrator (MJD), 1) Experiment, operations and commissioning continues and he expects them to operate out until 2019, but MJD has largely shifted to discussions about a next generation experiment. The SDSTA should hear formally from MJD in the form of a science paper on their background observations and whether the 4850L would be deep enough. He said he has heard that there are other experiments around the world interested in electroformed copper and this could be a growth area for MJD if additional funds can be secured. He said electroforming has been completed and they are now standing up electroforming vats in the Davis Campus in preparation for the next generation experiment. 2) He said Initial testing has been completed for the radon-reduction system for the main shield purge system. 3) Decommissioning advances at the Ross Campus, with additional hardware continuing to be transported to the Davis Campus.

An initial operations event was held on July 12 for Compact Accelerator for Performing Astrophysical Research (CASPAR). Mr. Headley thanked those board members in attendance. He also said work advanced on the gas target and is expected to be ready in late fall.

The Black Hills State University Underground Campus (BHUC) continued low-background counting of the photomultiplier tubes for the LZ experiment and they have added a new low-background counter.

The Long Baseline Neutrino Facility (LBNF) groundbreaking on July 21 was a great success. Fermilab has secured a contract manager/general contractor (CM/GC) Kiewit Alberici Joint Venture and a kickoff meeting was held here in late August. The Rock conveyor system is under contract with North Alabama Fabricating Company, which is designing and fabricating the pipe conveyor. The conveyor will be installed by the CM/GC.

Final design for LBNF is set to commence soon. The current design contracts held by the SDSTA with Arup are being assigned to Fermilab.

Mr. Headley said FY2018 budget marks still look promising at around \$80M, but we are operating on a three-month continuing resolution. He said the United Kingdom announced an \$88M (£65M) commitment towards the Deep Underground Neutrino Experiment (DUNE). The Fermilab website included this recent news as well as the Whitehouse.gov website. He said it is great to see strong support from the Administration for this experiment. Mr. Michael Kratsios, Deputy Chief Technology Officer

and Deputy Assistant to the U.S. President, attended the LBNF groundbreaking event and has been talking about how important this project is for the United States.

Beneficial occupancy on the remodeled surface facility was achieved a few months ago for the LUX-ZEPLIN (LZ). The LZ collaboration meeting was held at Sanford Lab on July 17-22 and 95 members attended. The underground infrastructure design for modifications in the Davis Campus is nearing completion and drawings were reviewed this week. They are expected to go out for bid the first week of October and begin work in December 2017. Mr. Headley said that work would be completed by May 2018.

The Ross Shaft rehabilitation project has progressed to the brow of the 4850L; however, the sets are taking longer to install because the set design is more complex in this area. Mr. Headley said in the past, a set and a half or sometimes two were installed each week but in this area, it will most likely be one set per week. He said it is projected that steel installation would be completed in the May 2018 timeframe which has been pushed out from this calendar year. He noted a new spill collection system is being installed which allows any rock that goes down the shaft to be collected. This rock needs to be managed, collected and disposed.

The Cultural Advisory Committee (CAC) met on September 14 and he thought the meeting went very well. Mr. Headley said the committee is impressed with progress being made with the E&O and tribal school outreach. He said the Communications and E&O Departments are working together on a 4-5-minute video about the lab being a sacred site to the Native Americans and that it should be treated with respect. Mr. Headley said Communications Director Ms. Constance Walter is committed to completing the video by the end of October. He announced the SDSTA is also moving forward with an ethnobotany site west of the parking lot; design options are being discussed. Mr. Headley said the committee would like to see the SDSTA hire a more diverse workforce. The SDSTA has made strong effort to find applicants from the Native American community in the region but has not been successful as we would like. Efforts continue and the committee recognizes the SDSTA commitment. Ms. Lebrun said she was impressed with the E&O progress and that the curriculum units are very interesting. She said the key is to get the units into all the school districts across the state and said the E&O team is doing a great job. Chairperson Peterson asked how many members are on the CAC? Cultural Diversity Coordinator Mr. KC Russell replied there are seven.

Mr. Headley then said Neutrino Day was great and approximately 1,300 came to the event.

In regard to water inflow controls, he said the connection of the borehole from the 1850L to 2000L and a pipeline out to the No. 5 Shaft has been completed to manage large rain events. There has been a change to divert water on a routine basis from the 2000L down to the sump on the 2450L. He said about a third of the water is going to the 2450L sump instead of all way down to the bottom of the underground, and it is saving about \$60,000 to \$70,000 each year on power cost with this change.

Ground support installation is continuing and the crew is focusing on getting all tunnels bolted between the Ross and the Yates Shafts and the Triangle in the next month. He said the crew is also installing a dewatering line between the Ross and the Yates Shaft. Mr. Headley said while this work has been going on, the Information Technology (IT) team has done a great job of replacing equipment originally purchased when operations first started that is now at the end of its life. The servers and network equipment were replaced without any interruptions to operations. The IT team on site are three people and they have done a wonderful job.

In July, the Sanford Lab had a visit from Mr. Mark Zuckerberg and continues to get good feedback about his visit.

ITEM 8C. Sanford Lab Homestake Visitor Center (SLHVC) Update

Mr. Headley introduced SLHVC Executive Director Ms. Billi Bierle who began her presentation with the new LUX detector display. She said it has been a great addition. She thanked Creative Services Developer Mr. Matt Kapust for working on a touch screen that sits on an iPad next to the detector.

Ms. Bierle said the new SLHVC sign looks very good and has received great compliments. She said it has helped a tremendous amount. Plants will be added around the base of the sign also. A new, taller fence has been installed by the Davis Tribute Ring to address security and safety. In addition, she said a new rock sample with gold is now being displayed with great interest from visitors. Visitors are staying approximately 25 minutes longer and bus tours are staying an additional 15 minutes with the new additions.

As of August 31, the SLHVC hosted 46,708 visitors compared to 42,000 visitors in 2016; 162 tour buses in 2016, projecting 200 buses in 2017; 5,000 trolley guests in 2017, up 24% from 2016. On social media, the SLHVC overall is up 25%—3,100 followers on Facebook, 350 followers on Instagram and averaging 80 new users per day on the SLHVC website for the summer. She said revenue is up 23% and Buffalo Round-Up is next week and that event has been their biggest week in the past.

SLHVC goals: Increase trolley tours to 9,000 in 2018; increase visitors to 90,000 in 2018 followed by 100,000 visitors in 2019; enhance educational reach with a new trolley and an additional staff member dedicated to education in 2019; install two additional interactive exhibits aimed toward middle school- and high school-aged children by 2019; become 100% financially self-sufficient by 2019; retire all existing debt by 2020.

Ms. Bierle asked if there were any questions and the board members said she is doing a great job. She encouraged everyone to provide new ideas for the visitor center. She commented that the new location of the Lotus Up coffee shop and the Black Hills Mining Museum are also doing well and she is encouraged because the more they do well, so does Lead.

ITEM 8D. Education & Outreach (E&O) Update

Ms. Dahl began her presentation reviewing student impact by numbers. During the 2016-2017 school year, 602 students visited the lab, 8,513 presentations were given to classrooms, and 3,408 curriculum units were distributed. Ms. Dahl said over the past year, the E&O Department has added two new staff members which has enabled them to create additional curriculum units. Also, in the summer of 2017, 54 teachers attended a workshop (held at BHSU and Sanford Lab).

Ms. Dahl discussed summer highlights including the GEAR UP Summer Honors Camp, Hill City Summer Science program, Meade County Fair, SD Solar Eclipse Balloon Team (which was not only exciting but a huge success), Summer Teacher Workshop, Revisions of the new materials and Research and Development of new field trip activities. Chairperson Peterson asked how many school districts have not participated in the curriculum units and Ms. Dahl replied there are 149 districts and the E&O has a list of 21 districts they are working to contact. She noted the E&O team has visited or sent curriculum units to many counties in the larger districts that are not reflected in the count. E&O is exploring options for wider distribution of their educational resources.

Ms. Dahl then introduced Dr. Bundy who announced two new field trip activities that are being piloted for students visiting the Sanford Lab. The first activity is called the “Cavern Excavation Challenge” and she said they are trying to tie it to the new caverns that have to be excavated underground for the DUNE experiment. She said the two new activities are engineering design challenges and are fun activities to get materials into children’s hands and ask them to solve a problem. Dr. Bundy said this helps them explore materials and ask questions about science. Mr. Headley said CAC members participated in this activity at their meeting and enjoyed it.

Dr. Bundy said the second activity is called the “Needle in a Haystack” based on the MJD experiment. In this activity, students discover how scientist utilize the background reduction and background rejection in their quest to detect neutrinoless double beta decay using a ketchup bottle, BBs, cloth mesh and other small gadgets. Dr. Wilson interjected that a part of the DUNE group analyzes and filters data and this is a perfect analog to what the experiment does.

Looking forward, Ms. Dahl said E&O would like to develop one new high school curriculum unit; develop one performance task for digital delivery (expand the E&O reach to more areas in SD and beyond the borders); develop and deliver web-based professional development for teacher across SD; provide classroom support and mentoring for teachers; reach out to untouched school districts in SD.

Mr. Headley then discussed Item 8B that was initially skipped.

ITEM 8B. Declaration of Surplus Property

Mr. Headley reported that the SDSTA has two 30,000-gallon diesel tanks that were located on the Ellison Property and those items are no longer needed. He said the SDSTA is currently seeking bids for the tanks. Chairperson Peterson asked how much fuel storage is available on-site. Mr. Headley said he will confirm how much storage is on the surface.

Chair Peterson asked about several underground tours that were provided in the last month including the CBS News tour. Ms. Walter said CBS News had asked if they could do a story on the transition from a mining town to a world-leading research facility. The Communications team escorted the film crew underground and facilitated interviews with staff and researchers. CBS News also filmed the SLHVC/Open Cut and the Mayor of Lead Ron Everett. She said the story will most likely air in the next six weeks and she would keep the board informed. Ms. Walter said CBS News marveled at the facility and said the SDSTA staff were very gracious. She said the story grew out of the LBNF groundbreaking event in July and the Sanford Lab is getting much interest from national and internationally press.

Mr. Headley then addressed the SD Homeland Security tour and said the SDSTA has had a relationship with them and Federal Bureau of Investigation (FBI) for many years and with the level of attention the lab has received, Mr. Headley said they would like to continue a strong relationship. SD Homeland Security held a regional conference in the area and that is the reason the SDSTA provided an underground tour a few days ago.

In regard to the Defense Intelligence Agency (DIA), Mr. Headley said they had contacted the SDSTA through MJD. He reported the DIA has a Facility Assessment Division that observes and studies facilities around the world. They were onsite at Sanford Lab for two days to learn and ask questions about operations, challenges and construction of the lab.

Motion by Mr. Wheeler and second by Mr. Christen to accept the executive director’s report as presented. Motion passed unanimously.

ITEM 9. REVIEW UPDATED SDSTA LEAVE POLICY

Mr. Headley briefly discussed changes to the Leave Policy. He said recently there were two former employees that had taken more sick leave than seemed appropriate once they notified the SDSTA they were resigning. There is now a provision in the policy stating that if an employee gives notice of resignation and uses any sick leave during the notice period, a doctor’s note will be required before the employee is compensated for that time. The policy was reviewed by Mr. Engel.

Motion by Ms. Lebrun and second by Mr. Christen to approve the updated Leave Policy as presented. The motion passed unanimously.

ITEM 10. EXECUTIVE SESSION

Motion by Dr. Wilson and second by Mr. Wheeler to enter into executive session to discuss personnel matters and to consult with legal counsel concerning contractual matters. Motion passed unanimously.

The board recessed at 9:38 AM for a break and Executive Session and then reconvened at 10:53 AM.

ITEM 11. REPORT FROM EXECUTIVE SESSION

Chairperson Peterson reported that the board consulted with legal counsel concerning contractual and legal matters and personnel matters. No action was taken.

Motion by Mr. Christen and second by Ms. Lebrun to approve the executive session report. Motion passed unanimously.

ITEM 12. CONFIRM DATE AND TIME OF NEXT MEETING

Chairperson Peterson announced the next board meeting is scheduled for Thursday, December 14, 2017 at 9:00 AM (MT) and said a lunch will be provided following the meeting.

He said Administrative Services Manager Ms. Mandy Knight will poll the board for the 2018 board meeting schedule prior to the December meeting. Please take the time to give her some feedback on what works with individual schedules.

ITEM 13. BOARD COMMENTS

Dr. Wilson said it was a great report and enjoyed learning more about the E&O and thanked the SDSTA staff.

Mr. Wheeler said he is absolutely thrilled with the advancements being made in E&O and Ms. Bierle is doing great job at the SLHVC. He commended Mr. Headley for an outstanding job and kudos to the whole SDSTA staff.

Dr. Puszynski said the Neutrino Day event in July was wonderful. In regard to the SDSM&T, he said Dr. Andre Petukhov, Physics Department Head, has stepped down and Dr. Richard Schnee has accepted the open position. Also, Researcher and Associate Professor Dr. Rajesh Sani has received a \$6M National Science Foundation grant for studying microbes. Lastly, Dr. Puszynski said he was proud to announce the first PhD in Physics student graduated from SDSM&T and is expecting many more to come.

Ms. Lebrun said it was another great meeting and reiterated the other board members' comments. Ms. Lebrun said during the CAC meeting held last week, members toured the Waste Water Treatment Plant (WWTP) and said it was absolutely amazing compared to the initial set up ten years ago. She said WWTP Foreman Mr. Ken Noren provided a great tour and his team keeps the WWTP immaculate. Ms. Lebrun encouraged other board members to tour the WWTP. She said it again speaks to the complexity of this operation. Chairperson Peterson thanked Ms. Lebrun for serving as a member on the CAC.

Mr. Christen said it was a great meeting and, as echoed by the other board members, is impressed with the E&O progress and success of the SLHVC. He also thanked Ms. Geary and her staff. He said the audits and reports the board receives are good, well designed and arrive on time.

Mr. Engel briefly reported the State of South Dakota was instrumental in setting up three separate captives, one of which provides insurance for the SDSTA, which initiatives have garnered nationwide attention. As a result, the SD Bureau of Administration Office of Risk Management Director Mr. Craig Ambach and Mr. Engel were invited to speak at the State Risk and Insurance Management Association (STRIMA) Conference in Big Sky, Montana earlier in the week and they were well received.

Mr. Headley thanked Ms. Knight for supporting the board meeting and keeping the SDSTA Board organized. He also thanked the SDSTA staff for the work they are doing and said it is a pleasure working with the board and thanked them for their time.

Mr. Peterson said it is amazing how efficient the SDSTA has become and gave kudos to Mr. Headley, the SDSTA team and the board and said he really appreciates everyone. He reminded the board to read through the Audit Compilation that was distributed today and to provide input to Ms. Geary as soon as possible. He said he is looking forward to the December meeting.

ITEM 14. ADJOURN

Chairperson Peterson asked if anyone had any other questions or comments, then called for a motion to adjourn.

Motion by Ms. Lebrun and second by Mr. Christen to adjourn. Motion passed unanimously.

Meeting adjourned at 11:03AM.

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September 27, 2017

ROBERT B. ANDERSON
TIMOTHY M. ENGEL
MICHAEL F. SHAW
BRETT KOENECKE
CHRISTINA L. KLINGER
JUSTIN L. BELL
DOUGLAS A. ABRAHAM
KARA C. SEMMLER
KATIE J. HRUSKA
TERRA M. FISHER

OF COUNSEL
CHARLES M. THOMPSON
GLENN W. MARTENS 1881-1963
KARL GOLDSMITH 1885-1966
BRENT A. WILBUR 1949-2006
TELEPHONE
605 224-8803
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605 224-6289

Email: tmc@mayadam.net

Office of Attorney General
ATTN: Board Minutes
1302 E. Hwy. 14, #1
Pierre, SD 57501

Department of Legislative Audit
427 S. Chapelle
c/o 500 E. Capitol
Pierre, SD 57501

RE: South Dakota Science & Technology Authority
MAGT File: 4427

Dear Sir/Madam:

Pursuant to the provisions of SDCL Ch. 3-23 and 5-18A, as amended, as general counsel for the South Dakota Science and Technology Authority, I am enclosing for each of your offices the following:

1. Copy of the unapproved Minutes of the September 21, 2017, Meeting of the Board of Directors of the South Dakota Science and Technology Authority;
2. Annual Disclosure under Chapter 3-23 for board member Casey C. Peterson; and
3. Request for State Board Waiver from board member Ron W. Wheeler, Waiver Authorization signed by board chairman Casey C. Peterson, and my explanatory letter of August 7.

The originals of these documents are on file in the Office of the Science and Technology Authority in Lead.

MAY, ADAM, GERDES & THOMPSON LLP
503 SOUTH PIERRE STREET • P.O. BOX 160
PIERRE, SOUTH DAKOTA 57501-0160

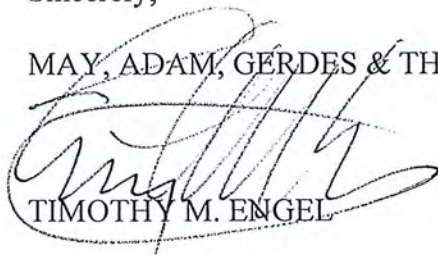
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LEGISLATIVE AUDIT

September 27, 2017
Page 2 of 2

If you have any questions, please do not hesitate to contact me.

Sincerely,

MAY, ADAM, GERDES & THOMPSON LLP



TIMOTHY M. ENGEL

TME:drm

Enclosures

cc/enc. via email: Board Members
 Mike Headley
 Mandy Knight

RECEIVED
SEP 28 2017
LEGISLATIVE AUDIT

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Casey C. Peterson

Name of Board, Authority or Commission: South Dakota Science and Technology Authority

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. **Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law** - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable
1.			

2. **Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
1.			

3. **Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services** – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision
1. accounting/auditing services	Casey Peterson, LTD	South Dakota Ellsworth Development
2. accounting/auditing services	Casey Peterson, LTD	City of Box Elder
3. accounting/auditing services	Casey Peterson, LTD	City of Wall
4. accounting/auditing services	Casey Peterson, LTD	City of Summerset
5. accounting/auditing services	Casey Peterson, LTD	Town of Hermosa
6. accounting/auditing services	Casey Peterson, LTD	Haakon School District
7. accounting/auditing services	Casey Peterson, LTD	Wall School District
8. accounting/auditing services	Casey Peterson, LTD	Hot Springs School District
9. accounting/auditing services	Casey Peterson, LTD	Harding County School District
10. accounting/auditing services	Casey Peterson, LTD	Rapid City Area School District
11. accounting/auditing services	Casey Peterson, LTD	Meade School District
12. accounting/auditing services	Casey Peterson, LTD	Custer School District
13. accounting/auditing services	Casey Peterson, LTD	Hill City School District
14. accounting/auditing services	Casey Peterson, LTD	Oelrichs School District
15. accounting/auditing services	Casey Peterson, LTD	Belle Fourche Irrigation District
16. accounting/auditing services	Casey Peterson, LTD	Green Valley Sanitary District

17. accounting/auditing services	Casey Peterson, LTD	Pennington County Housing and Redevelopment Commission
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The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member: Casey Peterson Date: _____
8/29/17

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority) South Dakota State Railroad Board and South Dakota Railroad Authority

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23 (current member)

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated 8/16/17, was received from

Jeff Burket. The request was acted upon by the members of South Dakota State Railroad Board (insert name of board/commission/authority) during a meeting held on 8/16/17.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons: The board determined the contract or transaction is fair, reasonable and not contrary to the public interest.

The request for waiver was authorized subject to the following conditions:

X [Signature] X 8-16-17
Signature of Chairperson or Authorized Member Date

Printed Name: Todd Yeaton, Chair

Date sent to Auditor-General 10/26/17 Date sent to Attorney General 10/26/17

**SOUTH DAKOTA STATE RAILROAD BOARD MEETING MINUTES
AUGUST 16, 2017 – 11:00 A.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SOUTH DAKOTA**

MEMBERS PRESENT: Todd Yeaton, Chair
Harlan Quenzer, Vice Chair
Jeff Burket, Member
Jerry Cope, Member
Sheldon Cotton, Member

Received
10/26/2017
Legislative Audit

**MEMBERS PRESENT
VIA CONFERENCE CALL:** Gary Doering, Member

DOT STAFF PRESENT: Darin Bergquist, Joel Jundt, Karla Engle, Bonnie Olson, Jack Dokken, Lynn Kennison, Misty Siedschlaw, and Tessa Wenner

**OTHERS PRESENT,
VIA CONFERENCE CALL:** Kim Halverson, Erin Heupel, Avory Beggs, Drew Fredricks, Kirk Jones

OTHERS PRESENT: Alex Huff, Jeff Cooley, Dick Huff, Mark Cutright, Heath Haden, Jack Parliament, Rob Everist, and Bob Mercer

Chair Yeaton called the meeting of the South Dakota State Railroad Board (the “Board”) to order at 11:05 a.m. Roll call was taken and a quorum was determined.

Karla Engle, Office of Legal Counsel, presented the new Conflict of Interest laws and Consideration of Conflicts of Interest through a PowerPoint presentation.

After Engle’s presentation relating to the updates to the conflict of interest laws, Chairman Yeaton opened the floor to the Board members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Jeff Burket submitted a written disclosure and waiver request (attached to and incorporated into these minutes as **Exhibit A**) concerning a lease between Minerals Technologies, Inc. and the South Dakota Department of Transportation (the “Department”) that allows Mineral Technologies, Inc. to use a railroad yard in Rapid City, South Dakota for rail car storage. Burket is currently employed by Minerals Technologies, Inc.. Burket also provided a verbal

summary of the lease. Burket will abstain from any discussion and voting in regard to the lease of this rail yard to Minerals Technologies, Inc.

A MOTION WAS MADE by Cope and seconded by Quenzer to approve the waiver request submitted by Burket as the Board has determined the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Burket, who abstained from the Board discussion and vote. The motion carried.

Jerry Cope submitted a written disclosure and waiver request (attached to and incorporated into these minutes as **Exhibit B**) regarding leases between his employer, Dakota Mill & Grain, Inc., (“DM&G”) and the Department for state-owned rail property in Murdo, South Dakota, and Presho, South Dakota, as well as proposed and pending purchases of state-owned property by DM&G in Presho, South Dakota. Cope also provided a verbal summary of these transactions. Cope will abstain from any discussion and voting in regard to DM&G’s leases in Murdo, South Dakota and Presho, South Dakota. Cope will also abstain from any discussion and voting in regard to the pending and proposed purchases of state-owned property in Presho, South Dakota by DM&G.

A MOTION WAS MADE by Quenzer and seconded by Cotton to approve the waiver request submitted by Cope as the Board has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Cope, who abstained from the Board discussion and vote. The motion carried.

Yeaton turned the meeting over to Vice Chair Quenzer.

Todd Yeaton submitted a written disclosure and waiver request (attached to and incorporated into these minutes as **Exhibit C**) requesting a waiver from the Board for a potential conflict of interest. Yeaton explained to the Board plans that he and his business partner have for entering into a lease with the Department for use of railroad rights of way and possibly highway rights of way for haying purposes.

A MOTION WAS MADE by Burket and seconded by Cope to approve the waiver request submitted by Yeaton as the Board has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Yeaton, who abstained from the Board discussion and vote. The motion carried.

Quenzer turned the meeting back over to Chair Yeaton.

Chair Yeaton asked for a motion to approve the minutes of July 5, 2017.

A MOTION WAS MADE by Burket and seconded by Cotton to approve the July 5, 2017, meeting minutes. All present voted aye by roll call vote. The motion carried.

Joel Jundt, Deputy Secretary of the Department, presented the Board with an update of the Railroad trust fund condition statement (3044-681).

Darin Bergquist, Secretary of the Department, informed the Board that he was requested to appear at the Government Operations and Audit Committee (“GOAC”) meeting of July 24, 2017. He provided GOAC with general information on how DOT monitors and manages state-owned railroad property. The Committee requested Bergquist return to provided more information regarding car storage in regard to hazardous materials.

Secretary Bergquist then presented the Board with Dakota Southern Railway Company (DSRC) car storage lease payment information for the state-owned Napa to Ravinia line. Bergquist explained there is an issue regarding how gross revenue should be calculated for purposes of determining the 50% car storage lease payment. The Board discussed authorizing the Department to enter into negotiations with DSRC on a proposed amendment to the current lease agreement.

A MOTION WAS MADE by Cotton and seconded by Burket to authorize the Department to negotiate with Dakota Southern Railway Company on a proposed amendment to the current Napa to Ravinia lease agreement concerning how gross revenue should be calculated for purposes of determining the 50% car storage lease payment. Any agreement negotiated between the Department and DSRC will be presented to the Board at a later date for final approval. All present voted aye by roll call vote. The motion carried.

The Board requested the Department inquire into why the Napa to Ravinia line has not been servicing rail cars to potential shippers.

Deputy Secretary Jundt presented the Board with an informational item. The Department will be requesting the following information from Regional Rail Authorities and operators:

- Federal Rail Authority (FRA) inspections;
- Weekly track inspection reports;
- Monthly maintenance plan progress reports;
- Quarterly bridge inspections reports;
- Annual new construction reports; and
- Rehabilitation reports.

The Department, operators, and Regional Railroad Authorities will work together to find an acceptable format to allow for the information to be shared with or accessed by the Department.

No action was taken.

Deputy Secretary Jundt updated the Board on the Richland-Sargent drainage project. The Board had previously approved obligating funds in an amount up to \$250,000.00 to replace a drainage structure located at the Richland-Sargent drainage crossing with the Britton line near Cayuga, North Dakota. The remaining decision to be finalized is the amount of funding the Board is agreeable to actually expend for the project. The Department is requesting the Board approve funding for this project up to \$250,000.00.

A MOTION WAS MADE by Quenzer and seconded by Doering to authorize the Department to enter into a loan agreement with Marshall County Regional Railroad Authority for an amount up to \$250,000.00 for replacement of the Richland-Sargent drainage project. Loan repayment would commence after Marshall County Regional Railroad Authority's satisfaction of prior loan payments based on current surcharge rates. All present voted aye by roll call vote. The motion carried.

Deputy Secretary Jundt presented the Board with a bid for an underwater bridge inspection of the Missouri River Bridge in Chamberlain, SD. The bridge is part of the state-owned Mitchell to Rapid City ("MRC") rail line and has not had an underwater bridge inspection since the 1980's. The Department is recommending the underwater bridge inspection be completed and raised the issue of who should be responsible for paying the cost of the underwater bridge inspection estimated at \$17,500.

A MOTION WAS MADE by Cope and seconded by Cotton to approve the State expending up to \$17,500.00 on a one-time basis to cover the cost of performing an underwater bridge inspection on the MRC bridge structure located over the Missouri River in Chamberlain, SD. All present voted by roll call vote, with 5 aye votes [Yeaton, Doering, Cope, Burket and Cotton], and 1 nay vote [Quenzer]. The motion carried.

Jack Parliament, President of D&I Railroad Co., presented the Board with the estimated project costs for rehabilitation of the T480 bridge provided by Koppers Railroad Structures Inc. Parliament suggested the Board apply for a federal grant to help fund rehabilitation of the T480 bridge.

A MOTION WAS MADE by Quenzer and seconded by Cope to authorize the Department to prepare and submit a federal grant application in cooperation with D&I Railroad Co. ("D&I") for the replacement of facilities on the state owned rail line subleased by D&I, with preference placed on bridge work. The Department is further authorized to commit the previously approved state funding share of \$1,950,888.50 as match for the grant. All present voted aye by roll call vote. The motion carried.

The Board requested D&I to obtain a third opinion for the cost to rehabilitate the T480 bridge.

Jack Dokken, Office of Air, Rail, and Transit Program Manager, introduced Board packet attachment 3, containing an observation report of the MRC line submitted by Quenzer.

No action was taken.

Dokken provided updates to the Board on the following projects:

- On August 14, 2017, a project kick off meeting was held between the Department and Federal Railroad Association (“FRA”) regarding the RCP&E TIGER project.
- Sioux Valley relocation: 4 tribal entities have raised interest in this project as a cultural site. FRA will be scheduling future meetings with the interested tribes to better understand any concerns the tribes may have.

A MOTION WAS MADE by Burket and seconded by Cope to adjourn.

With no other business to come before the Board, the meeting was adjourned at 2:05 p.m.

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Jeff Burket
Name of Board, Authority or Commission: State Railroad Board + State Rail Authority

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. **Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law** - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable
Lease of Milwaukee Yard in Rapid City	MTI American Colloid	Employee of MTI who leases the yard	

Attach additional pages, if necessary.

2. **Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Lease of Milwaukee Yard in Rapid City	MTI American Colloid	Employer of MTI who leases the yard	

Attach additional pages, if necessary.

3. **Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services** – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

Attach additional pages, if necessary.

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member:  Date: 8/16/17

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority) South Dakota State Railroad Board and South Dakota Railroad Authority
REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT


Date: 8/16/17

Name of Board Member or Former Board Member: Jeff Burkel

Name of Board, Authority or Commission: State Railroad Board + State Rail Authority

Brief explanation of contract for which a waiver is requested:

- a) Parties to the contract
Employee of MTI who is leasing the Milwaukee yard in Rapid City
- b) Board Member's role in the contract
manage the lease of the yard.
- c) Purpose and objective of the contract
Storage of railcars
- d) Consideration or benefit conferred or agreed to be conferred upon each party
Employee of MTI
- e) Duration of the contract
5 years

Signature of Requesting Party:  Date 8/16/17

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority) South Dakota State Railroad Board and South Dakota Railroad Authority

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23 (current member)

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated 8/16/17, was received from

Jerry Cope. The request was acted upon by the members of South Dakota State Railroad Board (insert name of board/commission/authority) during a meeting held on 8/16/17.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons: The contracts and transactions are fair, reasonable and not contrary to the public interest.

The request for waiver was authorized subject to the following conditions:

[Signature] 8-16-17
Signature of Chairperson or Authorized Member Date

Printed Name: Todd Yeaton, Chair

Date sent to Auditor-General 10/26/17 Date sent to Attorney General 10/26/17

**SOUTH DAKOTA STATE RAILROAD BOARD MEETING MINUTES
AUGUST 16, 2017 – 11:00 A.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SOUTH DAKOTA**

MEMBERS PRESENT: Todd Yeaton, Chair
Harlan Quenzer, Vice Chair
Jeff Burket, Member
Jerry Cope, Member
Sheldon Cotton, Member

**MEMBERS PRESENT
VIA CONFERENCE CALL:** Gary Doering, Member

DOT STAFF PRESENT: Darin Bergquist, Joel Jundt, Karla Engle, Bonnie Olson, Jack Dokken, Lynn Kennison, Misty Siedschlaw, and Tessa Wenner

**OTHERS PRESENT,
VIA CONFERENCE CALL:** Kim Halverson, Erin Heupel, Avory Beggs, Drew Fredricks, Kirk Jones

OTHERS PRESENT: Alex Huff, Jeff Cooley, Dick Huff, Mark Cutright, Heath Haden, Jack Parliament, Rob Everist, and Bob Mercer

Chair Yeaton called the meeting of the South Dakota State Railroad Board (the “Board”) to order at 11:05 a.m. Roll call was taken and a quorum was determined.

Karla Engle, Office of Legal Counsel, presented the new Conflict of Interest laws and Consideration of Conflicts of Interest through a PowerPoint presentation.

After Engle’s presentation relating to the updates to the conflict of interest laws, Chairman Yeaton opened the floor to the Board members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Jeff Burket submitted a written disclosure and waiver request (attached to and incorporated into these minutes as **Exhibit A**) concerning a lease between Minerals Technologies, Inc. and the South Dakota Department of Transportation (the “Department”) that allows Mineral Technologies, Inc. to use a railroad yard in Rapid City, South Dakota for rail car storage. Burket is currently employed by Minerals Technologies, Inc.. Burket also provided a verbal

summary of the lease. Burket will abstain from any discussion and voting in regard to the lease of this rail yard to Minerals Technologies, Inc.

A MOTION WAS MADE by Cope and seconded by Quenzer to approve the waiver request submitted by Burket as the Board has determined the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Burket, who abstained from the Board discussion and vote. The motion carried.

Jerry Cope submitted a written disclosure and waiver request (attached to and incorporated into these minutes as **Exhibit B**) regarding leases between his employer, Dakota Mill & Grain, Inc., ("DM&G") and the Department for state-owned rail property in Murdo, South Dakota, and Presho, South Dakota, as well as proposed and pending purchases of state-owned property by DM&G in Presho, South Dakota. Cope also provided a verbal summary of these transactions. Cope will abstain from any discussion and voting in regard to DM&G's leases in Murdo, South Dakota and Presho, South Dakota. Cope will also abstain from any discussion and voting in regard to the pending and proposed purchases of state-owned property in Presho, South Dakota by DM&G.

A MOTION WAS MADE by Quenzer and seconded by Cotton to approve the waiver request submitted by Cope as the Board has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Cope, who abstained from the Board discussion and vote. The motion carried.

Yeaton turned the meeting over to Vice Chair Quenzer.

Todd Yeaton submitted a written disclosure and waiver request (attached to and incorporated into these minutes as **Exhibit C**) requesting a waiver from the Board for a potential conflict of interest. Yeaton explained to the Board plans that he and his business partner have for entering into a lease with the Department for use of railroad rights of way and possibly highway rights of way for haying purposes.

A MOTION WAS MADE by Burket and seconded by Cope to approve the waiver request submitted by Yeaton as the Board has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Yeaton, who abstained from the Board discussion and vote. The motion carried.

Quenzer turned the meeting back over to Chair Yeaton.

Chair Yeaton asked for a motion to approve the minutes of July 5, 2017.

A MOTION WAS MADE by Burket and seconded by Cotton to approve the July 5, 2017, meeting minutes. All present voted aye by roll call vote. The motion carried.

Joel Jundt, Deputy Secretary of the Department, presented the Board with an update of the Railroad trust fund condition statement (3044-681).

Darin Bergquist, Secretary of the Department, informed the Board that he was requested to appear at the Government Operations and Audit Committee (“GOAC”) meeting of July 24, 2017. He provided GOAC with general information on how DOT monitors and manages state-owned railroad property. The Committee requested Bergquist return to provided more information regarding car storage in regard to hazardous materials.

Secretary Bergquist then presented the Board with Dakota Southern Railway Company (DSRC) car storage lease payment information for the state-owned Napa to Ravinia line. Bergquist explained there is an issue regarding how gross revenue should be calculated for purposes of determining the 50% car storage lease payment. The Board discussed authorizing the Department to enter into negotiations with DSRC on a proposed amendment to the current lease agreement.

A MOTION WAS MADE by Cotton and seconded by Burket to authorize the Department to negotiate with Dakota Southern Railway Company on a proposed amendment to the current Napa to Ravinia lease agreement concerning how gross revenue should be calculated for purposes of determining the 50% car storage lease payment. Any agreement negotiated between the Department and DSRC will be presented to the Board at a later date for final approval. All present voted aye by roll call vote. The motion carried.

The Board requested the Department inquire into why the Napa to Ravinia line has not been servicing rail cars to potential shippers.

Deputy Secretary Jundt presented the Board with an informational item. The Department will be requesting the following information from Regional Rail Authorities and operators:

- Federal Rail Authority (FRA) inspections;
- Weekly track inspection reports;
- Monthly maintenance plan progress reports;
- Quarterly bridge inspections reports;
- Annual new construction reports; and
- Rehabilitation reports.

The Department, operators, and Regional Railroad Authorities will work together to find an acceptable format to allow for the information to be shared with or accessed by the Department.

No action was taken.

Deputy Secretary Jundt updated the Board on the Richland-Sargent drainage project. The Board had previously approved obligating funds in an amount up to \$250,000.00 to replace a drainage structure located at the Richland-Sargent drainage crossing with the Britton line near Cayuga, North Dakota. The remaining decision to be finalized is the amount of funding the Board is agreeable to actually expend for the project. The Department is requesting the Board approve funding for this project up to \$250,000.00.

A MOTION WAS MADE by Quenzer and seconded by Doering to authorize the Department to enter into a loan agreement with Marshall County Regional Railroad Authority for an amount up to \$250,000.00 for replacement of the Richland-Sargent drainage project. Loan repayment would commence after Marshall County Regional Railroad Authority's satisfaction of prior loan payments based on current surcharge rates. All present voted aye by roll call vote. The motion carried.

Deputy Secretary Jundt presented the Board with a bid for an underwater bridge inspection of the Missouri River Bridge in Chamberlain, SD. The bridge is part of the state-owned Mitchell to Rapid City ("MRC") rail line and has not had an underwater bridge inspection since the 1980's. The Department is recommending the underwater bridge inspection be completed and raised the issue of who should be responsible for paying the cost of the underwater bridge inspection estimated at \$17,500.

A MOTION WAS MADE by Cope and seconded by Cotton to approve the State expending up to \$17,500.00 on a one-time basis to cover the cost of performing an underwater bridge inspection on the MRC bridge structure located over the Missouri River in Chamberlain, SD. All present voted by roll call vote, with 5 aye votes [Yeaton, Doering, Cope, Burket and Cotton], and 1 nay vote [Quenzer]. The motion carried.

Jack Parliament, President of D&I Railroad Co., presented the Board with the estimated project costs for rehabilitation of the T480 bridge provided by Koppers Railroad Structures Inc. Parliament suggested the Board apply for a federal grant to help fund rehabilitation of the T480 bridge.

A MOTION WAS MADE by Quenzer and seconded by Cope to authorize the Department to prepare and submit a federal grant application in cooperation with D&I Railroad Co. ("D&I") for the replacement of facilities on the state owned rail line subleased by D&I, with preference placed on bridge work. The Department is further authorized to commit the previously approved state funding share of \$1,950,888.50 as match for the grant. All present voted aye by roll call vote. The motion carried.

The Board requested D&I to obtain a third opinion for the cost to rehabilitate the T480 bridge.

Jack Dokken, Office of Air, Rail, and Transit Program Manager, introduced Board packet attachment 3, containing an observation report of the MRC line submitted by Quenzer.

No action was taken.

Dokken provided updates to the Board on the following projects:

- On August 14, 2017, a project kick off meeting was held between the Department and Federal Railroad Association (“FRA”) regarding the RCP&E TIGER project.
- Sioux Valley relocation: 4 tribal entities have raised interest in this project as a cultural site. FRA will be scheduling future meetings with the interested tribes to better understand any concerns the tribes may have.

A MOTION WAS MADE by Burket and seconded by Cope to adjourn.

With no other business to come before the Board, the meeting was adjourned at 2:05 p.m.

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Jerry Cope
Name of Board, Authority or Commission: State Rail Board & State Rail Authority

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. **Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law** - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable
Presho land purchase Murdo Land lease Presho land lease in City of Presho	Dakota Mill & Grain, Inc.	Employed by Dakota Mill & Grain Inc.	Presho 7/5/17 Agreement Approved by Rail Board Murdo land lease - ongoing Presho land lease in City limits - ongoing

Attach additional pages, if necessary.

2. **Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Presho land Purchase Murdo land lease Presho land lease in City of Presho	Dakota Mill & Grain, Inc.	Employed by Dakota Mill & Grain, Inc.	Presho 7/5/17 Agreement Approved by Rail Board Murdo land lease - ongoing Presho land lease in City limits - ongoing

Attach additional pages, if necessary.

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services - Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

Attach additional pages, if necessary.

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member:  _____ Date: 10/18/17

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority) South Dakota State Railroad Board and South Dakota Railroad Authority
REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Date: 8/16/17

Name of Board Member or Former Board Member: Jerry Cope

Name of Board, Authority or Commission: South Dakota Rail Board / South Dakota State Rail Authority

Brief explanation of contract for which a waiver is requested:

a) Parties to the contract

Dakota Mill & Grain, Inc.

b) Board Member's role in the contract

Employed by Dakota Mill & Grain Inc.

c) Purpose and objective of the contract

Purchase of land east of Pirsho for construction of Rail Siding

d) Consideration or benefit conferred or agreed to be conferred upon each party

Employed by Dakota Mill & Grain Inc.

e) Duration of the contract

~~2016~~ Fiscal Year 2017

Signature of Requesting Party: Jerry Cope

Date 8/16/17

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority) South Dakota State Railroad Board and South Dakota Railroad Authority
STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23 (current member)

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated 8/16/17, was received from Todd Yeaton. The request was acted upon by the members of the South Dakota State Railroad Board (insert name of board/commission/authority) during a meeting held on 8/16/17.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons: The contracts and transactions are fair, reasonable and not contrary to the public interest.

The request for waiver was authorized subject to the following conditions:

X Harlan Quenzer X 08/16/17
Signature of Chairperson or Authorized Member Date

Printed Name: ~~Harlan~~ Harlan Quenzer, Vice Chair

Date sent to Auditor-General 10/26/17 Date sent to Attorney General 10/26/17

**SOUTH DAKOTA STATE RAILROAD BOARD MEETING MINUTES
AUGUST 16, 2017 – 11:00 A.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SOUTH DAKOTA**

MEMBERS PRESENT: Todd Yeaton, Chair
Harlan Quenzer, Vice Chair
Jeff Burket, Member
Jerry Cope, Member
Sheldon Cotton, Member

**MEMBERS PRESENT
VIA CONFERENCE CALL:** Gary Doering, Member

DOT STAFF PRESENT: Darin Bergquist, Joel Jundt, Karla Engle, Bonnie Olson, Jack Dokken, Lynn Kennison, Misty Siedschlaw, and Tessa Wenner

**OTHERS PRESENT,
VIA CONFERENCE CALL:** Kim Halverson, Erin Heupel, Avory Beggs, Drew Fredricks, Kirk Jones

OTHERS PRESENT: Alex Huff, Jeff Cooley, Dick Huff, Mark Cutright, Heath Haden, Jack Parliament, Rob Everist, and Bob Mercer

Chair Yeaton called the meeting of the South Dakota State Railroad Board (the “Board”) to order at 11:05 a.m. Roll call was taken and a quorum was determined.

Karla Engle, Office of Legal Counsel, presented the new Conflict of Interest laws and Consideration of Conflicts of Interest through a PowerPoint presentation.

After Engle’s presentation relating to the updates to the conflict of interest laws, Chairman Yeaton opened the floor to the Board members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Jeff Burket submitted a written disclosure and waiver request (attached to and incorporated into these minutes as **Exhibit A**) concerning a lease between Minerals Technologies, Inc. and the South Dakota Department of Transportation (the “Department”) that allows Mineral Technologies, Inc. to use a railroad yard in Rapid City, South Dakota for rail car storage. Burket is currently employed by Minerals Technologies, Inc.. Burket also provided a verbal

summary of the lease. Burket will abstain from any discussion and voting in regard to the lease of this rail yard to Minerals Technologies, Inc.

A MOTION WAS MADE by Cope and seconded by Quenzer to approve the waiver request submitted by Burket as the Board has determined the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Burket, who abstained from the Board discussion and vote. The motion carried.

Jerry Cope submitted a written disclosure and waiver request (attached to and incorporated into these minutes as **Exhibit B**) regarding leases between his employer, Dakota Mill & Grain, Inc., ("DM&G") and the Department for state-owned rail property in Murdo, South Dakota, and Presho, South Dakota, as well as proposed and pending purchases of state-owned property by DM&G in Presho, South Dakota. Cope also provided a verbal summary of these transactions. Cope will abstain from any discussion and voting in regard to DM&G's leases in Murdo, South Dakota and Presho, South Dakota. Cope will also abstain from any discussion and voting in regard to the pending and proposed purchases of state-owned property in Presho, South Dakota by DM&G.

A MOTION WAS MADE by Quenzer and seconded by Cotton to approve the waiver request submitted by Cope as the Board has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Cope, who abstained from the Board discussion and vote. The motion carried.

Yeaton turned the meeting over to Vice Chair Quenzer.

Todd Yeaton submitted a written disclosure and waiver request (attached to and incorporated into these minutes as **Exhibit C**) requesting a waiver from the Board for a potential conflict of interest. Yeaton explained to the Board plans that he and his business partner have for entering into a lease with the Department for use of railroad rights of way and possibly highway rights of way for haying purposes.

A MOTION WAS MADE by Burket and seconded by Cope to approve the waiver request submitted by Yeaton as the Board has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Yeaton, who abstained from the Board discussion and vote. The motion carried.

Quenzer turned the meeting back over to Chair Yeaton.

Chair Yeaton asked for a motion to approve the minutes of July 5, 2017.

A MOTION WAS MADE by Burket and seconded by Cotton to approve the July 5, 2017, meeting minutes. All present voted aye by roll call vote. The motion carried.

Joel Jundt, Deputy Secretary of the Department, presented the Board with an update of the Railroad trust fund condition statement (3044-681).

Darin Bergquist, Secretary of the Department, informed the Board that he was requested to appear at the Government Operations and Audit Committee (“GOAC”) meeting of July 24, 2017. He provided GOAC with general information on how DOT monitors and manages state-owned railroad property. The Committee requested Bergquist return to provided more information regarding car storage in regard to hazardous materials.

Secretary Bergquist then presented the Board with Dakota Southern Railway Company (DSRC) car storage lease payment information for the state-owned Napa to Ravinia line. Bergquist explained there is an issue regarding how gross revenue should be calculated for purposes of determining the 50% car storage lease payment. The Board discussed authorizing the Department to enter into negotiations with DSRC on a proposed amendment to the current lease agreement.

A MOTION WAS MADE by Cotton and seconded by Burket to authorize the Department to negotiate with Dakota Southern Railway Company on a proposed amendment to the current Napa to Ravinia lease agreement concerning how gross revenue should be calculated for purposes of determining the 50% car storage lease payment. Any agreement negotiated between the Department and DSRC will be presented to the Board at a later date for final approval. All present voted aye by roll call vote. The motion carried.

The Board requested the Department inquire into why the Napa to Ravinia line has not been servicing rail cars to potential shippers.

Deputy Secretary Jundt presented the Board with an informational item. The Department will be requesting the following information from Regional Rail Authorities and operators:

- Federal Rail Authority (FRA) inspections;
- Weekly track inspection reports;
- Monthly maintenance plan progress reports;
- Quarterly bridge inspections reports;
- Annual new construction reports; and
- Rehabilitation reports.

The Department, operators, and Regional Railroad Authorities will work together to find an acceptable format to allow for the information to be shared with or accessed by the Department.

No action was taken.

Deputy Secretary Jundt updated the Board on the Richland-Sargent drainage project. The Board had previously approved obligating funds in an amount up to \$250,000.00 to replace a drainage structure located at the Richland-Sargent drainage crossing with the Britton line near Cayuga, North Dakota. The remaining decision to be finalized is the amount of funding the Board is agreeable to actually expend for the project. The Department is requesting the Board approve funding for this project up to \$250,000.00.

A MOTION WAS MADE by Quenzer and seconded by Doering to authorize the Department to enter into a loan agreement with Marshall County Regional Railroad Authority for an amount up to \$250,000.00 for replacement of the Richland-Sargent drainage project. Loan repayment would commence after Marshall County Regional Railroad Authority's satisfaction of prior loan payments based on current surcharge rates. All present voted aye by roll call vote. The motion carried.

Deputy Secretary Jundt presented the Board with a bid for an underwater bridge inspection of the Missouri River Bridge in Chamberlain, SD. The bridge is part of the state-owned Mitchell to Rapid City ("MRC") rail line and has not had an underwater bridge inspection since the 1980's. The Department is recommending the underwater bridge inspection be completed and raised the issue of who should be responsible for paying the cost of the underwater bridge inspection estimated at \$17,500.

A MOTION WAS MADE by Cope and seconded by Cotton to approve the State expending up to \$17,500.00 on a one-time basis to cover the cost of performing an underwater bridge inspection on the MRC bridge structure located over the Missouri River in Chamberlain, SD. All present voted by roll call vote, with 5 aye votes [Yeaton, Doering, Cope, Burket and Cotton], and 1 nay vote [Quenzer]. The motion carried.

Jack Parliament, President of D&I Railroad Co., presented the Board with the estimated project costs for rehabilitation of the T480 bridge provided by Koppers Railroad Structures Inc. Parliament suggested the Board apply for a federal grant to help fund rehabilitation of the T480 bridge.

A MOTION WAS MADE by Quenzer and seconded by Cope to authorize the Department to prepare and submit a federal grant application in cooperation with D&I Railroad Co. ("D&I") for the replacement of facilities on the state owned rail line subleased by D&I, with preference placed on bridge work. The Department is further authorized to commit the previously approved state funding share of \$1,950,888.50 as match for the grant. All present voted aye by roll call vote. The motion carried.

The Board requested D&I to obtain a third opinion for the cost to rehabilitate the T480 bridge.

Jack Dokken, Office of Air, Rail, and Transit Program Manager, introduced Board packet attachment 3, containing an observation report of the MRC line submitted by Quenzer.

No action was taken.

Dokken provided updates to the Board on the following projects:

- On August 14, 2017, a project kick off meeting was held between the Department and Federal Railroad Association (“FRA”) regarding the RCP&E TIGER project.
- Sioux Valley relocation: 4 tribal entities have raised interest in this project as a cultural site. FRA will be scheduling future meetings with the interested tribes to better understand any concerns the tribes may have.

A MOTION WAS MADE by Burket and seconded by Cope to adjourn.

With no other business to come before the Board, the meeting was adjourned at 2:05 p.m.

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member:

Todd Yeaton

Name of Board, Authority or Commission:

Railroad Board - Railroad Authority

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. **Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law** - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

Attach additional pages, if necessary.

2. **Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Haying Railroad + Hayway Right of way	Todd Yeaton Kevin Heath	Income from Hay Sales and usage.	

Attach additional pages, if necessary.

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision
<p>Haying Railroad + Highway Right of way.</p>		<p>DOT</p>

Attach additional pages, if necessary.

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member:  Date: 8-16-17

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority) South Dakota State Railroad Board and South Dakota Railroad Authority
REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Date: 8-16-17

Name of Board Member or Former Board Member: Todd Yeaton

Name of Board, Authority or Commission: Railroad Board - Railroad Authority

Brief explanation of contract for which a waiver is requested:

a) Parties to the contract

Todd Yeaton + DOT

b) Board Member's role in the contract

Putting up hay on DOT leased land.

c) Purpose and objective of the contract

Hay lease from DOT - Railroad Row
Hay sales and useage Highway Row

d) Consideration or benefit conferred or agreed to be conferred upon each party

Hay - Sales and own use

e) Duration of the contract

Annual

Signature of Requesting Party:  Date 8-16-17

STATE OF SOUTH DAKOTA
TRANSPORTATION COMMISSION


STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23 (CURRENT MEMBER)

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated January 29, 2018, was received from Rodney Fouberg. The request was acted upon by the members of the South Dakota Transportation Commission during a meeting held on February 1, 2018.

(check one)

- The request for waiver of conflict was denied for the following reason(s):
- The request for waiver of conflict was authorized for the following reason(s):
- The Transportation Commission determined that the matter underlying the conflict is fair, reasonable, and not contrary to the public interest.
- The Transportation Commission's minutes, which include the written request for waiver as an attached exhibit, is attached to this Waiver Authorization as **Exhibit A**.
- The request for waiver of conflict was authorized subject to the following condition(s):


Signature of Chairperson or Authorized Member

2-1-18
Date

Printed Name of Chairperson or Authorized Member: Ronald Rosenboom

Date sent to Auditor-General: 3/14/18 Date sent to Attorney General: 3/14/18

**TRANSPORTATION COMMISSION MEETING MINUTES
FEBRUARY 1, 2018 – 9:00 A.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SD**

COMMISSIONERS PRESENT: Ron Rosenboom, Chairman
 Kyle White, Vice Chairman
 Kathy Zander, Member
 Mike Vehle, Member
 Kim Vanneman, Member
 Rod Fouberg, Member
 Don Roby, Member (joined the meeting at 9:10 a.m.)
 Larry A. Nelson, Member

DOT STAFF PRESENT: Darin Bergquist, Mike Behm, William Nevin, Karla Engle,
 Becky Janssen, Bonnie Olson, Joel Gengler, Julie Bolding,
 Kelly VanDeWiele, Jerry Ortbahn, Andy Vandel, Karen
 Olson, and Patricia Saukel

OTHERS PRESENT: Kirk Fredrichs and Mark Clausen - FHWA

OTHERS PRESENT Levi Hillmer and Les Noonan (joined the meeting at 10:22
 a.m.)

VIA CONFERENCE CALL:

Chairman Rosenboom called the meeting of the Transportation Commission (the “Commission”) to order at 9:03 a.m.

Chairman Rosenboom asked for a motion to approve the minutes of December 21, 2017.

A MOTION WAS MADE by Vehle and seconded by Vanneman to approve the December 21, 2017, meeting minutes. All present voted aye by voice vote. The motion carried.

Chairman Rosenboom opened the floor to Commission members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Commissioner Larry A. Nelson submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit A**) concerning conflicts of interest.

A MOTION WAS MADE by Zander and seconded by Vanneman to approve the waiver request submitted by Nelson as the Commission has determined that the matters underlying the conflict are fair, reasonable, and not contrary to the public interest. All present voted aye by voice vote, except Nelson, who abstained from the Commission discussion and vote. The motion carried.

Commissioner Rodney Fouberg submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit B**) concerning a perpetual easement

agreement entered into between Fouberg's spouse and the city of Aberdeen, South Dakota, for the donation of real property to accommodate a shared use path/recreational trail.

A MOTION WAS MADE by Vehle and seconded by White to approve the waiver request submitted by Fouberg as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to the public interest. All present voted aye by voice vote, except Fouberg, who abstained from the Commission discussion and vote. The motion carried.

Commission Roby joined the meeting at 9:10 a.m.

Karla Engle of the Office of Legal Counsel requested that the Transportation Commission set an administrative hearing for March 1, 2018, at 9:00 a.m. to consider suspension and debarment of K&L Construction, Inc. from submitting bids to the Department of Transportation (the "Department") and from being prequalified to submit bids to the Department and to further consider the term of any debarment.

A MOTION WAS MADE by Fouberg and seconded by Zander to set the administrative hearing date of March 1, 2018, at 9:00 a.m. as requested. All present voted aye by voice vote. The motion carried.

Secretary Darin Bergquist presented the Secretary's Report and requested to take his items in reverse order and begin with the election of officers. Bergquist reminded the Commission of past practice of using a methodology of selection of Chair and Vice Chair of the Commission which is a rotation from Vice Chair to Chair based on length of service.

A MOTION WAS MADE by Vanneman and seconded by Roby to elect Kyle White as Chair and Kathy Zander as Vice Chair beginning with the February 15, 2018, conference call meeting for a tenure of one year. All present voted aye by voice vote. The motion carried.

Bergquist informed the Commission that the Department has already had its budget hearing and it went well. Bergquist continued that the Department had several bills this legislative session. The Department introduced HB 1008 which would allow testing the use of variable speed limits on two segments of interstate, namely west of Rapid City and north of Brookings. Bergquist said this bill passed the House 68-2.

Bergquist also mentioned HB 1107 which amends and cleans up outdated language regarding county/township highway laws. This bill passed House Transportation 13-0.

He added that the Department was also working on three other bills, HB 1132 (setting minimum drinking age for military personnel at 18, to which the Department is opposed), SB 157 which would require the Department to institute a bidding process for median mowing, and SB 158 which would require transfer of \$6 million per year into the Local Bridge Improvement Grant (BIG) fund.

Bergquist also noted that there was a bill filed in the House (HB 1241) to impose annual fees on electric and hybrid vehicles. This fee would go into a local fund and is considered a registration fee.

Joel Gengler of the Right of Way office provided the following items for Commission consideration:

1. Abandonment – Hanson County

This resolution will abandon portions of old South Dakota Highway 42 in Hanson County, South Dakota.

Request Transportation Commission approval to abandon by resolution the following property acquired for highway right-of-way:

Lots A and B in Lot H1 in the NE1/4 of Section 20, Township 101 North, Range 58 West of the 5th P.M., Hanson County, South Dakota.

Said Lot A contains 0.82 acre, Lot B contains 2.35 acres

Lots A, B and C in Lot H1 in the S1/2 NW1/4 of Section 20, Township 101 North, Range 58 West of the 5th P.M., Hanson County, South Dakota.

Said Lot A contains 1.98 acres, Lot B contains 0.60 acre, Lot C contains 0.70 acre

This property is no longer needed for highway purposes and abandonment is requested by DOT Mitchell Area.

A MOTION WAS MADE by Roby and seconded by Fouberg to approve the request for abandonment item #1-Hanson County. All present voted aye by voice vote. The motion carried.

RESOLUTION #2018-02.01 was adopted.

2. Abandonment – Meade County

This resolution will abandon portions of old South Dakota Highway 34 in Meade County, South Dakota.

Request Transportation Commission approval to abandon by resolution the following property acquired for highway right-of-way:

Lot A in Lot H2 in the W1/2 SW1/4 of Section 5, Township 5 North, Range 6 East of the B.H.M., Meade County, South Dakota.

Said Lot A contains 4.49 acres.

Lot A in Lot H2 in the E1/2 SW1/4 of Section 5, Township 5 North, Range 6 East of the B.H.M., Meade County, South Dakota.

Said Lot A contains 2.88 acres.

This property is no longer needed for highway purposes and abandonment is requested by DOT Rapid City Region and Area.

A MOTION WAS MADE BY White and seconded by Vehle to approve the request for abandonment item #2-Meade County. All present voted aye by voice vote. The motion carried.

RESOLUTION #2018-02.02 was adopted.

3. Abandonment – Hutchinson County

This resolution will abandon the following property utilized as a roadside park:

Beginning at a point 66 feet North and 33 feet East of the SE1/4 corner of the NE1/4 of Section 26, Township 100 North, Range 56 West, Hutchinson County, South Dakota, thence South 486.6 feet along the Road Right of way, thence N 21° 43 feet East a distance of 525.9 feet, thence West 194.6 feet to the Road Right of way and place of beginning; all located in Section 25, Lot 4, Township 100 North, Range 56 West, Hutchinson County, South Dakota, less Lot H3.

The property contains 0.8 acres, more or less, located on the east side of Hwy 81 approximately three miles southwest of Dolton.

This property is no longer needed for roadside park purposes and abandonment is requested by DOT Yankton Area.

A MOTION WAS MADE by Fouberg and seconded by Zander to approve the request for abandonment item #3-Hutchinson County. All present voted aye by voice vote. The motion carried.

RESOLUTION #2018-02.03 was adopted.

Gengler requested the Commission disregard Item #10 because upon further verification by the Department there were not any temporary easements in Meade County.

4. Abandonment – Beadle County

This resolution will abandon the temporary easements on Beadle County Project:
NH 0014(173)342, PCN 026V

5. Abandonment – Clark County

This resolution will abandon the temporary easements on Clark County Project:
PH 0025(77)164, PCN 04J6.

6. Abandonment – Custer County

This resolution will abandon the temporary easements on Custer County Project:
PH 0040(214), PCN 04GR.

7. Abandonment – Harding County

This resolution will abandon the temporary easements on Harding County Project:
NH 0085(81)112, PCN 036G.

8. Abandonment – Hughes County

This resolution will abandon the temporary easements on Hughes County Project:
P 0034(154)225, PCN 038E.

9. Abandonment – Lake County

This resolution will abandon the temporary easements on Lake County Project:
P-PH 0019(31)73, PCN 025Z.

10. Abandonment – Meade County

This resolution will abandon the temporary easements on Meade County Project:
NH 0073(63)182, PCN 02S7.

11. Abandonment – Minnehaha County

This resolution will abandon the temporary easements on Minnehaha County Project:
P-PH 0019(31)73, PCN 025Z.

12. Abandonment – Minnehaha County

This resolution will abandon the temporary easements on Minnehaha County Project:
NH 0011(00)79, PCN 05JL.

13. Abandonment – Perkins County

This resolution will abandon the temporary easements on Perkins County Project:
NH 0073(63)182, PCN 02S7.

14. Abandonment – Potter County

This resolution will abandon the temporary easements on Potter County Project:
P 0020(117)254, PCN 02R9.

15. Abandonment – Walworth County

This resolution will abandon the temporary easements on Walworth County Project:
P 0020(117)254, PCN 02R9.

A MOTION WAS MADE by Vehle and seconded by Roby to approve the request to abandon items #4-Beadle County, #5-Clark County, #6-Custer County, #7-Harding County, #8-Hughes County, #9-Lake County, #11-Minnehaha County, #12-Minnehaha County, #13-Perkins County, #14-Potter County, and #15-Walworth County. All present voted aye by voice vote. The motion carried.

RESOLUTIONS #2018-02.04, #2018-02.05, #2018-02.06, #2018-02.07, #2018-02.08, #2018-02.09, #2018-02.10, #2018-02.11, #2018-02.12, #2018.02.13, and #2018.02.14 were adopted.

16. Condemnation – NH 0018(179)402, PCN 036L, Turner County

Request Transportation Commission approval to condemn for DOT right of way ownership by resolution within the following property:

Parcel 62 – Levi Hillmer & Sarah Dlugosh

The DOT has been unable to acquire the right of way property through normal negotiations for the project NH 0018(179)402, PCN 036L, Turner County - US18 from US81 to SD19.

A MOTION WAS MADE by Roby and seconded by Zander to approve condemnation for Item #16.

After extensive discussion regarding the condemnation of item #16 in Turner County, the Commission requested additional information from the Department. Roby withdrew his motion with consent of the second (Zander).

The Chair deferred any further action on the request for condemnation until either the Department provides additional information during this meeting or at a subsequent meeting.

Kelly VanDeWiele of Project Development presented the following bid letting results:

January 24, 2018

ADA Curb Ramp Upgrades

1	04NF, 04T7 NH 0212(00)114, NH 0073(00)174 Ti-Zack Concrete, Inc. US212 & SD73 through Faith	Meade County \$240,025.50
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Bridge Deck Overlay

2	05QW BRF 6496(00)16-3 J.V. Bailey Company, Inc. Structure on 309th Ave, 0.2 miles west & 0.4 miles south of Blunt over a creek	Hughes County \$241,413.60
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3 **Moved to January 26, 2018 letting**

Replace Structure (2-11'x11' RCBC) & Scour Protection

4	03U5 P 0047(105)44 Schweigert Construction Inc. SD47, 5.5 miles north of the Gregory County Line over Waterhole Creek & 7.3 miles south of I90 over the White River	Lyman County \$2,243,686.02
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Asphalt Concrete Resurfacing, Pavement Marking, & Guardrail

5	04WN NH 0281(112)96 Asphalt Paving & Materials Co US281 from south of SD34 to the Jerauld/Beadle County Line	Jerauld County \$2,066,020.74
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Slide Repair

6 045J NH 0083(77)115 Stanley County
A-G-E Corporation \$333,168.98
US83 1.5 miles south of the end of the divided lanes south of Ft. Pierre on the east side
of the roadway

Shared Use Path Construction

7 05C9 P TAPU(13) Brown County
Wright & Sudlow, Inc. \$217,665.04
Along 15th Ave. NE from the existing trail end east of Northview Lane to Roosevelt St in
Aberdeen

Areawide Pipe Repair

8 06EE NH-P 0012(222) Brookings, Deuel County
Subsurface, Inc. \$543,297.30
Various Locations Throughout the Watertown Area

Durable Pavement Marking

9 04H7 PH 0020(146) Minnehaha, Moody County
Traffic Solutions Inc \$807,797.05
Various locations on the State System in the Mitchell Region

A MOTION WAS MADE by White and seconded by Vanneman to approve bid #'s 1, 2, 4, 5, 6, 8, and 9. All present voted aye by voice vote. The motion carried.

A MOTION WAS MADE by Vehle and seconded by Roby to approve bid #7. All present voted aye by voice vote, except Fouberg who abstained. The motion carried.

January 26, 2018

Replace Structures (418'-0" Prestressed Girder Bridge & 2-11'x11' RCBC), Approach Grading, & RCBC Outlet Repair

3 03U0, 03TY P 0183(24)51, P 0248(10)239 Lyman, Tripp County
Heavy Constructors, Inc. \$6,200,484.00
Structures on US183 at the Tripp/Lyman Co Line over the White River, RCBC 10 miles
south of the Lyman Co. Line, and RCBC on SD248 0.1 miles east of US183

A MOTION WAS MADE by Vanneman and seconded by Zander to approve bid #3. All present voted aye by voice vote. The motion carried.

Mike Behm, Director of Planning and Engineering presented the following State Transportation Improvement Program (STIP) revisions for approval:

REV 18-005 This revision will delete a 2020 railroad crossing improvement project located on SD25 (Sequence #206, Page 67 in the 2018-2021 STIP Book) as this work will be accomplished in separate projects in 2018 and 2021. It will also add a new 2018 project for installation of an advance warning sign for the crossing on US14 west of Blunt.

FY 2018 Plus \$30,000
FY 2020 Minus \$320,000

REV 18-024 This revision will add a 2018 pavement preservation project for the Mitchell Region.

FY 2018 Plus \$51,000

REV 18-025 This revision will defer a 2018 bridge maintenance project over the James River on US14 (Sequence #66, Page 46 in the 2018-2021 STIP Book) to the Long-Range Program due to the work being cost prohibitive.

FY 2018 Minus \$196,000
Long Range Plus \$225,000

REV 18-026 This revision will defer a 2018 pipe maintenance project on I90 from the Wyoming State Line to Exit 10 at Spearfish to 2021 (Sequence #501, Page 120 in the 2018-2021 STIP Book).

FY 2018 Minus \$435,000
FY 2021 Plus \$461,000

REV 18-030 This revision will add a 2018 project to upgrade various permanent vehicle classification sites throughout the state.

FY 2018 Plus \$163,000

REV 18-031 This revision will add a 2018 project to replace a waterline serving the Homestead Rest Area and the SDDOT State Shop at Junction City.

FY 2018 Plus \$367,000

A MOTION WAS MADE by White and seconded by Vanneman to approve the above-listed STIP revisions. All present voted aye by voice vote. The motion carried.

The following informational revisions were provided to the Commission by Behm:

REV 18-018 This revision changed federal participating funding to state participating funding for local bridge replacement projects located in Lake, Miner, Lawrence, Hand, Spink, Lake, Aurora, and McCook counties (Sequences #55, 390, 488, 489, 502, 579, 631 & 875, Pages 43, 101, 119, 120, 132, 141 & 170 in the 2018-2021 STIP Book).

FY 2018 No Change

REV 18-027 This revision revised the cost estimate of US83 Shoulder Widening, Spot Grading, AC Surfacing & Lighting project located from the Nebraska State Line to South of Mission. (Sequence #996, Page 184 in the 2018-2021 STIP Book).

FY 2018 Plus \$4,262,000

REV 18-028 This revision deferred a 2018 pavement preservation in Sioux Falls Area to 2019. (Sequence #530, Page 125 in the 2018-2021 STIP Book).

FY 2018 Minus \$179,000

FY 2019 Plus \$182,000

REV 18-032 This revision removed the SD73 East Junction to Antelope Road portion of the US18 Resurfacing project from the West Junction of SD73 to the Bennett/Todd County Line (Sequence #83 , Page 48 in the 2018-2021 STIP Book). This segment will be programmed for reconstruction in the future.

FY 2019 Minus \$2,155,000

REV 18-SC-011 This revision added repair work for a structure located 1.1 mile south of US12 on the 2019 US281 Mill & AC Resurfacing Project in Brown and Spink Counties (Sequence #s 132 & 88, Pages 54 & 171 in the 2018-2021 STIP Book).

FY 2019 Plus \$110,000

REV 18-SC-012 This revision adjusted the cost estimate of a 2018 Slide Repair project on US83 south of Ft Pierre (Sequence # 888, Page 173 in the 2018-2021 STIP Book).

FY 2018 Plus \$267,000

REV 18-SC-013 This revision added bridge guard rail approach work to the 2021 Shoulder Widening and AC Surfacing project on SD44 between US281 and SD37 (Sequence #s 311 & 437, Pages 86 &109 in the 2018-2021 STIP Book).

FY 2018 Plus \$224,000

REV 18-SC-014 This revision adjusted the cost estimate of a 2018 Huron Area Chip Seal project (Sequence #s 69, 201, 391, 441, 483 & 876, Pages 46, 66, 101, 111, 118 & 170 in the 2018-2021 STIP Book).

FY 2018 Plus \$1,444,000

REV 18-SC-015

This revision adjusted the cost estimate of a 2018 Huron Area Rout & Seal project (Sequence #s 199 & 875, Pages 66 & 170 in the 2018-2021 STIP Book).

FY 2018 Plus \$450,000

Behm presented the following spreadsheet listing the 2018 Transportation Alternatives Program Applications (TAP) for consideration of the Commission.

2018 Transportation Alternatives Program Applications and Recommendations Class 1 Cities									
Location	Project	Overall Cost	Req. Funding	Local Match	% Match	Rec. Funding	Local Match	Overall Cost	% Match
North Sioux City		\$326,302	\$244,727	\$81,575	25.00%	\$244,727	\$81,575	\$326,302	25.00%
Crooks		\$394,000	\$322,883	\$71,117	18.05%	\$322,883	\$71,117	\$394,000	18.05%
Brookings		\$210,300	\$157,725	\$52,575	25.00%	\$0			
	Current Subtotal - Class 1 Cities	\$930,602	\$725,335	\$205,267		\$567,610	\$152,692	\$720,302	
				Annual Federal Authority		\$1,120,873			
				Balance		\$553,263			
2018 Transportation Alternatives Program Applications and Recommendations Rural Communities									
Location	Project	Overall Cost	Req. Funding	Local Match	% Match	Rec. Funding	Local Match	Overall Cost	% Match
Kyle		\$594,891	\$400,000	\$194,891	32.76%	\$400,000	\$194,891	\$594,891	32.76%
Bullhead		\$235,013	\$192,593	\$42,420	18.05%	\$192,593	\$42,420	\$235,013	18.05%
Salem		\$552,000	\$400,000	\$152,000	27.54%	\$400,000	\$152,000	\$552,000	27.54%
Faulkton		\$133,526	\$106,821	\$26,705	20.00%	\$106,821	\$26,705	\$133,526	20.00%
Valley Springs		\$157,522	\$129,089	\$28,433	18.05%	\$129,089	\$28,433	\$157,522	18.05%
Lake Andes		\$353,816	\$289,952	\$63,864	18.05%	\$0			
Leola		\$261,000	\$213,890	\$47,110	18.05%	\$0			
Dell Rapids		\$693,000	\$400,000	\$293,000	42.28%	\$0			
	Current Subtotal - Small Cities	\$2,980,768	\$2,132,345	\$848,423		\$1,228,503	\$444,449	\$1,672,952	
				Annual Federal Authority		\$1,022,284			
				Auth. From Prev. Yrs.		\$206,219			
				Balance		\$0			
	Recommended Projects								

Updated 1/8/2018 jdo

A MOTION WAS MADE by Vehle and seconded by Zander to approve the recommendation of the applications for TAP awards to the following communities: North Sioux City, Crooks, Kyle, Bullhead, Salem, Faulkton, and Valley Springs. All present voted aye by voice vote. The motion carried.

Levi Hillmer and Les Noonan joined the meeting via conference call at 10:22 a.m.

The Commission returned to the condemnation discussion of item #16 of the Right of Way items. Karen Olson of the Office of Road Design provided the plat in question for Item #16 which was displayed on the overhead screen for viewing.

Levi Hillmer, the landowner that was to be directly affected by the condemnation of item #16, appeared by conference call with his father-in-law, Les Noonan of Lennox, South Dakota, to address the Commission.

A MOTION WAS MADE by White and seconded by Roby to defer further discussion and any decision on Item #16 until the February 15, 2018, conference call meeting. All present voted aye by voice vote, except for Nelson who voted nay. The motion carried.

Kirk Fredrichs of the Federal Highway Administration presented an informational item on the 2016 Fatal Crash Overview.

Commissioner Kyle White addressed the Chair and offered some closing comments on the discussion of the Right of Way condemnation recommendation item #16.

Mike Behm addressed the Commission with an additional STIP revision clarification regarding the Department's ability to move projects within the STIP year. He clarified that staff may move projects within the STIP and it could be within "years or a year" within the construction STIP.

With no other business to come before the Commission, the meeting was declared adjourned at 11:10 a.m.

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority)

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Date: January 26, 2018

Name of Board Member or Former Board Member: Larry A. Nelson

Name of Board, Authority or Commission: Transportation Commission

Brief explanation of contract for which a waiver is requested:


- a) Parties to the contract
Please see attached document

- b) Board Member's role in the contract
Please see attached document

- c) Purpose and objective of the contract
Please see attached document

- d) Consideration or benefit conferred or agreed to be conferred upon each party
Please see attached document

- e) Duration of the contract
Please see attached document

Signature of Requesting Party:  Date 1-26-2018

Brief explanation of contract for which a waiver is requested:

1.
 - a) City of Canton, South Dakota & Larry A. Nelson, with assistance of Brenda M. Ask, attorneys of Frieberg, Nelson & Ask, LLP, law firm.
 - b) Provides legal services to the City of Canton.
 - c) Provide legal services to the City of Canton.
 - d) Legal services are provided in exchange for payment.
 - e) 1990, until no longer serving in capacity as City Attorney.

2.
 - a) City of Worthing, South Dakota & Larry A. Nelson, with assistance of Brenda M. Ask, attorneys with Frieberg, Nelson & Ask, LLP, law firm.
 - b) Provides legal services to the City of Worthing.
 - c) Provide legal services to the City of Worthing.
 - d) Legal services are provided in exchange for payment.
 - e) 1994, until no longer serving in capacity as City Attorney.

3.
 - a) City of Hartford, South Dakota & Larry A. Nelson, with assistance of Brenda M. Ask, attorneys with Frieberg, Nelson & Ask, LLP, law firm.
 - b) Provides legal services to the City of Hartford.
 - c) Provide legal services to the City of Hartford.
 - d) Legal services are provided in exchange for payment.
 - e) 1996, until no longer serving in capacity as City Attorney.

4.
 - a) City of Beresford, South Dakota & Thomas Frieberg, with assistance of Samuel J. Nelson, attorneys with Frieberg, Nelson & Ask, LLP, law firm.
 - b) Provides legal services to the City of Beresford.
 - c) Provide legal services to the City of Beresford.
 - d) Legal services are provided in exchange for payment.
 - e) 1992, until no longer serving in capacity as City Attorney.

5.
 - a) City of Alcester, South Dakota & Thomas Frieberg, with assistance of Samuel J. Nelson, attorneys with Frieberg, Nelson & Ask, LLP, law firm.
 - b) Provides legal services to the City of Alcester.
 - c) Provide legal services to the City of Alcester.
 - d) Legal services are provided in exchange for payment.
 - e) 2018, until no longer serving in capacity as City Attorney

6.
 - a) Lincoln County Rural Water Systems, Inc., City of Harrisburg, South Dakota, and City of Sioux Falls, with SDDOT providing project funds.
 - b) Provide legal services as Attorney for Lincoln County Rural Water Systems.
 - c) Water line relocation and funding involving highway construction project.
 - d) LCRW - Water line relocation reimbursements
 - City of Harrisburg - Reimbursements and cost share
 - City of Sioux Falls - Reimbursements and cost share
 - SDDOT - Road improvements and funding
 - e) Providing legal services until completion of project.

7.
 - a) Larry A. Nelson, Frieberg, Nelson & Ask, LLP, law firm and Sioux Falls School District 49-5.
 - b) Legislative contract lobbyist.
 - c) Sioux Falls School District 49-5 is represented and lobbied on behalf of during each South Dakota Legislative Session.
 - d) Lobbying services are provided in exchange for payment.
 - e) 2014, until no longer serving as Lobbyist by Sioux Falls School District 49-5.

8.
 - a) City of Canton, South Dakota, and Edith Nelson.
 - b) None. Edith Nelson is the spouse of Larry A. Nelson.
 - c) Edith Nelson is employed by the City of Canton as Director of the City Library.
 - d) Edith Nelson is paid a yearly salary by the City of Canton as Director of the City Library.
 - e) 2008, until Edith Nelson is no longer employed by the City of Canton as Director of the City Library.

9.
 - a) Thomas Frieberg, with assistance from Samuel J. Nelson, attorneys of Frieberg, Nelson & Ask, LLP, law firm and Union County, South Dakota.
 - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) Frieberg, Nelson & Ask, LLP, law firm is contracted as a court appointed Attorney for legal services to criminal defendants who cannot afford a retained Attorney.
 - d) Legal services are provided in exchange for payment.
 - e) January 1, 2016, through December 31, 2018 contract, which can be renewed for another 5 year contract.

10.
 - a) Brenda M. Ask, Frieberg, Nelson & Ask, LLP, law firm and Lincoln County Commission.
 - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) Brenda M. Ask is appointed as Chair of the Mental Health Board.
 - d) Services to the Mental Health Board are provided in exchange for payment from the Lincoln County Commission.
 - e) Appointed June 2009, and reappointed yearly until no longer reappointed.

11.
 - a) Thomas Frieberg, Frieberg, Nelson & Ask, LLP, law firm and University of South Dakota.
 - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) Thomas Frieberg is retained as an Attorney for the University of South Dakota and provides legal services.
 - d) Legal services are provided in exchange for payment.
 - e) 2005, until no longer serving in capacity as Attorney for the University of South Dakota.

12.
 - a) Brenda M. Ask, Frieberg, Nelson & Ask, LLP, law firm and Lincoln County, South Dakota.
 - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) Brenda M. Ask has been previously appointed, and has the possibility of being appointed again, by the Court of Lincoln County as a court appointed attorney for legal services.
 - d) Legal services are provided in exchange for payment.
 - e) There is no contract on file, as services are performed by the request of the Court.

13.
 - a) Samuel J. Nelson, Frieberg, Nelson & Ask, LLP, law firm and Lincoln County, South Dakota.
 - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) Samuel J. Nelson has been previously appointed, and has the possibility of being appointed again, by the Court of Lincoln County as a court appointed attorney for legal services .
 - d) Legal services are provided in exchange for payment.
 - e) There is no contract on file, as services are performed by the request of the Court.

FRIEBERG, NELSON & ASK, L.L.P.

ATTORNEYS AT LAW

ROBERT B. FRIEBERG
THOMAS H. FRIEBERG
LARRY A. NELSON
BRENDA M. ASK (SD & IA)
SAMUEL J. NELSON

AUGUST FRIEBERG (1863-1932)
ROSCOE A. FRIEBERG (1903-1982)
BLAINE O. RUDOLPH (1925-2016)

Sender's Address:
206 E. 5th Street
P.O. Box 38
Canton, SD 57013-0038

PHONE: (605) 987-2686
FAX: (605) 987-5779
EMAIL: lnelson@frieberglaw.com

January 26, 2017

Mr. Ronald Rosenboom, Chairman
South Dakota Transportation Commission
South Dakota Department of Transportation
700 East Broadway Avenue
Pierre, SD 57501

Re: *Conflict of Interest Disclosure*

Dear Chairman Rosenboom:

This letter is in response to SDCL § 3-23-1 and SDCL § 3-23-2, and is intended to address whether I, my wife, or any entity in which we have ownership interests derives any direct benefit from a contract or transaction with the State of South Dakota that specifically relates to the South Dakota Department of Transportation and my involvement as an active SDDOT Commissioner.

I am a Partner in the law firm of Frieberg, Nelson & Ask, L.L.P. The partnership is appointed as City Attorney for the municipalities of Hartford, Worthing, Canton, and Beresford, all of which are located in South Dakota. Should a situation arise with a SDDOT contract or transaction with any of these municipalities I would disclose any potential conflict at that time.

I have enclosed the completed Annual Disclosure for Commission Member pursuant to SDCL Chapter 3-23, and Request for State Board Waiver pursuant to SDCL Chapter 3-23.

I will continue to review the agenda items for upcoming Transportation Committee meetings and be forthcoming in any potential conflict of interest. Thank you for your consideration.



LARRY A. NELSON
Commissioner
South Dakota Transportation Commission

LAN/src
CC: Darin Bergquist, Secretary of Transportation, SDDOT
Karla Engle, Chief of Legal Counsel, SDDOT

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Larry A. Nelson

Name of Board, Authority or Commission: Transportation Commission

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

Attach additional pages, if necessary.

2. Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23 - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Hired Attorney	Lincoln County Rural Water Systems, Inc. & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by LCRW for legal services	1996 - Renews yearly
Hired Attorney	City of Canton, South Dakota & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by the City of Hartford for legal services	1990 - Renews yearly
Hired Attorney	City of Worthing, South Dakota & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by the City of Worthing for legal services	1994 - Renews yearly
Hired Attorney	City of Hartford, South Dakota & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by the City of Hartford for legal services	1996 - Renews yearly

Attach additional pages, if necessary.

Please see additional pages attached

2. **Contacts in which you have a direct benefit pursuant to SDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2, and 3-23-3.1.

Description of the Contract	Parties	Description of the direct benefit	Date contract was authorized
Hired Attorney	City of Beresford, South Dakota & Frieberg, Nelson & Ask, law firm	Hired Attorney paid by the City of Beresford for legal services	1992 - Renews yearly
Hired Attorney	City of Alcester, South Dakota & Frieberg, Nelson & Ask, law firm	Hired Attorney paid by the City of Alcester for legal services	2018 - Renews yearly
Hired Attorney for Lincoln County Rural Water System, Inc., who has an agreement with City of Harrisburg & City of Sioux Falls for water line relocation project and use of DOT funds	Lincoln County Rural Water System, Inc, City of Harrisburg, City of Sioux Falls & Frieberg, Nelson & Ask, law firm	Hired Attorney paid by Lincoln County Rural Water Systems, Inc. for legal services	1996 - Serves at pleasure of Board
Legislative Contract Lobbyist	Larry A. Nelson & Sioux Falls School District 49-5	Hired lobbyist paid by Sioux Falls School District 49-5 for lobbying services	2014 - original contract date, subsequent yearly renewals
Edith Nelson, Director of the City Library for the City of Canton, South Dakota	City of Canton, South Dakota & Edith Nelson	Edith Nelson, Director of City Library paid by the City of Canton a yearly salary to run the City Library as a City employee	2008 hired as Director of the City Library
Union County Court Appointments for criminal legal services	Thomas Frieberg of Frieberg, Nelson & Ask, LLP, law firm, with assistance of Samuel J. Nelson, Attorney, and Union County	Hired Court Appointed Attorney paid by Union County for legal services to criminal defendants who cannot afford a retained Attorney	January 1, 2016, through December 31, 2018, contract with Union County
Mental Health Board Chairman appointed by Lincoln County Commission, South Dakota	Brenda M. Ask and Lincoln County Commission	Appointed as Chair to the Mental Health Board and paid by Lincoln County for mental health services	Appointed June 2009 and reappointed yearly by Lincoln County Commission

2. **Contacts in which you have a direct benefit pursuant to SDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2, and 3-23-3.1.

Description of the Contract	Parties	Description of the direct benefit	Date contract was authorized
Council of the Disciplinary Board of South Dakota Bar Association	Robert Frieberg and South Dakota Bar Association	Appointed to and paid by Disciplinary Board of South Dakota Bar Association, which Association receives money from the Attorney General's office	Appointed in 2000 and reappointed by President of the Board as determined by President of the Board
Hearing Examiner for the South Dakota Board of Medical and Osteopathic Examiners	Thomas Frieberg and South Dakota Board of Medical and Osteopathic Examiners	Hired by South Dakota Board of Medical and Osteopathic Examiners as a Hearing Examiner	2004- original contract and renews yearly
Hearing Examiner for the South Dakota Pharmacy Board	Thomas Frieberg and South Dakota Pharmacy Board	Hired by South Dakota Pharmacy Board as a Hearing Examiner	January 2018
Hired Attorney	University of South Dakota and Thomas Frieberg of Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney for University of South Dakota for legal services	2005 - Renews yearly
Lincoln County Court Appointments for criminal legal services	Brenda M. Ask of Frieberg, Nelson & Ask, LLP, and Lincoln County	Hired by Lincoln County as Court Appointed Attorney paid by Lincoln County for legal services to criminal defendants who cannot afford a retained attorney	Last appointed 2017, appointed as needed by Court

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

Attach additional pages, if necessary.

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member:  Date: 1-26-2013

STATE OF SOUTH DAKOTA
TRANSPORTATION COMMISSION

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL 3-23-3

Date: January 29, 2018

Name of Board Member or Former Board Member: Rodney Fouberg

Brief explanation of contract for which a waiver is requested:

Agreement for Voluntary Right of Way Donation. Perpetual Easement for shared use Path/Recreational Trail. Project Number P-TAPU (13) PCN 05C9. Aberdeen SD. Project number 7 1/24/2018 SDDOT Letting. 0.296 Acres (5'wide by 2,581.8 long). Dated 16th Day of January, 2017.

a) Parties to the contract

Glenna N. Fouberg Donor
City of Aberdeen SD

b) Board Member's role in the contract

DOT Commissioner/Board member Rodney Fouberg is the husband of Glenna N. Fouberg.

c) Purpose and objective of the contract

The City of Aberdeen requested the 5' wide easement to accommodate a 10' trail with a 6' grass strip between the trail and 15th Ave NE.

d) Consideration or benefit conferred or agreed to be conferred upon each party

Donated. One Dollar (\$1.00) and other good and valuable consideration.

e) Duration of the contract

The perpetual easement shall be in effect until the recreational trail is abandoned by the proper action of the City of Aberdeen, SD.

Signature of Requesting Party:  Date 1/29/18

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Rodney Foubert

Name of Board, Authority, or Commission: South Dakota Transportation Commission

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority, or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority, or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority, or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority, or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. **Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law** – Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

Attach additional pages, if necessary.

2. **Contract in which you have a direct benefit pursuant to SDCL Chapter 3-23** – Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2, and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Agreement for Voluntary Right of Way Donation. Perpetual Easement for Shared Use Path/Recreational Trail. Project Number P-TAPU (13) PCN 05C9. Aberdeen SD project number 7 1/24/2018 SDDOT Letting. 0.296 acres (5' wide by 2,581.8' long). Dated 16 th day of January, 2017. Easement donated. One Dollar (\$1.00) and other good and valuable consideration.	Glenna N. Foubert-Donor City of Aberdeen SD	I am the husband of Glenna N. Foubert-Donor	1/16/2017

3. **Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3.23-3.1.**

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

Attach additional pages, if necessary.

The Member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority, or commission in order for the Member to legally derive a direct benefit.

Signature of Member:



Date

1/29/18

STATE OF SOUTH DAKOTA
TRANSPORTATION COMMISSION

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23 (CURRENT MEMBER)

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated February 12, 2018, was received from Larry A. Nelson. The request was acted upon by the members of the South Dakota Transportation Commission during a meeting held on February 15, 2018.

(check one)

The request for waiver of conflict was denied for the following reason(s):

The request for waiver of conflict was authorized for the following reason(s):

The Transportation Commission determined that the matter underlying the conflict is fair, reasonable, and not contrary to the public interest.

The Transportation Commission's minutes, which include the written request for waiver as an attached exhibit, is attached to this Waiver Authorization as **Exhibit A**.

The request for waiver of conflict was authorized subject to the following condition(s):

Kyle D. White March 1, 2018
Signature of Chairperson or Authorized Member Date
Printed Name of Chairperson or Authorized Member: Kyle White
Date sent to Auditor-General: 4/24/18 Date sent to Attorney General: 4/24/18

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority)

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT


Date: 2/12/2018

Name of Board Member or Former Board Member: Larry A. Nelson

Name of Board, Authority or Commission: Transportation Commission

Brief explanation of contract for which a waiver is requested:

- a) Parties to the contract
Daniel Dannen and his attorney, Thomas Frieberg. Mr. Frieberg is an attorney with Frieberg, Nelson & Ask, LLP, law firm. Daniel Dannen is selling certain real property on a contract for deed to Lewis Hilmer and Sarah Delugosh. There is eminent domain dispute between Lewis Hilmer, Sarah Delugosh as it relates to right of way acquisition by the State.
- b) Board Member's role in the contract
Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
- c) Purpose and objective of the contract
Thomas Frieberg is the attorney for Daniel Dannen. Mr. Dannen is the owner of the real property being sold to Lewis Hilmer and Sarah Delugosh on Contract for Deed. Lewis Hilmer and Sarah Delugosh are parties to an issue with the DOT for a highway right of way acquisition.
- d) Consideration or benefit conferred or agreed to be conferred upon each party
Services are provided by Thomas Frieberg to Daniel Dannen in exchange for payment.
- e) Duration of the contract
May of 2017 until the end of the Contract for Deed payments. There is a continuing business relationship between Frieberg, Nelson & Ask, LLP and Daniel Dannen as client.

Signature of Requesting Party:  Date 2-12-2018

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Larry A. Nelson

Name of Board, Authority or Commission: Transportation Commission

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

Attach additional pages, if necessary.

2. Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23 - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Thomas Frieberg is attorney for Daniel Dannen. Mr. Dannen is the owner of the real property being sold to Lewis Hilmer and Sarah Delugosh on Contract for Deed. Mr. Hilmer and Sarah Delugosh are parties to an issue with the DOT for a highway right of way acquisition.	Daniel Dannen, Thomas Frieberg, attorney with Frieberg, Nelson, and Ask, LLP, law firm, Lewis Hilmer, and State of South Dakota.	Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP	May of 2017. There is a continuing business relationship between Frieberg, Nelson, & Ask, LLP, and Daniel Dannen, as a client.

Attach additional pages, if necessary.

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

Attach additional pages, if necessary.

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member:



Date:

2/12/2018

**TRANSPORTATION COMMISSION CONFERENCE CALL MEETING MINUTES
FEBRUARY 15, 2018 – 9:00 A.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SD**

**COMMISSIONERS PRESENT
VIA CONFERENCE CALL:**

Kyle White, Chairman
Ron Rosenboom, Member
Mike Vehle, Member
Kim Vanneman, Member
Rod Fouberg, Member
Don Roby, Member

COMMISSIONERS PRESENT:

Larry A. Nelson, Member

DOT STAFF PRESENT:

Mike Behm, Joel Gengler, Greg Fuller, Karla Engle, Bonnie Olson, Ryan Johnson, Mark Leiferman, Sam Weisgram, and Patricia Saukel

**DOT STAFF PRESENT VIA
CONFERENCE CALL:**

Dustin DeBoer

OTHERS PRESENT

VIA CONFERENCE CALL:

Becky Hedman – AGC, Mark Clausen – FHWA, Kirk Fredrichs – FHWA

Chairman White called the meeting of the Transportation Commission (the "Commission") to order at 9:03 a.m.

Chairman White opened the floor to Commission members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Commissioner Larry A. Nelson submitted a written annual disclosure and waiver request (attached to and incorporated into these minutes as **Exhibit A**) concerning representation of a client by one of Nelson's partners in the Frieberg, Nelson & Ask, LLP law firm. The Department of Transportation (the "Department") is currently negotiating with the client for the purchase of real property interests relating to a highway project.

A MOTION WAS MADE by Roby and seconded by Fouberg to approve the waiver request submitted by Nelson as the Commission has determined that the matters underlying the conflict are fair, reasonable, and not contrary to the public interest. All present voted aye by roll call vote, except Nelson, who abstained from the Commission discussion and vote. The motion carried.

There were no additional disclosures or waivers to address.

Mike Behm, Director of Project Development introduced Joel Gengler of the Right of Way office.

Gengler withdrew the Right of Way item from the Commission's consideration because the matter was in the process of being resolved through negotiation.

Sam Weisgram of Project Development presented the following bid letting results, with the exception of bid item #7 which had been moved to the February 21, 2018, bid letting:

February 7, 2018 letting

Slide Repair (soil nail with slope mesh reinforcement)

1	04TA NH 014A(16)42	Lawrence County
	Access Limited Construction, Inc.	\$833,649.00
	US14A just east of the junction with US85 east of Deadwood	

Cold Milling Asphalt Concrete, Asphalt Concrete Resurfacing, & Pipe Work

2	04EN P 0037(144)133	Beadle, Spink County
	Asphalt Paving & Materials Company	\$1,845,306.60
	SD37 from SD28, south 12 miles	

Cold Milling Asphalt Concrete & Asphalt Concrete Resurfacing

3	05U0 NH 0014(225)347	Beadle County
	Asphalt Paving & Materials Company	\$1,866,248.47
	US14 EB &WB from the east city limits in Huron, to the end of the divided section	

Bridge Deck Polymer Chip Seal & Bridge Rail Painting

4	05R4 BRF 6231(00)16-7	Tripp County
	J.V. Bailey Company, Inc.	\$96,648.50
	Structure on 289th St, 2.5 miles west & 3 miles north of Clearfield, over Willow Creek	

Structure and Approach Grading (4-48" RCP)

5	00JY BRO 8027(28)	Gregory County
	Midwest Contracting, LLC	\$259,374.25
	Structure 3.1 miles west and 2 miles south of Jct. SD44/SD47 over a creek	

Bridge Deck Polymer Deck Seal

6	04V0, 05FK, 05FD, 05FL P 0106(06)334, NH 0010(120)363, NH 0012(200)399, P 0020(163)450	Grant, Roberts County
	RAM Construction Services of Michigan, Inc.	\$274,715.08
	US12, 0.6 miles east of SD109 over the Whetsone River Div Channel; SD10, 107 miles west of SD127 over the Little Minnesota River; SD20, 4.1 miles east of SD15 over a creek; & SD106, 3.2 miles west of SD127 over the Little Minnesota River	

Grading, Landscaping, Shared Use Path, Structures, Lighting, Trailhead

7	05JD P 1358(04)	Minnehaha County
	<i>Moved to the February 21, 2018 letting</i>	

Culvert Repair

8 040U NH-P 0012(177) Deuel, Hamlin, Roberts County
DeBoer Construction, Inc. \$243,369.10
Various Locations in the Watertown Area

PCC Pavement Repair

9 05LE NH 0042(68) Butte County
Reede Construction, Inc. \$541,104.55
US212 from approximately 5 miles NW to 1 mile East of Belle Fourche

Sprayable Durable Pavement Marking

10 04HA PH 0040(219) Butte, Custer, Pennington County
Traffic Services Company LLC \$156,551.84
Various locations in the Rapid City Region

Structure Zone Painting

11 04DR IM 0906(70)263 Aurora, Brule, Davison County
Pacific Painting Co., Inc. \$698,603.59
190 Structures over Main St/RR Exit 263 (Chamberlain); Aurora/Brule County Line, 2.6 miles west of Exit 296; Exit 296 (White Lake); Exit 310 (US281); 6.0 miles east of Exit 319; & Exit 332 (SD37S).

Signing & Delineation

12 02UH PH 8019(16) Day County
Hamm Contracting, LLC \$2,296,390.87
Various County, City, & Township Roads in Day County

A MOTION WAS MADE by Roby and seconded by Fouberg to approve bid #'s 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, and 12. All present voted aye by roll call vote. The motion carried.

February 13, 2018 letting

Furnish Traffic Signal Equipment

06K9 NH 0012(00)293 Brown County
Muth Electric Inc \$78,557.00
US12 and Brown County Hwy 19

A MOTION WAS MADE by Vanneman and seconded by Fouberg to approve the February 13, 2018, Brown County bid. All present voted aye by roll call vote. The motion carried.

Behm presented the following State Transportation Improvement Program (STIP) revision for approval:

FOR COMMISSION APPROVAL

REV 18-029 This revision will add a 2018 concrete centerline rumble striping project on US14 from DeSmet to Lake Preston.

FY 2018 Plus \$153,000

A MOTION WAS MADE by Rosenboom and seconded by Vanneman to approve the above-listed STIP revision. All present voted aye by roll call vote. The motion carried.

With no other business to come before the Commission, the meeting was declared adjourned at 9:15 a.m.

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority)

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Date: 2/12/2018

Name of Board Member or Former Board Member: Larry A. Nelson

Name of Board, Authority or Commission: Transportation Commission

Brief explanation of contract for which a waiver is requested:

- a) Parties to the contract
Daniel Dannen and his attorney, Thomas Frieberg. Mr. Frieberg is an attorney with Frieberg, Nelson & Ask, LLP, law firm. Daniel Dannen is selling certain real property on a contract for deed to Lewis Hilmer and Sarah Delugosh. There is eminent domain dispute between Lewis Hilmer, Sarah Delugosh as it relates to right of way acquisition by the State.
- b) Board Member's role in the contract
Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
- c) Purpose and objective of the contract
Thomas Frieberg is the attorney for Daniel Dannen. Mr. Dannen is the owner of the real property being sold to Lewis Hilmer and Sarah Delugosh on Contract for Deed. Lewis Hilmer and Sarah Delugosh are parties to an issue with the DOT for a highway right of way acquisition.
- d) Consideration or benefit conferred or agreed to be conferred upon each party
Services are provided by Thomas Frieberg to Daniel Dannen in exchange for payment.
- e) Duration of the contract
May of 2017 until the end of the Contract for Deed payments. There is a continuing business relationship between Frieberg, Nelson & Ask, LLP and Daniel Dannen as client.

Signature of Requesting Party:  Date 2-12-2018

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Larry A. Nelson

Name of Board, Authority or Commission: Transportation Commission

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

Attach additional pages, if necessary.

2. Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23 - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Thomas Frieborg is attorney for Daniel Danner. Mr. Danner is the owner of the real property being sold to Lewis Hilmer and Sarah Delugosh on Contract for Deed. Mr. Hilmer and Sarah Delugosh are parties to an issue with the DOT for a highway right of way acquisition.	Daniel Danner, Thomas Frieborg attorney with Frieborg, Nelson, and Ask, LLP, law firm. Lewis Hilmer, and State of South Dakota.	Larry A. Nelson is a partner in the law firm of Frieborg, Nelson & Ask, LLP	May of 2017. There is a continuing business relationship between Frieborg, Nelson, & Ask, LLP, and Daniel Danner, as a client.

Attach additional pages, if necessary.

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

Attach additional pages, if necessary.

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member:



Date:



STATE OF SOUTH DAKOTA
TRANSPORTATION COMMISSION

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23 (CURRENT MEMBER)

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated January 26, 2018, was received from Larry A. Nelson. The request was acted upon by the members of the South Dakota Transportation Commission during a meeting held on February 1, 2018.

(check one)


The request for waiver of conflict was denied for the following reason(s):

The request for waiver of conflict was authorized for the following reason(s):

The Transportation Commission determined that the matters underlying the conflicts are fair, reasonable, and not contrary to the public interest.

The Transportation Commission's minutes, which include the written request for waiver as an attached exhibit, is attached to this Waiver Authorization as **Exhibit A**.

The request for waiver of conflict was authorized subject to the following condition(s):


Signature of Chairperson or Authorized Member _____ Date 2-1-18

Printed Name of Chairperson or Authorized Member: Ronald Rosenbaum

Date sent to Auditor-General: 3/14/18 Date sent to Attorney General: 3/14/18

**TRANSPORTATION COMMISSION MEETING MINUTES
FEBRUARY 1, 2018 – 9:00 A.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SD**

COMMISSIONERS PRESENT: Ron Rosenboom, Chairman
 Kyle White, Vice Chairman
 Kathy Zander, Member
 Mike Vehle, Member
 Kim Vanneman, Member
 Rod Fouberg, Member
 Don Roby, Member (joined the meeting at 9:10 a.m.)
 Larry A. Nelson, Member

DOT STAFF PRESENT: Darin Bergquist, Mike Behm, William Nevin, Karla Engle,
 Becky Janssen, Bonnie Olson, Joel Gengler, Julie Bolding,
 Kelly VanDeWiele, Jerry Ortbahn, Andy Vandel, Karen
 Olson, and Patricia Saukel

OTHERS PRESENT: Kirk Fredrichs and Mark Clausen - FHWA

OTHERS PRESENT Levi Hillmer and Les Noonan (joined the meeting at 10:22
 a.m.)

VIA CONFERENCE CALL:

Chairman Rosenboom called the meeting of the Transportation Commission (the “Commission”) to order at 9:03 a.m.

Chairman Rosenboom asked for a motion to approve the minutes of December 21, 2017.

A MOTION WAS MADE by Vehle and seconded by Vanneman to approve the December 21, 2017, meeting minutes. All present voted aye by voice vote. The motion carried.

Chairman Rosenboom opened the floor to Commission members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Commissioner Larry A. Nelson submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit A**) concerning conflicts of interest.

A MOTION WAS MADE by Zander and seconded by Vanneman to approve the waiver request submitted by Nelson as the Commission has determined that the matters underlying the conflict are fair, reasonable, and not contrary to the public interest. All present voted aye by voice vote, except Nelson, who abstained from the Commission discussion and vote. The motion carried.

Commissioner Rodney Fouberg submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit B**) concerning a perpetual easement

agreement entered into between Fouberg's spouse and the city of Aberdeen, South Dakota, for the donation of real property to accommodate a shared use path/recreational trail.

A MOTION WAS MADE by Vehle and seconded by White to approve the waiver request submitted by Fouberg as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to the public interest. All present voted aye by voice vote, except Fouberg, who abstained from the Commission discussion and vote. The motion carried.

Commission Roby joined the meeting at 9:10 a.m.

Karla Engle of the Office of Legal Counsel requested that the Transportation Commission set an administrative hearing for March 1, 2018, at 9:00 a.m. to consider suspension and debarment of K&L Construction, Inc. from submitting bids to the Department of Transportation (the "Department") and from being prequalified to submit bids to the Department and to further consider the term of any debarment.

A MOTION WAS MADE by Fouberg and seconded by Zander to set the administrative hearing date of March 1, 2018, at 9:00 a.m. as requested. All present voted aye by voice vote. The motion carried.

Secretary Darin Bergquist presented the Secretary's Report and requested to take his items in reverse order and begin with the election of officers. Bergquist reminded the Commission of past practice of using a methodology of selection of Chair and Vice Chair of the Commission which is a rotation from Vice Chair to Chair based on length of service.

A MOTION WAS MADE by Vanneman and seconded by Roby to elect Kyle White as Chair and Kathy Zander as Vice Chair beginning with the February 15, 2018, conference call meeting for a tenure of one year. All present voted aye by voice vote. The motion carried.

Bergquist informed the Commission that the Department has already had its budget hearing and it went well. Bergquist continued that the Department had several bills this legislative session. The Department introduced HB 1008 which would allow testing the use of variable speed limits on two segments of interstate, namely west of Rapid City and north of Brookings. Bergquist said this bill passed the House 68-2.

Bergquist also mentioned HB 1107 which amends and cleans up outdated language regarding county/township highway laws. This bill passed House Transportation 13-0.

He added that the Department was also working on three other bills, HB 1132 (setting minimum drinking age for military personnel at 18, to which the Department is opposed), SB 157 which would require the Department to institute a bidding process for median mowing, and SB 158 which would require transfer of \$6 million per year into the Local Bridge Improvement Grant (BIG) fund.

Bergquist also noted that there was a bill filed in the House (HB 1241) to impose annual fees on electric and hybrid vehicles. This fee would go into a local fund and is considered a registration fee.

Joel Gengler of the Right of Way office provided the following items for Commission consideration:

1. Abandonment – Hanson County

This resolution will abandon portions of old South Dakota Highway 42 in Hanson County, South Dakota.

Request Transportation Commission approval to abandon by resolution the following property acquired for highway right-of-way:

Lots A and B in Lot H1 in the NE1/4 of Section 20, Township 101 North, Range 58 West of the 5th P.M., Hanson County, South Dakota.

Said Lot A contains 0.82 acre, Lot B contains 2.35 acres

Lots A, B and C in Lot H1 in the S1/2 NW1/4 of Section 20, Township 101 North, Range 58 West of the 5th P.M., Hanson County, South Dakota.

Said Lot A contains 1.98 acres, Lot B contains 0.60 acre, Lot C contains 0.70 acre

This property is no longer needed for highway purposes and abandonment is requested by DOT Mitchell Area.

A MOTION WAS MADE by Roby and seconded by Fouberg to approve the request for abandonment item #1-Hanson County. All present voted aye by voice vote. The motion carried.

RESOLUTION #2018-02.01 was adopted.

2. Abandonment – Meade County

This resolution will abandon portions of old South Dakota Highway 34 in Meade County, South Dakota.

Request Transportation Commission approval to abandon by resolution the following property acquired for highway right-of-way:

Lot A in Lot H2 in the W1/2 SW1/4 of Section 5, Township 5 North, Range 6 East of the B.H.M., Meade County, South Dakota.

Said Lot A contains 4.49 acres.

Lot A in Lot H2 in the E1/2 SW1/4 of Section 5, Township 5 North, Range 6 East of the B.H.M., Meade County, South Dakota.

Said Lot A contains 2.88 acres.

This property is no longer needed for highway purposes and abandonment is requested by DOT Rapid City Region and Area.

A MOTION WAS MADE BY White and seconded by Vehle to approve the request for abandonment item #2-Meade County. All present voted aye by voice vote. The motion carried.

RESOLUTION #2018-02.02 was adopted.

3. Abandonment – Hutchinson County

This resolution will abandon the following property utilized as a roadside park:

Beginning at a point 66 feet North and 33 feet East of the SE1/4 corner of the NE1/4 of Section 26, Township 100 North, Range 56 West, Hutchinson County, South Dakota, thence South 486.6 feet along the Road Right of way, thence N 21° 43 feet East a distance of 525.9 feet, thence West 194.6 feet to the Road Right of way and place of beginning; all located in Section 25, Lot 4, Township 100 North, Range 56 West, Hutchinson County, South Dakota, less Lot H3.

The property contains 0.8 acres, more or less, located on the east side of Hwy 81 approximately three miles southwest of Dolton.

This property is no longer needed for roadside park purposes and abandonment is requested by DOT Yankton Area.

A MOTION WAS MADE by Fouberg and seconded by Zander to approve the request for abandonment item #3-Hutchinson County. All present voted aye by voice vote. The motion carried.

RESOLUTION #2018-02.03 was adopted.

Gengler requested the Commission disregard Item #10 because upon further verification by the Department there were not any temporary easements in Meade County.

4. Abandonment – Beadle County

This resolution will abandon the temporary easements on Beadle County Project:
NH 0014(173)342, PCN 026V

5. Abandonment – Clark County

This resolution will abandon the temporary easements on Clark County Project:
PH 0025(77)164, PCN 04J6.

6. Abandonment – Custer County

This resolution will abandon the temporary easements on Custer County Project:
PH 0040(214), PCN 04GR.

7. Abandonment – Harding County

This resolution will abandon the temporary easements on Harding County Project:
NH 0085(81)112, PCN 036G.

8. Abandonment – Hughes County

This resolution will abandon the temporary easements on Hughes County Project:
P 0034(154)225, PCN 038E.

9. Abandonment – Lake County

This resolution will abandon the temporary easements on Lake County Project:
P-PH 0019(31)73, PCN 025Z.

10. Abandonment – Meade County

This resolution will abandon the temporary easements on Meade County Project:
NH 0073(63)182, PCN 02S7.

11. Abandonment – Minnehaha County

This resolution will abandon the temporary easements on Minnehaha County Project:
P-PH 0019(31)73, PCN 025Z.

12. Abandonment – Minnehaha County

This resolution will abandon the temporary easements on Minnehaha County Project:
NH 0011(00)79, PCN 05JL.

13. Abandonment – Perkins County

This resolution will abandon the temporary easements on Perkins County Project:
NH 0073(63)182, PCN 02S7.

14. Abandonment – Potter County

This resolution will abandon the temporary easements on Potter County Project:
P 0020(117)254, PCN 02R9.

15. Abandonment – Walworth County

This resolution will abandon the temporary easements on Walworth County Project:
P 0020(117)254, PCN 02R9.

A MOTION WAS MADE by Vehle and seconded by Roby to approve the request to abandon items #4-Beadle County, #5-Clark County, #6-Custer County, #7-Harding County, #8-Hughes County, #9-Lake County, #11-Minnehaha County, #12-Minnehaha County, #13-Perkins County, #14-Potter County, and #15-Walworth County. All present voted aye by voice vote. The motion carried.

RESOLUTIONS #2018-02.04, #2018-02.05, #2018-02.06, #2018-02.07, #2018-02.08, #2018-02.09, #2018-02.10, #2018-02.11, #2018-02.12, #2018.02.13, and #2018.02.14 were adopted.

16. Condemnation – NH 0018(179)402, PCN 036L, Turner County

Request Transportation Commission approval to condemn for DOT right of way ownership by resolution within the following property:

Parcel 62 – Levi Hillmer & Sarah Dlugosh

The DOT has been unable to acquire the right of way property through normal negotiations for the project NH 0018(179)402, PCN 036L, Turner County - US18 from US81 to SD19.

A MOTION WAS MADE by Roby and seconded by Zander to approve condemnation for Item #16.

After extensive discussion regarding the condemnation of item #16 in Turner County, the Commission requested additional information from the Department. Roby withdrew his motion with consent of the second (Zander).

The Chair deferred any further action on the request for condemnation until either the Department provides additional information during this meeting or at a subsequent meeting.

Kelly VanDeWiele of Project Development presented the following bid letting results:

January 24, 2018

ADA Curb Ramp Upgrades

1	04NF, 04T7 NH 0212(00)114, NH 0073(00)174 Ti-Zack Concrete, Inc. US212 & SD73 through Faith	Meade County \$240,025.50
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Bridge Deck Overlay

2	05QW BRF 6496(00)16-3 J.V. Bailey Company, Inc. Structure on 309th Ave, 0.2 miles west & 0.4 miles south of Blunt over a creek	Hughes County \$241,413.60
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3 **Moved to January 26, 2018 letting**

Replace Structure (2-11'x11' RCBC) & Scour Protection

4	03U5 P 0047(105)44 Schweigert Construction Inc. SD47, 5.5 miles north of the Gregory County Line over Waterhole Creek & 7.3 miles south of I90 over the White River	Lyman County \$2,243,686.02
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Asphalt Concrete Resurfacing, Pavement Marking, & Guardrail

5	04WN NH 0281(112)96 Asphalt Paving & Materials Co US281 from south of SD34 to the Jerauld/Beadle County Line	Jerauld County \$2,066,020.74
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Slide Repair

6 045J NH 0083(77)115 Stanley County
A-G-E Corporation \$333,168.98
US83 1.5 miles south of the end of the divided lanes south of Ft. Pierre on the east side
of the roadway

Shared Use Path Construction

7 05C9 P TAPU(13) Brown County
Wright & Sudlow, Inc. \$217,665.04
Along 15th Ave. NE from the existing trail end east of Northview Lane to Roosevelt St in
Aberdeen

Areawide Pipe Repair

8 06EE NH-P 0012(222) Brookings, Deuel County
Subsurface, Inc. \$543,297.30
Various Locations Throughout the Watertown Area

Durable Pavement Marking

9 04H7 PH 0020(146) Minnehaha, Moody County
Traffic Solutions Inc \$807,797.05
Various locations on the State System in the Mitchell Region

A MOTION WAS MADE by White and seconded by Vanneman to approve bid #'s 1, 2, 4, 5, 6, 8, and 9. All present voted aye by voice vote. The motion carried.

A MOTION WAS MADE by Vehle and seconded by Roby to approve bid #7. All present voted aye by voice vote, except Fouberg who abstained. The motion carried.

January 26, 2018

Replace Structures (418'-0" Prestressed Girder Bridge & 2-11'x11' RCBC), Approach Grading, & RCBC Outlet Repair

3 03U0, 03TY P 0183(24)51, P 0248(10)239 Lyman, Tripp County
Heavy Constructors, Inc. \$6,200,484.00
Structures on US183 at the Tripp/Lyman Co Line over the White River, RCBC 10 miles
south of the Lyman Co. Line, and RCBC on SD248 0.1 miles east of US183

A MOTION WAS MADE by Vanneman and seconded by Zander to approve bid #3. All present voted aye by voice vote. The motion carried.

Mike Behm, Director of Planning and Engineering presented the following State Transportation Improvement Program (STIP) revisions for approval:

- REV 18-005 This revision will delete a 2020 railroad crossing improvement project located on SD25 (Sequence #206, Page 67 in the 2018-2021 STIP Book) as this work will be accomplished in separate projects in 2018 and 2021. It will also add a new 2018 project for installation of an advance warning sign for the crossing on US14 west of Blunt.
- FY 2018 Plus \$30,000
FY 2020 Minus \$320,000
- REV 18-024 This revision will add a 2018 pavement preservation project for the Mitchell Region.
- FY 2018 Plus \$51,000
- REV 18-025 This revision will defer a 2018 bridge maintenance project over the James River on US14 (Sequence #66, Page 46 in the 2018-2021 STIP Book) to the Long-Range Program due to the work being cost prohibitive.
- FY 2018 Minus \$196,000
Long Range Plus \$225,000
- REV 18-026 This revision will defer a 2018 pipe maintenance project on I90 from the Wyoming State Line to Exit 10 at Spearfish to 2021 (Sequence #501, Page 120 in the 2018-2021 STIP Book).
- FY 2018 Minus \$435,000
FY 2021 Plus \$461,000
- REV 18-030 This revision will add a 2018 project to upgrade various permanent vehicle classification sites throughout the state.
- FY 2018 Plus \$163,000
- REV 18-031 This revision will add a 2018 project to replace a waterline serving the Homestead Rest Area and the SDDOT State Shop at Junction City.
- FY 2018 Plus \$367,000

A MOTION WAS MADE by White and seconded by Vanneman to approve the above-listed STIP revisions. All present voted aye by voice vote. The motion carried.

The following informational revisions were provided to the Commission by Behm:

- REV 18-018 This revision changed federal participating funding to state participating funding for local bridge replacement projects located in Lake, Miner, Lawrence, Hand, Spink, Lake, Aurora, and McCook counties (Sequences #55, 390, 488, 489, 502, 579, 631 & 875, Pages 43, 101, 119, 120, 132, 141 & 170 in the 2018-2021 STIP Book).

FY 2018 No Change

REV 18-027 This revision revised the cost estimate of US83 Shoulder Widening, Spot Grading, AC Surfacing & Lighting project located from the Nebraska State Line to South of Mission. (Sequence #996, Page 184 in the 2018-2021 STIP Book).

FY 2018 Plus \$4,262,000

REV 18-028 This revision deferred a 2018 pavement preservation in Sioux Falls Area to 2019. (Sequence #530, Page 125 in the 2018-2021 STIP Book).

FY 2018 Minus \$179,000

FY 2019 Plus \$182,000

REV 18-032 This revision removed the SD73 East Junction to Antelope Road portion of the US18 Resurfacing project from the West Junction of SD73 to the Bennett/Todd County Line (Sequence #83 , Page 48 in the 2018-2021 STIP Book). This segment will be programmed for reconstruction in the future.

FY 2019 Minus \$2,155,000

REV 18-SC-011 This revision added repair work for a structure located 1.1 mile south of US12 on the 2019 US281 Mill & AC Resurfacing Project in Brown and Spink Counties (Sequence #s 132 & 88, Pages 54 & 171 in the 2018-2021 STIP Book).

FY 2019 Plus \$110,000

REV 18-SC-012 This revision adjusted the cost estimate of a 2018 Slide Repair project on US83 south of Ft Pierre (Sequence # 888, Page 173 in the 2018-2021 STIP Book).

FY 2018 Plus \$267,000

REV 18-SC-013 This revision added bridge guard rail approach work to the 2021 Shoulder Widening and AC Surfacing project on SD44 between US281 and SD37 (Sequence #s 311 & 437, Pages 86 &109 in the 2018-2021 STIP Book).

FY 2018 Plus \$224,000

REV 18-SC-014 This revision adjusted the cost estimate of a 2018 Huron Area Chip Seal project (Sequence #s 69, 201, 391, 441, 483 & 876, Pages 46, 66, 101, 111, 118 & 170 in the 2018-2021 STIP Book).

FY 2018 Plus \$1,444,000

REV 18-SC-015

This revision adjusted the cost estimate of a 2018 Huron Area Rout & Seal project (Sequence #s 199 & 875, Pages 66 & 170 in the 2018-2021 STIP Book).

FY 2018 Plus \$450,000

Behm presented the following spreadsheet listing the 2018 Transportation Alternatives Program Applications (TAP) for consideration of the Commission.

2018 Transportation Alternatives Program Applications and Recommendations Class 1 Cities									
Location	Project	Overall Cost	Req. Funding	Local Match	% Match	Rec. Funding	Local Match	Overall Cost	% Match
North Sioux City		\$326,302	\$244,727	\$81,575	25.00%	\$244,727	\$81,575	\$326,302	25.00%
Crooks		\$394,000	\$322,883	\$71,117	18.05%	\$322,883	\$71,117	\$394,000	18.05%
Brookings		\$210,300	\$157,725	\$52,575	25.00%	\$0			
	Current Subtotal - Class 1 Cities	\$930,602	\$725,335	\$205,267		\$567,610	\$152,692	\$720,302	
				Annual Federal Authority		\$1,120,873			
				Balance		\$553,263			
2018 Transportation Alternatives Program Applications and Recommendations Rural Communities									
Location	Project	Overall Cost	Req. Funding	Local Match	% Match	Rec. Funding	Local Match	Overall Cost	% Match
Kyle		\$594,891	\$400,000	\$194,891	32.76%	\$400,000	\$194,891	\$594,891	32.76%
Bullhead		\$235,013	\$192,593	\$42,420	18.05%	\$192,593	\$42,420	\$235,013	18.05%
Salem		\$552,000	\$400,000	\$152,000	27.54%	\$400,000	\$152,000	\$552,000	27.54%
Faulkton		\$133,526	\$106,821	\$26,705	20.00%	\$106,821	\$26,705	\$133,526	20.00%
Valley Springs		\$157,522	\$129,089	\$28,433	18.05%	\$129,089	\$28,433	\$157,522	18.05%
Lake Andes		\$353,816	\$289,952	\$63,864	18.05%	\$0			
Leola		\$261,000	\$213,890	\$47,110	18.05%	\$0			
Dell Rapids		\$693,000	\$400,000	\$293,000	42.28%	\$0			
	Current Subtotal - Small Cities	\$2,980,768	\$2,132,345	\$848,423		\$1,228,503	\$444,449	\$1,672,952	
				Annual Federal Authority		\$1,022,284			
				Auth. From Prev. Yrs.		\$206,219			
				Balance		\$0			
	Recommended Projects								

Updated 1/8/2018 jdo

A MOTION WAS MADE by Vehle and seconded by Zander to approve the recommendation of the applications for TAP awards to the following communities: North Sioux City, Crooks, Kyle, Bullhead, Salem, Faulkton, and Valley Springs. All present voted aye by voice vote. The motion carried.

Levi Hillmer and Les Noonan joined the meeting via conference call at 10:22 a.m.

The Commission returned to the condemnation discussion of item #16 of the Right of Way items. Karen Olson of the Office of Road Design provided the plat in question for Item #16 which was displayed on the overhead screen for viewing.

Levi Hillmer, the landowner that was to be directly affected by the condemnation of item #16, appeared by conference call with his father-in-law, Les Noonan of Lennox, South Dakota, to address the Commission.

A MOTION WAS MADE by White and seconded by Roby to defer further discussion and any decision on Item #16 until the February 15, 2018, conference call meeting. All present voted aye by voice vote, except for Nelson who voted nay. The motion carried.

Kirk Fredrichs of the Federal Highway Administration presented an informational item on the 2016 Fatal Crash Overview.

Commissioner Kyle White addressed the Chair and offered some closing comments on the discussion of the Right of Way condemnation recommendation item #16.

Mike Behm addressed the Commission with an additional STIP revision clarification regarding the Department's ability to move projects within the STIP year. He clarified that staff may move projects within the STIP and it could be within "years or a year" within the construction STIP.

With no other business to come before the Commission, the meeting was declared adjourned at 11:10 a.m.

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority)

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Date: January 26, 2018

Name of Board Member or Former Board Member: Larry A. Nelson

Name of Board, Authority or Commission: Transportation Commission

Brief explanation of contract for which a waiver is requested:

- a) Parties to the contract
Please see attached document

- b) Board Member's role in the contract
Please see attached document

- c) Purpose and objective of the contract
Please see attached document

- d) Consideration or benefit conferred or agreed to be conferred upon each party
Please see attached document

- e) Duration of the contract
Please see attached document

Signature of Requesting Party:  Date 1-26-2018

Brief explanation of contract for which a waiver is requested:

1.
 - a) City of Canton, South Dakota & Larry A. Nelson, with assistance of Brenda M. Ask, attorneys of Frieberg, Nelson & Ask, LLP, law firm.
 - b) Provides legal services to the City of Canton.
 - c) Provide legal services to the City of Canton.
 - d) Legal services are provided in exchange for payment.
 - e) 1990, until no longer serving in capacity as City Attorney.

2.
 - a) City of Worthing, South Dakota & Larry A. Nelson, with assistance of Brenda M. Ask, attorneys with Frieberg, Nelson & Ask, LLP, law firm.
 - b) Provides legal services to the City of Worthing.
 - c) Provide legal services to the City of Worthing.
 - d) Legal services are provided in exchange for payment.
 - e) 1994, until no longer serving in capacity as City Attorney.

3.
 - a) City of Hartford, South Dakota & Larry A. Nelson, with assistance of Brenda M. Ask, attorneys with Frieberg, Nelson & Ask, LLP, law firm.
 - b) Provides legal services to the City of Hartford.
 - c) Provide legal services to the City of Hartford.
 - d) Legal services are provided in exchange for payment.
 - e) 1996, until no longer serving in capacity as City Attorney.

4.
 - a) City of Beresford, South Dakota & Thomas Frieberg, with assistance of Samuel J. Nelson, attorneys with Frieberg, Nelson & Ask, LLP, law firm.
 - b) Provides legal services to the City of Beresford.
 - c) Provide legal services to the City of Beresford.
 - d) Legal services are provided in exchange for payment.
 - e) 1992, until no longer serving in capacity as City Attorney.

5.
 - a) City of Alcester, South Dakota & Thomas Frieberg, with assistance of Samuel J. Nelson, attorneys with Frieberg, Nelson & Ask, LLP, law firm.
 - b) Provides legal services to the City of Alcester.
 - c) Provide legal services to the City of Alcester.
 - d) Legal services are provided in exchange for payment.
 - e) 2018, until no longer serving in capacity as City Attorney

6.
 - a) Lincoln County Rural Water Systems, Inc., City of Harrisburg, South Dakota, and City of Sioux Falls, with SDDOT providing project funds.
 - b) Provide legal services as Attorney for Lincoln County Rural Water Systems.
 - c) Water line relocation and funding involving highway construction project.
 - d) LCRW - Water line relocation reimbursements
 - City of Harrisburg - Reimbursements and cost share
 - City of Sioux Falls - Reimbursements and cost share
 - SDDOT - Road improvements and funding
 - e) Providing legal services until completion of project.

7.
 - a) Larry A. Nelson, Frieberg, Nelson & Ask, LLP, law firm and Sioux Falls School District 49-5.
 - b) Legislative contract lobbyist.
 - c) Sioux Falls School District 49-5 is represented and lobbied on behalf of during each South Dakota Legislative Session.
 - d) Lobbying services are provided in exchange for payment.
 - e) 2014, until no longer serving as Lobbyist by Sioux Falls School District 49-5.

8.
 - a) City of Canton, South Dakota, and Edith Nelson.
 - b) None. Edith Nelson is the spouse of Larry A. Nelson.
 - c) Edith Nelson is employed by the City of Canton as Director of the City Library.
 - d) Edith Nelson is paid a yearly salary by the City of Canton as Director of the City Library.
 - e) 2008, until Edith Nelson is no longer employed by the City of Canton as Director of the City Library.

9.
 - a) Thomas Frieberg, with assistance from Samuel J. Nelson, attorneys of Frieberg, Nelson & Ask, LLP, law firm and Union County, South Dakota.
 - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) Frieberg, Nelson & Ask, LLP, law firm is contracted as a court appointed Attorney for legal services to criminal defendants who cannot afford a retained Attorney.
 - d) Legal services are provided in exchange for payment.
 - e) January 1, 2016, through December 31, 2018 contract, which can be renewed for another 5 year contract.

10.
 - a) Brenda M. Ask, Frieberg, Nelson & Ask, LLP, law firm and Lincoln County Commission.
 - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) Brenda M. Ask is appointed as Chair of the Mental Health Board.
 - d) Services to the Mental Health Board are provided in exchange for payment from the Lincoln County Commission.
 - e) Appointed June 2009, and reappointed yearly until no longer reappointed.

11.
 - a) Thomas Frieberg, Frieberg, Nelson & Ask, LLP, law firm and University of South Dakota.
 - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) Thomas Frieberg is retained as an Attorney for the University of South Dakota and provides legal services.
 - d) Legal services are provided in exchange for payment.
 - e) 2005, until no longer serving in capacity as Attorney for the University of South Dakota.

12.
 - a) Brenda M. Ask, Frieberg, Nelson & Ask, LLP, law firm and Lincoln County, South Dakota.
 - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) Brenda M. Ask has been previously appointed, and has the possibility of being appointed again, by the Court of Lincoln County as a court appointed attorney for legal services.
 - d) Legal services are provided in exchange for payment.
 - e) There is no contract on file, as services are performed by the request of the Court.

13.
 - a) Samuel J. Nelson, Frieberg, Nelson & Ask, LLP, law firm and Lincoln County, South Dakota.
 - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) Samuel J. Nelson has been previously appointed, and has the possibility of being appointed again, by the Court of Lincoln County as a court appointed attorney for legal services .
 - d) Legal services are provided in exchange for payment.
 - e) There is no contract on file, as services are performed by the request of the Court.

FRIEBERG, NELSON & ASK, L.L.P.

ATTORNEYS AT LAW

ROBERT B. FRIEBERG
THOMAS H. FRIEBERG
LARRY A. NELSON
BRENDA M. ASK (SD & IA)
SAMUEL J. NELSON

AUGUST FRIEBERG (1863-1932)
ROSCOE A. FRIEBERG (1903-1982)
BLAINE O. RUDOLPH (1925-2016)

Sender's Address:
206 E. 5th Street
P.O. Box 38
Canton, SD 57013-0038

PHONE: (605) 987-2686
FAX: (605) 987-5779
EMAIL: lnelson@frieberglaw.com

January 26, 2017

Mr. Ronald Rosenboom, Chairman
South Dakota Transportation Commission
South Dakota Department of Transportation
700 East Broadway Avenue
Pierre, SD 57501

Re: *Conflict of Interest Disclosure*

Dear Chairman Rosenboom:

This letter is in response to SDCL § 3-23-1 and SDCL § 3-23-2, and is intended to address whether I, my wife, or any entity in which we have ownership interests derives any direct benefit from a contract or transaction with the State of South Dakota that specifically relates to the South Dakota Department of Transportation and my involvement as an active SDDOT Commissioner.

I am a Partner in the law firm of Frieberg, Nelson & Ask, L.L.P. The partnership is appointed as City Attorney for the municipalities of Hartford, Worthing, Canton, and Beresford, all of which are located in South Dakota. Should a situation arise with a SDDOT contract or transaction with any of these municipalities I would disclose any potential conflict at that time.

I have enclosed the completed Annual Disclosure for Commission Member pursuant to SDCL Chapter 3-23, and Request for State Board Waiver pursuant to SDCL Chapter 3-23.

I will continue to review the agenda items for upcoming Transportation Committee meetings and be forthcoming in any potential conflict of interest. Thank you for your consideration.



LARRY A. NELSON
Commissioner
South Dakota Transportation Commission

LAN/src
CC: Darin Bergquist, Secretary of Transportation, SDDOT
Karla Engle, Chief of Legal Counsel, SDDOT

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Larry A. Nelson

Name of Board, Authority or Commission: Transportation Commission

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. **Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law** - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

Attach additional pages, if necessary.

2. **Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Hired Attorney	Lincoln County Rural Water Systems, Inc. & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by LCRW for legal services	1996 - Renews yearly
Hired Attorney	City of Canton, South Dakota & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by the City of Hartford for legal services	1990 - Renews yearly
Hired Attorney	City of Worthing, South Dakota & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by the City of Worthing for legal services	1994 - Renews yearly
Hired Attorney	City of Hartford, South Dakota & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by the City of Hartford for legal services	1996 - Renews yearly

Attach additional pages, if necessary.

Please see additional pages attached

2. **Contacts in which you have a direct benefit pursuant to SDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2, and 3-23-3.1.

Description of the Contract	Parties	Description of the direct benefit	Date contract was authorized
Hired Attorney	City of Beresford, South Dakota & Frieberg, Nelson & Ask, law firm	Hired Attorney paid by the City of Beresford for legal services	1992 - Renews yearly
Hired Attorney	City of Alcester, South Dakota & Frieberg, Nelson & Ask, law firm	Hired Attorney paid by the City of Alcester for legal services	2018 - Renews yearly
Hired Attorney for Lincoln County Rural Water System, Inc., who has an agreement with City of Harrisburg & City of Sioux Falls for water line relocation project and use of DOT funds	Lincoln County Rural Water System, Inc, City of Harrisburg, City of Sioux Falls & Frieberg, Nelson & Ask, law firm	Hired Attorney paid by Lincoln County Rural Water Systems, Inc. for legal services	1996 - Serves at pleasure of Board
Legislative Contract Lobbyist	Larry A. Nelson & Sioux Falls School District 49-5	Hired lobbyist paid by Sioux Falls School District 49-5 for lobbying services	2014 - original contract date, subsequent yearly renewals
Edith Nelson, Director of the City Library for the City of Canton, South Dakota	City of Canton, South Dakota & Edith Nelson	Edith Nelson, Director of City Library paid by the City of Canton a yearly salary to run the City library as a City employee	2008 hired as Director of the City Library
Union County Court Appointments for criminal legal services	Thomas Frieberg of Frieberg, Nelson & Ask, LLP, law firm, with assistance of Samuel J. Nelson, Attorney, and Union County	Hired Court Appointed Attorney paid by Union County for legal services to criminal defendants who cannot afford a retained Attorney	January 1, 2016, through December 31, 2018, contract with Union County
Mental Health Board Chairman appointed by Lincoln County Commission, South Dakota	Brenda M. Ask and Lincoln County Commission	Appointed as Chair to the Mental Health Board and paid by Lincoln County for mental health services	Appointed June 2009 and reappointed yearly by Lincoln County Commission

2. **Contacts in which you have a direct benefit pursuant to SDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2, and 3-23-3.1.

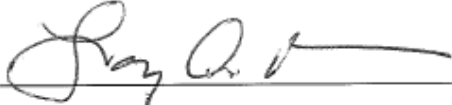
Description of the Contract	Parties	Description of the direct benefit	Date contract was authorized
Council of the Disciplinary Board of South Dakota Bar Association	Robert Frieberg and South Dakota Bar Association	Appointed to and paid by Disciplinary Board of South Dakota Bar Association, which Association receives money from the Attorney General's office	Appointed in 2000 and reappointed by President of the Board as determined by President of the Board
Hearing Examiner for the South Dakota Board of Medical and Osteopathic Examiners	Thomas Frieberg and South Dakota Board of Medical and Osteopathic Examiners	Hired by South Dakota Board of Medical and Osteopathic Examiners as a Hearing Examiner	2004- original contract and renews yearly
Hearing Examiner for the South Dakota Pharmacy Board	Thomas Frieberg and South Dakota Pharmacy Board	Hired by South Dakota Pharmacy Board as a Hearing Examiner	January 2018
Hired Attorney	University of South Dakota and Thomas Frieberg of Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney for University of South Dakota for legal services	2005 - Renews yearly
Lincoln County Court Appointments for criminal legal services	Brenda M. Ask of Frieberg, Nelson & Ask, LLP, and Lincoln County	Hired by Lincoln County as Court Appointed Attorney paid by Lincoln County for legal services to criminal defendants who cannot afford a retained attorney	Last appointed 2017, appointed as needed by Court

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

Attach additional pages, if necessary.

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member:  Date: 1-26-2018

STATE OF SOUTH DAKOTA
TRANSPORTATION COMMISSION

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL 3-23-3

Date: January 29, 2018

Name of Board Member or Former Board Member: Rodney Fouberg

Brief explanation of contract for which a waiver is requested:

Agreement for Voluntary Right of Way Donation. Perpetual Easement for shared use Path/Recreational Trail. Project Number P-TAPU (13) PCN 05C9. Aberdeen SD. Project number 7 1/24/2018 SDDOT Letting. 0.296 Acres (5'wide by 2,581.8 long). Dated 16th Day of January, 2017.

a) Parties to the contract

Glenna N. Fouberg Donor
City of Aberdeen SD

b) Board Member's role in the contract

DOT Commissioner/Board member Rodney Fouberg is the husband of Glenna N. Fouberg.

c) Purpose and objective of the contract

The City of Aberdeen requested the 5' wide easement to accommodate a 10' trail with a 6' grass strip between the trail and 15th Ave NE.

d) Consideration or benefit conferred or agreed to be conferred upon each party

Donated. One Dollar (\$1.00) and other good and valuable consideration.

e) Duration of the contract

The perpetual easement shall be in effect until the recreational trail is abandoned by the proper action of the City of Aberdeen, SD.

Signature of Requesting Party: _____



Date

1/29/18

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Rodney Fouberg

Name of Board, Authority, or Commission: South Dakota Transportation Commission

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority, or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority, or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority, or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority, or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
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Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

Attach additional pages, if necessary.

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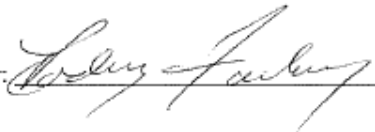
Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
<p>Agreement for Voluntary Right of Way Donation. Perpetual Easement for Shared Use Path/Recreational Trail. Project Number P-TAPU (13) PCN 05C9. Aberdeen SD project number 7 1/24/2018 SDDOT Letting. 0.296 acres (5' wide by 2,581.8' long). Dated 16th day of January, 2017. Easement donated. One Dollar (\$1.00) and other good and valuable consideration.</p>	<p>Glenna N. Fouberg-Donor City of Aberdeen SD</p>	<p>I am the husband of Glenna N. Fouberg-Donor</p>	<p>1/16/2017</p>

3. **Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services** – Provide the following for each such entity. See SDCL 3.23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

Attach additional pages, if necessary.

The Member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority, or commission in order for the Member to legally derive a direct benefit.

Signature of Member:  Date 1/29/18