

# **South Dakota 2018 Interim Committee Reports & Judicial Opinions**



# 2018 Interim Committee Reports

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# Access to Mental Health Services Study Committee 2018 Final Report



## Study Assignment

The Access to Mental Health Services Study Committee was charged with the task of reviewing mental health services available in the state and the capacity of the available services:

- (1) how persons with mental illness are treated and the continuum of care available;
- (2) the facilities, locations, resources, treatment options, and services available for treatment of persons with mental illness; and
- (3) the financial costs to the state and its political subdivisions.

## Summary of Interim

The committee examined mental health service availability throughout the state. At the first meeting on June 28, Dr. Matthew Stanley, Avera Medical Group University Psychiatry Associates, Sioux Falls, provided an overview of the concepts of mental health and mental illness and the role of primary care in accessing services and treatment. Gina Brimner and April Hendrickson, Western Interstate Commission for Higher Education (WICHE), described the projects their organization is working on in the area of mental health, for the Department of Social Services, and what type of technical assistance WICHE could provide to the committee. Other presentations included the role of public mental health services, an overview of South Dakota's community based mental health system, and a report on the progress on recommendations following the 2011 Governor's Behavioral Health Services Work Group. The Department of Social Services provided information on responses to criminal justice reforms and the efforts to improve criminal justice system responses to persons with mental illness. Presenters included Lynne Valenti, Secretary, Department of Social Services; Amy Iversen-Pollreisz, Deputy Secretary, Department of Social Services; Terry Dosch, Executive Director, South Dakota Council of Mental Health Centers; and Senator Alan Solano, CEO, Behavior Management Systems, Inc.

On August 6, members toured Lewis and Clark Behavioral Health Services, Inc. (LCBHS), a community based mental health center, and the Human Services Center in Yankton. Dr. Tom Stanage, CEO of LCBHS, Ken Cole, Human Services Center Administrator, and Amy Iversen-Pollreisz gave presentations in conjunction with the tours. On August 7, the committee toured the Avera Behavioral Health Center in Sioux Falls, including a mock demonstration of a virtual telehealth provider visit. During the public meeting on August 7, April Hendrickson of WICHE spoke on national mental health trends. Speakers provided a perspective on the law enforcement and judicial continuum of mental health services. Presenters included Aaron McGowan, Minnehaha County State's Attorney; Warden Jeff Gromer, Minnehaha County Jail; Sergeant Tarah Walton, Sioux Falls Police Department; Kim Hansen, Southeastern Behavioral Healthcare; Jim Iosty, Chair, Minnehaha County Board of Mental Illness; and Brenda Ask, Chair, Lincoln County Board of Mental Illness. Other speakers represented the National Alliance on Mental Illness (NAMI) South Dakota, the Helpline Center, Lutheran Social Services, Catholic Family Services, and the Avera Behavioral Health Center.

At the September 11 meeting in Pierre, Dr. Mikel Holland, President, Avera-St. Mary's Hospital, described the work and issues facing the Pierre/Ft. Pierre Area Mental Health Task Force, and Jim Kinyon, Executive Director, shared the perspective of Catholic Social Services of the Black Hills. Department of Health Secretary Kim Malsam-Rysdon and State Epidemiologist Dr. Joshua Clayton presented information on suicide statistics and prevention efforts in South Dakota along with comments from Amy Iversen-Pollreisz. April Hendrickson of WICHE shared national information on suicide and population health. Aaron Pollard, Deputy Secretary, Department of Veterans Affairs, described statewide efforts and services for veterans. A group of speakers presented on challenges facing West River law enforcement, crisis services, and health care systems in the Rapid City area, including Pennington County

Sheriff Kevin Thom, Rapid City Chief of Police Karl Jegeris, Rapid City Crisis Care Center Clinical Director Randy Allen, and John Pierce, President of the Rapid City Hospital and Market at Regional Health. The committee discussed the mental health services continuum of care and state funding. Public testimony included representatives from the Brookings Empowerment Project.

In October, the committee heard a presentation on the commitment process in South Dakota and the nation, and members turned their focus to discussing potential funding and policy recommendations for mental health services in South Dakota and the committee's next steps in these areas.

In December, the committee reviewed follow up data from the Department of Social Services and from April Hendrickson of WICHE. The committee considered draft legislation on funding a statewide resource information system, task forces for future study, and on emergency involuntary commitments. The committee voted to sponsor the drafts on the resource information system and the concurrent resolution on task forces for further study.

### **Listing of Legislation Adopted by the Committee**

1. To provide for a statewide resource information system.
2. To provide for legislative task forces to study, report, and develop and consider recommendations and proposed legislation regarding sustainable improvements to the continuum of mental health services available in the state.

### **Summary of Meeting Dates and Places**

The committee met in Pierre on June 28. Members toured facilities in Yankton on August 6, and the committee met in Sioux Falls on August 7. The committee met in Pierre on October 17 and December 3.

### **Listing of Committee Members**

Members of the committee are Senator Deb Soholt, Chair; Representative Herman Otten, Vice Chair; Senators Bob Ewing, Craig Kennedy, Kris Langer, Alan Solano, and Jim Stalzer; and Representatives Michael Diedrich, Steven Haugaard, Taffy Howard, Jean Hunhoff, Kevin Jensen, Timothy Johns, Tim Reed, and Susan Wismer.

### **Listing of Staff Members**

Staff members for the committee are Emily Kerr, Legislative Attorney; Wenzel Cummings, Senior Legislative Attorney; Jason Simmons, Principal Fiscal & Program Analyst; and Kelly Thompson, Senior Legislative Secretary, with assistance from Rachael Person, Senior Legislative Secretary.





# Ag Land Assessment Task Force

## 2018 Final Report



### Study Assignment

The task force shall review the implementation of the provisions of law concerning the assessment and taxation of agricultural land and advise the Department of Revenue regarding the rules promulgated by the department to administer the provisions concerning the assessment and taxation of agricultural lands. In addition, the task force shall make recommendations in the following areas:

1. The proper percentage of annual earning capacity to be used to determine the agricultural income value for cropland and noncropland;
2. The proper capitalization rate that minimizes the shift in total taxable value between agricultural land and the other property classifications;
3. The changes, if any, that must be made to capital outlay levy or special education tax levy to ensure that the total amount of additional taxes that may be generated on agricultural land by a school district pursuant to the provisions will not provide a substantial property tax revenue increase or decrease for the school district, pursuant to the implementation of the productivity; and
4. The distribution of the local effort for the general fund of school districts between the classifications of real property for the general fund of school districts. The task force shall also consider the other taxes paid by agricultural property, the relationship of the total assessed value of agricultural property to the total assessed value of all real property, and other factors the task force deems appropriate.

### Summary of Interim

The interim Agricultural Land Assessment Implementation and Oversight Advisory Task Force held its first meeting on July 10 in Pierre. At the first meeting, the committee elected Senator Larry Tidemann, as Chair and Representative Larry Rhoden, as Vice-Chair. Mr. Michael Houdyshell, Department of Revenue, addressed the task force regarding the 2019 assessment year. All counties are now at full productivity values for the 2019 assessment year. Dr. Matthew Elliott, SDSU, updated members on the progress being made with the Soil Ratings Study. The results of the study will be presented at the next meeting. The purpose of the research is to provide objective data to quantify the probability of highest and best use determinations for each soil type in a county. The study explores three different approaches for highest and best use determination for agricultural land in South Dakota (current method, a most probable use method, and an actual use method). Highest and best use is defined as the reasonably probable use of property that results in the highest value. The four criteria that the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.

The final meeting was held on November 13<sup>th</sup>. The committee heard the finalized data results of the soil ratings study. Dr. Elliott concluded that the research demonstrates the new methods are attainable and created a consistent model of methodology that is consistent with the definitions by the appraisal institute for finding highest and best use and is consistent with standards for developing a mass appraisal model and standards for coming up with the highest and best use supportable and replicable determination method. He recommended adding additional data and altering the method that determines highest and best use and that the data captures

dimensions such as financial feasibility and current use patterns such as probable use that are not considered by the Natural Resources Conservation Service (NRCS).

The task force reviewed the draft legislation, heard public testimony, and discussed the merits of each draft. The task force approved the introduction of two bill drafts. The taskforce recommended a pilot program for 10 to 15 counties willing to go to full assessed valuation.

### **Listing of Legislation Adopted by the Committee**

1. An Act to provide for the assessment of certain agricultural land as noncropland.
2. An Act to revise certain provisions regarding the classification of agricultural land for property tax purposes.

### **Summary of Meeting Dates and Places**

The committee met in Pierre on July 10, 2018, and on November 13, 2018.

### **Listing of Committee Members**

Members of the committee are Senator Larry Tidemann, Chair; Representative Larry Rhoden, Vice-Chair; Senators Gary Cammack, Jason Frerichs, and Craig Kennedy; and Representatives Lee Qualm, Steven McCleery, and Ray Ring; Public members are Trevor Cramer, Kyle Helseth, Matt McCaulley, David Owen, Jim Peterson and Mike Wiese.

### **Listing of Staff Members**

Staff members for the committee are Amanda Marsh, Senior Research Analyst; Lucas Martin, Fiscal and Program Analyst; Rachael Person, Senior Legislative Secretary.



# Code Commission

## 2018 Final Report

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### **Study Assignment**

The Code Commission supervises the publication of the South Dakota Codified Laws (Code), corrects errors to the Code, assists the code counsel, makes recommendations to the Legislature, and contracts for replacement volumes.

### **Summary of Interim**

#### Replacement Volumes

Annually West Publishing, a Thomson Reuters Company, provides to the Code Commission a "Pocketpart Growth Report." This report identifies the page count as a percentage for each pocketpart for each volume relative to the page count for the main volume. It is the practice of the Code Commission to consider volumes for reprinting when the pocketpart growth relative to the main volume equals or exceeds 25% of the main volume. The Code Commission considers one to three volumes for replacement each year. After a discussion of the candidates for replacement, the Code Commission reached a consensus to reprint Volumes 1, 8, and 9.

#### Publishing Contract

The contract for the publication of the Code is subject to annual renewal. The Code Commission in January requested that West Publishing draft a revised contract to remove stray references and correct outdated information; once reviewed, the contract was subsequently renewed for another year.

#### Request Regarding "IBM Watson Regulatory Compliance" Service

The Code Commission met with representatives from IBM regarding the company's request for access to certain statutes and rules from the Legislative Research Council (LRC) website for use in the "IBM Watson Regulatory Compliance (WRC)" service. WRC is a platform that provides financial institutions with global access to the laws and rules regulating their industry to assist them in building better compliance programs. The regulatory content is loaded into a searchable library; users must set up a profile to access the information and sign up for notifications of regulatory changes. The Commission requested that IBM submit a written request for the website access, specifying the request must include hold harmless language, documentation that West Publishing as the exclusive publisher of the South Dakota Code did not object to the access, and the potential for free subscriptions to the service for the South Dakota Division of Banking and LRC.

### **Listing of Legislation Adopted by the Commission**

The annual codification of the previous year's session laws.

An Act to codify legislation enacted in 2018.

### **Summary of Meeting Dates and Places**

In 2018, the Code Commission met January 17 at the State Capitol in Pierre, June 20 at the State Bar Association annual meeting in Sioux Falls, and July 27 at the State Capitol in Pierre.

### **Listing of Code Commission Members**

Members of the Code Commission are Michael DeMersseman, Chair; Margaret Gillespie, Vice-Chair; Representative Mike Stevens, Senator Arthur Rusch, and Tom Lee.

### **Listing of Staff Members**

Staff members for the Code Commission are Doug Decker, Code Counsel, and Kelly Thompson, Senior Legislative Secretary.



# Extraordinary Cost Fund for Special Education 2018 Final Report

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## Study Assignment

The specific issue to be addressed was the increasing need for special education and related services in the schools in our state and how to adequately fund special education considering that increased need. One of the main concerns is that the state aid dollars currently being set aside for the extraordinary cost fund for special education are not adequate to meet the demands on that fund. What is causing the need for increased funding? What are the state and federal requirements? How are children being identified for the levels of disability? Some school districts, due to the small number of special education students they serve, receive little to no funding for special education while other school districts must utilize the extraordinary cost fund to try to meet their demands for special education. What can be done to ensure adequate funding to the schools that need it?

## Background

Over the past five years, total student enrollment in South Dakota elementary and secondary schools has increased by approximately five percent. The enrollment grew from 128,016 students to 134,253 students. Over that same time, the number of students in need of special education has increased by approximately eleven percent. Nationwide, 13.63 percent of students are receiving special education services. In South Dakota, 15.13 percent of students are receiving special education services.

The extraordinary cost fund was implemented in 1997 as part of the state aid to special education funding formula. The fund was intended to cover a school district's revenue shortfall in the current fiscal year. In 2013, some changes were made in how school districts could manage their special education fund balances. Also, in that year, the Legislature voted to set aside four million dollars each year for the extraordinary cost fund. For the past two years, the amount of funding requested from the extraordinary cost fund by school districts has exceeded the amount set aside to cover the extraordinary costs.

## Summary of Interim

The committee began by gathering a wide array of information surrounding special education. Linda Turner, the Director of Special Education Programs for the SD Department of Education, provided an overview of special education, including information on its history in the United States, the services provided through special education, and how students are identified as needing special education. She provided statistics on the numbers of students in need of special education in the state over the course of the last several years and explained the disability levels into which each student identified is placed.

Tamara Darnall, then the Director of the Division of Finance and Management in the Department of Education, provided the committee with information specific to the funding of special education. She explained the state aid to special education formula and how school districts in need of additional funding for special education gain access to the Extraordinary Cost Fund. She described many of the federal requirements that school districts must follow in funding special education, including the required maintenance of effort. She provided the committee with a listing of the school districts that have utilized the Extraordinary Cost Fund in recent years.

Michael Houdyshell with the SD Department of Revenue discussed the state's property tax system with the committee and the role that funding plays in supporting special education. He provided the committee with an analysis of the special education levies for this year.

The committee heard from representatives of a variety of school districts who described the challenges they face in providing special education to a growing number of students while at the same time facing large increases in the costs of some of the services they must provide. Those school district representatives testifying before the committee included the following: Barbara Lindquist, Bon Homme School District; Klint Willert, Brian Lueders, and Wendy Othein, Brookings School District; Jeff Danielsen and Jennifer Heggelund, Watertown School District; Jeff Simmons, Meade School District; Jamie Hermann, Kadoka School District; Rhonda Frederick, McLaughlin School District; Tom Culver, Avon School District; and Jerry Aberle with the Northeast Services Cooperative in Hayti.

Greg Sattizahn, the State Court Administrator, briefed the committee on the juvenile justice reforms that have taken place as a result of the legislation enacted in 2016. He noted that one unexpected outcome of the reforms is that the number of juveniles being placed in residential facilities by parents or schools has increased while the number being placed by the Department of Corrections has decreased.

After much discussion and receiving public testimony, the committee adopted five pieces of legislation - four bills and one concurrent resolution. Committee members expressed hope that the changes proposed in the bills would provide some assistance to school districts struggling to fund special education without having too large an impact on the state budget. They see a need to examine this and other issues surrounding special education further perhaps by a committee that has more time to focus on it and a broader scope of study than what was assigned to this committee.

### **Listing of Legislation Adopted by the Committee**

1. An Act to add a legislator to the Extraordinary Cost Oversight Board, to establish the board in statute, and to repeal the administrative rules creating the board.
2. An Act to revise the timing of the recalculation of the allocations for the disability levels in the state aid to special education formula.
3. An Act to adjust for inflation the amount of the special education appropriation that may be set aside for extraordinary expenses.
4. An Act to create the Special Education Task Force.
5. A Concurrent Resolution, Urging Congress to increase federal funding for special education.

### **Summary of Meeting Dates and Places**

The committee met in Pierre on the following dates: June 13, July 26, and September 11, 2018.

### **Listing of Committee Members**

Members of the committee were Representative Mary Duvall, Chair; Senator Jim Bolin, Vice Chair; Senators Ryan Maher, Jeff Monroe, Reynold Nesiba, and Jordan Youngberg; Representatives Dan Ahlers, Hugh Bartels, Lana Greenfield, Tom Holmes, Elizabeth May, Kyle Schoenfish, and Jamie Smith.

### **Listing of Staff Members**

Staff members for the committee were Clare Charlson, Principal Research Analyst; Lucas Martin, Fiscal Analyst; and Cindy Tryon, Senior Secretary.



# Interim Joint Committee on Appropriations 2018 Final Report



## Study Assignment

The Interim Joint Committee on Appropriations (Interim JCA) was established by the 1974 Legislature in SDCL 4-8A-2. Members appointed to the Joint Committee on Appropriations during regular legislative sessions are to also serve on the Interim JCA. The Joint Committee on Appropriations consists of eighteen members; nine appointed by the president pro tempore and Senate minority leader, and nine appointed by the speaker of the House of Representatives, with advice from the House minority leader.

## Summary of Interim

During the 2018 Interim, the Interim JCA held four meetings.

During the first meeting, held in Pierre on March 26, 2018, the Interim JCA:

- **Approved Letters of Intent.** A Letter of Intent (LOI) supplements an appropriation approved by the Legislature and enacted into law. It outlines policy guidelines for state agencies and expresses particular views held by the JCA when it approved the appropriation. These guidelines do not have the direct force of statutory law and agencies are not required to follow them; however, they are used by the JCA as a means to conduct fiscal oversight of state agencies. The following Letters of Intent were adopted by the Interim JCA:
  - **Department of Corrections (DOC) – LEAN review.** The LOI allows funding from the Legislative Priority Pilot Program Contingency Fund to be used for conducting a LEAN audit of one or more of the divisions of the Department of Corrections.
  - **Bureau of Administration (BOA) – LEAN review.** The LOI allows funding from the Legislative Priority Pilot Program Contingency Fund to be used for conducting a LEAN audit of one or more of the divisions of the Bureau of Administration.
  - **Department of Health (DOH) – Rural Family Medicine Residency Reporting.** The 2018 South Dakota Legislature approved ongoing funding for a rural family medicine residency program in Pierre through the FY2019 General Appropriations Act (HB 1320). The LOI requires the Department of Health to provide an annual report by December 1 of each year that includes the medical specialties, multi-disciplinary teams, and communities each resident has exposure to, the location of physicians that complete the residency one year and five years after completion, the areas of the state with the greatest need for family medicine physicians, any financial or in-kind contributions to the program from any source other than this appropriation, and any other metrics or outcomes the Department uses in evaluating the program.
  - **Department of Revenue (DOR) – Automated Lockbox System for State Government.** The LOI requests the Department of Revenue proceed with an analysis of implementing an automated lockbox service within the department for the processing of accounts receivable. The LOI also requested a report at the July 2018 interim JCA meeting outlining a project description, goals and objectives, and a cost/benefit analysis of implementing an automated lockbox service.
  - **Multiple – Agency Credit Card Processing.** The LOI requests certain departments to process all credit card payments to the State's main account within the Office of the State Treasurer regardless of the merchant processor. Agencies are to provide any concerns with processing credit cards through the State's main account to the JCA by December 1.

- **Board of Regents (BOR) – General Fund Allocations by FTE.** The LOI requests the Board of Regents present at the July 2018 JCA meeting regarding the rationale for how general funds are distributed among the state universities.
- **Department of Veteran's Affairs (DVA) - South Dakota Veteran's Cemetery.** The 2018 Legislature approved \$150,000 in new general funds within the South Dakota Department of Veterans' Affairs through the General Appropriations Act (HB 1320). The LOI instructs that these monies be spent on design and planning work necessary for the state veterans' cemetery, within Fiscal Year 2019. However, if the South Dakota Department of Veterans' Affairs does not receive approval for construction of a state veterans' cemetery from the National Cemetery Administration within Fiscal Year 2019, the monies shall not be spent on any other expenses and shall be reverted to the general fund.
- **Attorney General (AG) – Use of Consumer Settlement Funds for the Opioid Lawsuit Funding.** The LOI authorizes the Office of the Attorney General to use consumer settlement funds from Company 3000 "Attorney General Other Fund" to provide for the investigation and litigation of opioid distributors and manufacturers. It is the intent of the Committee that a review take place annually to determine if this authority should continue. It is further the intent of the Committee that the Attorney General provide to the Committee a status report regarding the investigation and litigation by December 1, 2018. In addition, the status report should include an explanation of the benefits that have been derived by this work.
- **Department of Public Safety (DPS) – Driver License Renewal Reminders.** The Joint Appropriations Committee directs the Department of Public Safety to investigate more cost-effective ways to deliver driver license renewal reminders and organ donation information. It is the intent of the Committee that the Department of Public Safety provide information regarding this investigation at the December interim meeting. The information should include any alternative delivery methods for the current programs, the ongoing costs of these alternatives, and any one-time expenses.
- **Department of Education (DOE) – One-Time Education Funding Distribution.** The 2018 Legislature approved a total of \$5,418,546 in one-time general funds for State Aid to General Education through House Bill 1044. The LOI specifies that monies shall be distributed to school districts in a process outside of the State Aid Formula. The monies shall be distributed after June 30th, 2018 and shall not count towards the FY 2019 School Finance Accountabilities. The funding shall be distributed on an equal per student basis to all school districts. The funding may be used for any non-recurring expense.
- **Multiple – FY18 One-Time and FY19 Ongoing Provider Inflation.** The 2018 South Dakota Legislature, through the FY2019 General Appropriations Act (House Bill 1320), approved a base funding increase to 90% of methodology cost reimbursement for community-based providers, an additional 2.0% base rate increase to community-based providers, and a 0.5% base rate increase to all other providers. The LOI requires that in FY2019 these providers receive a base rate increase in conformity with calculations approved by the Committee. The 2018 Legislature also approved one-time provider funding enhancements for FY2018 through House Bill 1044, including a 2.0% rate increase to community based providers and a 0.5% rate increase to all other providers for the final three months of FY2018, movement to 90% of methodology cost reimbursement for the final three months of FY2018, and direct care and support staff workforce funding (excluding any administrative positions) for community based providers currently reimbursed at or above 90% of methodology costs. (The base rate calculations and increases can be found on the LRC Budget website).
- **Bureau of Human Resource (BHR)/Bureau of Finance and Management (BFM) – Distribution of the State Employee Salary Policy.** The LOI specified that funding provided for the state employee salary policy, except the Board of Regents, are to provide for the following:
  - Market Adjustment – All eligible full-time and permanent part-time state employees are to receive a 1.2% increase beginning with the first pay period in FY2019; and



- Adjust Artificial Minimums –The minimum pay of certain paygrades shall be adjusted as per action by the Civil Service Commission.

It is further the intent of the JCA that funds appropriated for the Board of Regent's salary policy are to provide for the following:

- Market Adjustment - All eligible full-time and permanent part-time Civil Service Act personnel are to receive a 1.2% increase beginning with the first pay period in FY2019. The Board of Regents shall distribute the remainder of the pool to non-Civil Service Act personnel based on merit, institutional priorities and competitive market conditions.
- Adjust Artificial Minimums –The minimum pay of certain paygrades shall be adjusted as per action by the Civil Service Commission.
- **Department of Social Services (DSS) and Department of Human Service (DHS) - Notification of Proposed Changes to Administrative Rule for New Services or for Modifications of Program Eligibility.** The LOI requires that if either Department proposes any administrative rule change to add a new service or to modify the eligibility standards for an existing program that, at the time of submission of the draft rule changes to the Legislative Research Council (LRC) for review, an informational packet including a summary of the proposed changes, justification for the proposed changes, and the estimated fiscal impact be provided for the members of the Interim Joint Committee on Appropriations. Upon determination of the public hearing schedule, that information shall also be provided to the members of the Interim JCA.
- **Board of Technical Education (BoTE) – Purchase of Equipment for Lake Area Technical Institute Healthcare Center of Learning.** The 2018 Legislature approved \$250,000 in new general funds for fiscal year 2019 in the Postsecondary Technical Institute budget. The LOI specifies that the funding be used to purchase equipment for the Lake Area Technical Institute Healthcare Center of Learning.

During the second meeting, held in Pierre on June 12, 2018, the Interim JCA:

- Held further discussion on three of the draft letters of intent.
  - **Multiple – Agency Credit Card Processing.** The committee determined the LOI served its intended purpose of making state agencies aware of the state contract for processing credit card payments and the cost savings of processing payments through the contract and no further action is needed at this time. The issue should be revisited in the next few years to make sure agencies are using the state contract for processing credit cards.
  - **Board of Regents (BOR) – Financial Indicators Report.** The LOI was deferred until the committee receives copies of proposed revised reports.
  - **Board of Regents (BOR) – USD Law School Performance Metrics.** The committee received an update on the policies now used by the USD Law School regarding requirements for acceptance, tuition rates for out-of-state students, curriculum, and the measurements to determine success. It was decided to wait until the committee receives a formal report from the USD Law School before acting on the LOI.
- Received a presentation on the FY19 employee health plan changes from the Bureau of Human Resources.
- Received a report from the Department of Social Services on Medicaid "Received Through" policy and state general funds savings and uses.
- Received a report from the Bureau of Finance and Management on budget transfers and an update on anticipated year end general fund revenues and expenditures.
- Received a report on the implementation of the new legislative program/performance evaluation process from LRC staff.

During the third meeting, held in Pierre on July 25, 2018, the Interim JCA:

- Held further discussion on three of the draft letters of intent.
  - **Department of Revenue (DOR) – Automated Lockbox System for State Government.** The committee received an update on the LOI from the Bureau of Finance and Management. The Department of Revenue is held to a different standard regarding confidentiality. For the DOR to use a lockbox service, the confidentiality sections of SDCL 10-1-28 would have to be amended by the Legislature.
  - **Board of Regents (BOR) – USD Law School Performance Metrics.** The committee received an update from the Board of Regents on the USD Law School performance measures and business plan. The LOI was approved by the committee.
  - **Board of Regents (BOR) – General Fund Allocation by FTE Student Update.** Received an update from the Board of Regents on the current funding model for how general funds are distributed among the state universities.
- Received a report from the Board of Regents on the BOR 2020 strategic plan and on facility utilization.
- Received the annual report on fundraising for the State Veterans Cemetery.
- Received an update on the South Dakota v. Wayfair case from both the Governor's Office and the LRC.
- Received a report from the Bureau of Finance and Management (BFM) regarding the proration of investment income pursuant to SDCL 4-5-30. The Interim JCA approved and certified the recommended interest proration designations as participating and non-participating as presented by the BFM.
- Received a year-end report on the FY 2018 budget from the BFM. Revenues were \$6,163,394 higher than expected, along with \$10,735,434 in reversions from state agencies spending less than budgeted, totaling a \$16,898,828 cash surplus obligated to the Budget Reserve Fund.
- Received interim revenue estimates pursuant to SDCL 4-8A-16, which requires the BFM and LRC to prepare independent revenue projections by July 31<sup>st</sup> of each year.
  - The BFM projected general fund revenue for FY 2019 to be \$1,641,840,477, which is about \$294,793 higher than adopted revenue estimate.
  - The LRC projected general fund revenue for FY 2019 to be \$1,641,392,889, which is about \$97,205 higher than adopted revenue estimate.
  - Neither estimate projected a shortfall in excess of 2.5% and as such, did not warrant any further action by the Interim JCA.
- Received an update on the implementation of the new legislative program/performance evaluation process from LRC staff.
- Received an update from LRC on the contracts awarded for the Lean Study consultants.

During the fourth meeting, held in Pierre on September 11, 2018, the Interim JCA:

- Heard public testimony on three pieces of draft legislation for the September 12 Special Session regarding the collection and remittance of sales tax by remote sellers and the timeframe by which state officers can enter into office. All three pieces were recommended by the committee for the full legislature to consider at the Special Session on September 12, 2018.

### **Listing of Legislation Adopted by the Committee**

None.

### **Summary of Meeting Dates and Places**

During the 2018 Interim, the Interim JCA held four meetings. All meetings were held in Pierre.

### **Listing of Committee Members**

Representative David Anderson, Lead Co-Chair  
Senator Larry Tidemann, Co-Chair  
Representative Dan Ahlers  
Representative Hugh Bartels  
Representative Lance Carson  
Representative Taffy Howard  
Representative Jean Hunhoff  
Representative Chris Karr  
Representative John Lake  
Representative Sue Peterson  
Senator Justin Cronin  
Senator Terri Haverly  
Senator Reynold Nesiba  
Senator Jeffery Partridge  
Senator Deb Peters  
Senator Billie Sutton  
Senator Jim White  
Senator John Wiik

### **Listing of Staff Members**

Tamara Darnall, Chief Fiscal & Program Analyst  
Jason Simmons, Principal Fiscal & Program Analyst  
Jeff Mehlhaff, Senior Fiscal & Program Analyst  
Lucas Martin, Fiscal & Program Analyst  
Ariel Hammerquist, Fiscal & Program Analyst  
Amanda Doherty-Karber, Senior Fiscal & Program Analyst  
Shane Mattheis, Senior Fiscal & Program Analyst  
Cindy Tryon, Senior Secretary





# Judicial Opinions 2018 Report



## Background and Introduction

Under [section 2-9-1.1](#) of the South Dakota Codified Laws, the Legislative Research Council is required to prepare an annual report noting “opinions of state and federal courts issued in the preceding year” involving the interpretation of “legislative intent of various South Dakota statutes.” The report may include recommendations for “corrective action if it is determined that the opinion of the court may be adverse to what was intended by the Legislature or if the court’s opinion has identified an appropriate area for legislative action.” The Executive Board of the Legislative Research Council, in accordance with [subdivision 2-9-4\(8\)](#), shall “review and make recommendations for further legislative action regarding the opinions of state and federal courts” that interpret the intent of legislative acts.

## Summary of Cases

### ***Minnesota Voters Alliance, et al. v. Mansky, et al.*,<sup>1</sup> re: Political Apparel in Polling Places**

Under Minnesota election law, a “political badge, political button, or other political insignia may not be worn at or about the polling place.”<sup>2</sup> Election judges who work at the polls in Minnesota have the authority to ask voters who wear prohibited items to conceal or remove the items. If a voter refuses, the voter may still vote, but is subject to a petty misdemeanor with a maximum penalty of \$300.<sup>3</sup>

In *Mansky*, the Supreme Court of the United States determined whether Minnesota’s ban on political apparel in the polling place violates the First Amendment. The Court concluded that, while a state may ban certain apparel at a polling place, it must “draw a reasonable line” and be able to “articulate some sensible basis” for the banned apparel.<sup>4</sup> The Court did not specifically define what constitutes a “sensible basis” for banned apparel, but it did cite two states—California and Texas—that have defined banned apparel in “more lucid terms.”<sup>5</sup>

An appendix to the Court’s opinion lists states that prohibit accessories or apparel in polling places. South Dakota is among them. Under [section 12-18-3](#), a person may not display campaign posters, signs, or other campaign materials in any polling place or “within or on any building in which a polling place is located or within 100 feet from any entrance leading into a polling place.”

**Recommendation:** In light of *Mansky*, if the Legislature continues to ban certain apparel at the polling place, it should consider whether the statute provides a “sensible basis” with more “lucid terms” to describe the types of prohibited apparel. Whether or not the Legislature continues to ban certain apparel at the polling place, section 12-18-3 is poorly written, vague, subject to interpretation, and in need of clarification.

### ***Institute For Free Speech v. Jackley, et al.*,<sup>6</sup> re: Independent Communication Expenditures**

Under [section 12-27-1](#), an “independent communication expenditure” is “an expenditure [ ] for a communication concerning a candidate or a ballot question [ ] not made to, controlled by, coordinated with, requested by, or made upon consultation with [a candidate or political committee].” The term does not include “any communication made

<sup>1</sup> [138 S.Ct. 1876 \(2018\)](#).

<sup>2</sup> See [Minn. Stat. § 211B.11\(1\)](#).

<sup>3</sup> See [Minn. Stat. § 211B.11\(4\)](#).

<sup>4</sup> See 138 S.Ct. at 1888.

<sup>5</sup> See *id.* at 1891.

<sup>6</sup> No. 3:18-CV-03017-RAL, 2018 WL 5005006 (D.S.D. Oct. 16, 2018) (available upon request).

in the regular course and scope of [a] person's business or ministry or any communication made by a membership organization solely to any member of the organization and the member's family." [Section 12-27-16](#) requires independent expenditure communications to include, among other disclosures, the "'Top Five Contributors,' including a listing of the names of the five persons making the largest contributions in aggregate to the entity during the twelve months preceding that communication." These disclosure requirements do not include "[a]ny news article, editorial endorsement, opinion or commentary writing, or letter to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical not owned or controlled by a candidate."

In *Institute*, the U.S. District Court for the District of South Dakota considered whether the definition of "independent communication expenditure" and its disclosure requirements violate the First Amendment where the plaintiff sought to publish an analysis of two ballot measures on its website and send the analysis to news outlets throughout the state in a press release. The court held the statutes in question did not cover the specific activity proposed by the plaintiff.

**Recommendation:** While the court concluded the disclosure requirement "appears not to apply" to the proposed communications, the court stated the plaintiff had "legitimate concern" that the exemption under section 12-27-16 did not cover its proposed communication. The statutes challenged in *Institute* are unclear and subject to interpretation vis-à-vis internet publication and press releases.

#### ***Lippold v. Meade County*,<sup>7</sup> re: Acting Municipalities**

Under [section 9-3-20](#), "[t]he regularity of the organization of any acting municipality shall be inquired into only in an action or proceeding instituted by or on behalf of the state."

In *Lippold*, the South Dakota Supreme Court determined whether a municipality may challenge the incorporation of another municipality on its own without the involvement of the state. The Court concluded the plain language of the statute allows only the state or an entity acting on behalf of the state may bring this kind of challenge.

#### ***Estate of Wayne Kennedy Ducheneaux v. Ducheneaux*,<sup>8</sup> re: Attorney's Fees**

Under [section 15-17-38](#), a court "may award attorneys' fees from trusts administered through the court as well as in probate and guardianship proceedings." [Section 29A-3-720](#) provides that "[a] personal representative or person nominated as personal representative who defends or prosecutes any proceeding in good faith, whether successful or not, is entitled to receive from the estate necessary expenses and disbursements including reasonable attorney's fees. The court may also award necessary expenses and disbursements, including reasonable attorney's fees, to any person who prosecuted or defended an action that resulted in a substantial benefit to the estate."

In *Ducheneaux*, the Court determined whether a court may award attorney's fees to an estate following litigation in which the estate prevails. The Court's majority opinion concluded that, under the plain language of section 29A-3-720, the circuit court may not award attorney's fees to the estate because the statute only allows for an award of attorney's fees "from the estate." The majority also concluded that the language of section 15-17-38 was unclear as to whether the Legislature meant to permit attorney's fees against an individual in probate proceedings. Because of this uncertainty, a circuit court may not award attorney's fees to the estate.

In dissent, two justices would interpret section 15-17-38 to indicate legislative intent to provide for attorney's fees to an estate.

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<sup>7</sup> [2018 S.D. 7](#).

<sup>8</sup> [2018 S.D. 26](#).

**Recommendation:** In South Dakota, “authority to assess attorney’s fees may not be implied, but must rest upon a clear grant of power.”<sup>9</sup> The language in both sections 15-17-38 and 29A-3-720 is vague and subject to interpretation regarding whether a court may award attorney’s fees to an estate.

***Farm Bureau Life Insurance Co., et al. v. Dolly*,<sup>10</sup> re: Non-compete Contracts**

Under [section 53-9-8](#), a contract “restraining exercise of a lawful profession, trade, or business is void to that extent” with specific exceptions under other statutes. [Section 53-9-12](#) provides one of those exceptions, allowing an independent contractor who is both an insurance producer and a “captive agent” working exclusively for a single insurance company to contract with the insurance company not to engage “directly or indirectly in the same business or profession as that of the insurer for any period not exceeding two years from the date of termination []; and [n]ot to solicit existing customers of the insurer within a specified [] area for any period not exceeding two years from the date of termination of the agreement, if the insurer continues to carry on a like business within the specified area.”

In *Dolly*, the Court determined whether a contract clause may provide that a former captive agent may not “sell nor solicit, directly or indirectly” for a period of 18 months after termination of employment. The Court cited to the law against non-compete contracts, and to case law rejecting agreements that limit a third party’s power to contract. The Court found that a former captive agent who works for a new insurance company may sell insurance to clients from a previous insurance company when the clients initiated the sale with the agent.

A special writing suggested that, while the majority opinion reached the correct conclusion in this case, the majority’s reading of section 53-9-12 was incorrect. According to the special writing, the statute would allow a contract to prohibit “selling” insurance, whether or not the agent solicited those clients, because “selling” is “the same business or profession” as that of the insurance company with which the agent signed the contract.

***State v. Johnson*,<sup>11</sup> re: Vehicle Weight Restrictions**

Under [section 32-22-48](#), a person who drives a vehicle that weighs more than the maximum posted weight restriction for bridges is subject to a Class 2 misdemeanor. The statute includes no exceptions. [Section 32-22-42.2](#) allows a vehicle hauling agricultural products from a harvested combine and weighing up to 10% more than the posted weight limit for highways to travel on those highways if they are within 50 miles of the harvested field.

In *Johnson* the Court determined whether the exception for vehicles hauling agricultural products under section 32-22-42.2 also applies to section 32-22-48. The Court found that it does not because interpreting the exception as applied to highways would be “unreasonable and absurd” as applied to bridges, posing a “significant risk of damaging the bridge and potentially injuring the driver.”

**Recommendation:** The Legislature may want to include specific language in section 32-22-48 that clearly states there are no exceptions for any vehicles that weigh more than posted weight restrictions on bridges.

***Evenson v. Lynde*,<sup>12</sup> re: Referred County Ordinances**

Under [section 7-18A-17](#), a petition to refer a whole county ordinance must “contain the title of such ordinance or the subject of such resolution, and the date of its passage, but if only a portion of such ordinance or resolution is intended to be covered by the petition, such portion shall be set out at length.”

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<sup>9</sup> See *Rupert v. City of Rapid City*, [2013 S.D. 13](#).

<sup>10</sup> [2018 S.D. 28](#).

<sup>11</sup> [2018 S.D. 68](#).

<sup>12</sup> [2018 S.D. 69](#).

In *Evenson* the Court determined the legal sufficiency of petitions that do not contain the title of the ordinance and the date the ordinance was passed. Using the plain language of section 7-18A-17 the Court concluded the petitions did not meet the requirements of the statute.

***Boche v. Russell*,<sup>13</sup> re: Statewide Candidate Vacancies**

Under [section 12-6-55](#), a person “nominated to any elective office may cause his name to be withdrawn from nomination by request in writing.” The statute also provides that “[n]o name so withdrawn shall be printed upon the ballots to be used at such election.” [Section 12-6-57](#) provides for county party central committees to fill a vacancy of a statewide office nominee.

The circuit court determined whether a county party central committee may fill the vacancy of a statewide office nominee with the same candidate who withdrew from the nomination, creating the vacancy. The court relied on [section 12-6-64](#), which requires “the laws of this state pertaining to primary elections” to be “liberally construed so that the real will of the voters may not be defeated by a mere technicality.” The court concluded that “once there is a vacancy, any nomination effected through the operation of [SDCL 12-6-56](#), whether it be the original or a different candidate, will result in a ‘new nominee.’” The court also stated that there is no language in the law that “unequivocally precludes an individual from being re-nominated.”

**Recommendation:** The Legislature may want to include language in section 12-6-55 or 12-6-57 that clarifies whether a candidate who withdraws from a nomination may be appointed to fill the vacancy created by that candidate’s withdrawal.

This report on judicial opinions was written by Wenzel J. Cummings, Senior Legislative Attorney, on October 19, 2018, for the Legislative Research Council to supply background information on state and federal court opinions that “have sought to interpret the legislative intent of various South Dakota statutes” or have “identified an appropriate area for legislative action.” This report is not a policy statement made by the Legislative Research Council.

<sup>13</sup> Circuit Court of South Dakota, Sixth Judicial Circuit, Civ. No. 18-155 (available upon request).





# Rules Review Committee

## 2018 Final Report

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### Study Assignment

A review of proposed state agency rules.

### Summary of Interim

The Interim Rules Review Committee continues its comprehensive oversight of executive branch agencies in the exercise of the agency's legislative authority regarding rule-making. The committee reviewed rules for the following agencies:

Bureau of Human Resources: Civil Service Commission; Department of Agriculture: Department of Agriculture: South Dakota Animal Industry Board; Department of Agriculture: South Dakota Veterinary Medical Examining Board; Department of Agriculture: South Dakota Weed and Pest Control Commission; Department of Education: South Dakota Board of Technical Education; Department of Education: South Dakota Board of Education Standards; Department of Education: State Library Board; Department of Environment and Natural Resources: Board of Water Management; Department of Game, Fish and Parks; Department of Health: Department of Health: Board of Certified Professional Midwives; Department of Health: Board of Massage Therapy; Department of Health: Board of Medical and Osteopathic Examiners; Department of Health: Board of Nursing; Department of Health: South Dakota Board of Pharmacy; Department of Health: South Dakota Board of Podiatry Examiners; Department of Health: South Dakota State Board of Dentistry; Department of Human Services; Department of Labor and Regulation: Appraiser Certification Program; Department of Labor and Regulation: Division of Insurance; Department of Labor and Regulation: Division of Labor and Management; Department of Labor and Regulation: South Dakota Board of Accountancy; Department of Labor and Regulation: South Dakota Board of Technical Professions; Department of Labor and Regulation: South Dakota Cosmetology Commission; Department of Labor and Regulation: South Dakota Real Estate Commission; Department of Labor and Regulation: South Dakota State Plumbing Commission; Department of Public Safety; Department of Revenue; Department of Revenue: South Dakota Commission on Gaming; Department of Social Services; Department of Social Services: Board of Social Work Examiners; Department of Transportation; Department of Veterans Affairs; Office of the Attorney General; Office of the Attorney General: Law Enforcement Officers Standards and Training Commission; Office of the Secretary of State; Office of the Secretary of State: Board of Elections; and the South Dakota Retirement System.

### Subsequent Action

A portion of the rules proposed to be repealed by the Department of Education: South Dakota Board of Technical Education were reverted to the Department of Human Services, the Department of the Military, and the Department of Education to be repealed by those agencies. The action followed the guidance of Code Counsel that one board cannot amend the rules under the authority of another board or department to avoid conflict between the rules.

Rules submitted by the Department of Health clarifying the authority and administrative processes for the J-1 Visa Waiver program were reverted to a prior step pursuant to SDCL § 1-26-4.6 (3)(8). The committee subsequently approved the rules when resubmitted with corrections and clarifications.

The committee reverted two rules proposed by the Office of the Secretary of State: Board of Elections to a prior step according to SDCL § 1-26-4.7 (4)(7)(8) as the rules (which dealt with the circulation of petitions) appeared to lack the appropriate statutory authority, conflict with legislative intent, and create an additional burden on the people who circulate and submit petitions.

Rules proposed by the Department of Social Services: Board of Social Work Examiners regarding the supervision, qualifications, and duties of assistant behavior analysts and paraprofessionals were reverted to a prior step as they

were deemed to fall outside of the board's delegated legislative authority. Also reverted for the same reason was a rule dealing with examination and reexamination fees.

A proposed doubling of the examination fee for a plumber's apprentice license by the State Plumbing Commission was rejected by the committee pursuant to SDCL § 1-26-4.7 (4).

Despite approving rules for the Department of Revenue's Business Tax and Motor Vehicle divisions, the committee reverted rules proposed by the Property and Special Taxes division affecting the filing of price schedules and retailer delinquency reports for alcoholic beverages. The rules changes followed a request by Governor Dugaard that the division review its alcoholic beverage laws and rules. The reversion was supported by SDCL § 1-26-4.7 (6)(8).

Rules presented by the Department of Game, Fish and Parks impacting spearfishing license fees and deer hunting license lottery drawings, applications and eligibility were reverted pursuant to SDCL § 1-26-4.7 (8). The deer hunting license rules changes were strongly opposed by hunters across the state.

After receiving comments from several legislators that they were having difficulty finding information on proposed administrative rules and the Rules Review Committee process, Chair Hunhoff requested the Legislative Research Council explore ways to educate the public, media, and legislators as to where the information could be found. As a result, notices are being prominently displayed in the weekly Register and monthly Legislator Update, the Rules Drafting Manual was updated and provided to all agency rules contacts as well as posted on the LRC website, a press release was issued to South Dakota media, and a series of Facebook posts have been scheduled with links to the rules information. An updated Issue Memo was approved by the Executive Board at their November meeting.

#### **Listing of Legislation Adopted by the Commission**

No legislation is proposed.

#### **Summary of Meeting Dates and Places**

The committee met at the State Capitol in Pierre on the following dates in 2018: March 26, April 9, June 4, July 9, August 20, September 17, and November 20.

#### **Listing of Committee Members**

Members of the committee are Representative Jean Hunhoff, Chair; Senator Alan Solano, Vice-Chair; Representatives Julie Bartling and Steve Haugaard; and Senators Craig Kennedy and Lance Russell.

#### **Listing of Staff Members**

Staff members for the committee meetings were Doug Decker, Code Counsel, and Kelly Thompson, Senior Legislative Secretary. Members of the research staff who performed the initial review for legality and style and form were Chief Research and Legal Analyst Dave Ortbahn; Principal Research Analysts Fred Baatz, Clare Charlson, Amanda Jacobs, and Alex Timperley; and Legislative Attorneys Wenzel Cummings, Emily Kerr, and Anita Thomas. Rhonda Purkapile, Bill Text Editor, and Kelly Thompson, Senior Legislative Secretary, updated the administrative rules database.

# State-Tribal Relations 2018 Final Report

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## Study Assignment

The State-Tribal Relations Committee is an ongoing statutory committee created by SDCL sections 2-6-20 to 2-6-23, inclusive, in 1993 as a part of the state's reconciliation efforts. The statute directs the committee to make a continuing study of the relations between the state and its political subdivisions and the tribes and their tribal governments. The committee provides a forum within state government for discussion of issues affecting the Native American community and issues involving tribal governments and state government. The committee also serves as a way of familiarizing legislators with those issues.

## Summary of Interim

The committee met on October 1 in Pierre. At the first meeting, the committee heard an update from the Department of Tribal Relations and received a briefing from the Department of Corrections on incarceration rates, parole programs, and inmate earned discharge credits. The committee heard from members regarding the Fathers Against Meth program and the potential usage of earned inmate discharge credits and pardons. Future meeting dates will be determined in the near future.

The committee met in Rapid City on December 12 during the Lakota Nation Educational Conference at the Best Western Ramkota Hotel. Pennington County State's Attorney Mark Vargo spoke to the committee, and Secretary Emery gave his final briefing for the Department of Tribal Relations. Representatives from the Todd County Middle School gave a presentation on the results from the Native American Achievement Schools Grant they received.

## Listing of Legislation Adopted by the Committee

None.

## Summary of Meeting Dates and Places

The committee met on October 1 in Pierre and on December 12 in Rapid City.

## Listing of Committee Members

Members of the committee are Senator Troy Heinert, Chair; Representative Elizabeth May, Vice-Chair; Senators Phil Jensen, Kevin Killer, Lance Russell, and Jordan Youngberg; and Representatives Shawn Bordeaux, John Lake, Oren Lesmeister, and Steve Livermont.

## Listing of Staff Members

Staff members for the committee are Emily Kerr, Legislative Attorney; Amanda Doherty-Karber, Senior Fiscal & Program Analyst; and Rachael Person, Senior Legislative Secretary.





**REPORT OF THE  
GOVERNMENT OPERATIONS AND AUDIT COMMITTEE  
2018**

**COMMITTEE MEMBERS**

**Representative Jean Hunhoff, Chair  
Senator Deb Peters, Vice Chair**

**Representative David Anderson  
Representative Wayne Steinhauer  
Representative Hugh Bartels  
Representative Susan Wismer**

**Senator Justin Cronin  
Senator Brock Greenfield  
Senator Billie Sutton  
Senator Neal Tapio**

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## **Committee Responsibilities**

The Government Operations and Audit Committee was established by South Dakota Codified Law (SDCL) 2-6-2. The Committee is appointed at each regular session of the Legislature. The Committee consists of ten members, five members from the Senate appointed by the President Pro Tempore of the Senate, one of whom shall be a member of the Judiciary Committee and five members from the House appointed by the Speaker of the House, one of whom shall be a member of the Judiciary Committee.

The responsibilities of the Committee are:

- To inquire and review any phase of the operations and the fiscal affairs of any department, institution, board or agency of the State;
- To examine records and vouchers, summon witnesses, examine expenditures and the general management of departments, as deemed necessary;
- To review the Single Audit Report of the State of South Dakota and separately issued agency audit reports;
- To review the following annual reports:
  - South Dakota 911 Coordination Board
  - South Dakota State Brand Board
  - South Dakota High School Activities Association
  - Obligation Recovery Center
  - Accountability report from the Technical Institutes
- To review the annual reports from each Department administering the funds received from the Building South Dakota Program;
- Review the Department of Correction's semi-annual report on abuse and neglect in private placement facilities;
- To review compiled authorizations to derive a direct benefit from a contract, as collected by the Bureau of Human Resources;
- To review compiled authorizations to derive a direct benefit from a State authority, board, or commission contract, as collected by the Auditor General;
- To review the annual work plan and report of the State Board of Internal Control;

- Develop and implement a performance management review process to evaluate the efficiency and effectiveness of State agencies;
- Review limitations on use relating to the University Centers off-campus sites in Pierre, Rapid City, and Sioux Falls and make recommendations to the Legislature regarding these limitations;
- To make a detailed report to the Senate and House of Representatives and submit a copy of its report to the Appropriations Committee of each House of the Legislature at the next succeeding session of the Legislature or any special session of the Legislature upon request of the body.

### **Committee Activity**

#### **Performance Reports**

Senate Bill 120, 2017 session, assigned the Government Operations and Audit Committee the responsibility to develop and implement a performance management review process. The Committee established a schedule whereby each State agency presents their performance indicators to the Committee once every three years and the below agencies were selected and reviewed during the 2018 interim period. The Committee's performance management review process is a work-in-progress as the Committee provided feedback to each of the agencies on expectations.

#### Department of the Military

The Adjutant General of the Department of the Military described their mission to provide ready forces to support global and domestic requirements under the direction of civil authority. He presented information on four lines of effort to meet the priorities of the Department:

1. Provide excellent care for service members and families
2. Maximize readiness and maintain relevancy
3. Develop exceptional leaders and effectively manage careers
4. Increase diversity and inclusion

#### Department of Veterans Affairs

The Secretary of the Department of Veterans Affairs described their vision to be the voice for South Dakota's veterans. To accomplish the vision the Department identified three pillars:

1. Workforce Development
  - Increase training
  - Retain knowledgeable, skilled, and prepared workforce
  - Remain flexible



- Maximize effectiveness
- 2. Economic Impact
  - Increase education and awareness
  - Increase revenue generated by Department for veterans
- 3. Customer Service
  - Sustain outreach
  - Ensure quality of care
  - Provide information on the ever-changing benefits and services
  - Ensure that our Department has the tools and resources necessary to reach as many veterans as we are able
  - Strengthen partnerships with veterans' service organizations, county and tribal veterans service officers, healthcare providers, and community leaders
  - Raise awareness of the resources available to veterans
  - Grow programs to assist incarcerated veterans

### Bureau of Finance and Management

The Commissioner of the Bureau of Finance and Management described the Bureau's mission, which includes advising the Governor on overall fiscal policy; completing and presenting the annual fiscal plan; promoting the efficient and effective management of the State of South Dakota; preparing the State's annual financial report; and, managing the central accounting and payroll systems for the State. To accomplish this mission the Bureau has six goals:

1. Issue the Comprehensive Annual Financial Report within six months of fiscal year completion
2. Maintain best public issuer credit ratings possible
3. Maintain budget reserve at 10% of general fund spending
4. Implement internal controls for all State agencies
5. Maintain a structurally balanced budget
6. Improve government transparency

### Department of Public Safety

The Secretary of the Department of Public Safety explained their mission to keep South Dakota a safe place in which to live, work, visit and raise a family. To accomplish this mission the Department identified eleven goals:

1. Coordinating with State, local and tribal governments to prevent acts of terrorism.
2. Communicating homeland security terrorism preventive and response measures to private and public entities.
3. Providing highway patrol services that protect our citizens and visitors by promoting public safety through education, enforcement and example. Commercial vehicle regulation is also part of the Highway Patrol.
4. Providing highway safety grants and information.
5. Compiling and analyzing accident records and motor vehicle crash data.

6. Developing and integrating all hazard emergency plans for disasters.
7. Assisting State, local, and tribal governments with emergency management efforts to prepare, respond, recover and mitigate natural and man-made disasters before they occur.
8. Providing fire prevention services including fire reporting, training, investigation, public education, fire prevention, code enforcement and other State fire marshal services.
9. Coordinating a Statewide 9-1-1 system by providing local governments in South Dakota with technical assistance, funding oversight, and monitoring administrative rule compliance.
10. Issuing identification, testing, licensing and regulating commercial and non-commercial drivers.
11. Providing State inspections and weights and measures services for businesses and consumers.

### Department of Tribal Relations

The Secretary of the Department of Tribal Relations explained their mission includes recognizing the nine tribes of South Dakota as distinct political entities, supporting tribal self-governance, working with tribal leaders in a cooperative government-to-government relationship, identifying and coordinating State and federal resources to increase partnerships between State and tribal agencies, and introducing or supporting legislation which improves the quality of life for Native American State citizens. The Department described four strategic goals:

1. Cooperative development of tribal inclusive State policy and programming with State agencies and constitutional offices.
2. Establishment of intergovernmental agreements made by tribal governments and State agencies and constitutional offices for cooperative works.
3. Increase tribal government participation in the South Dakota legislative process and introduce or support legislation developed to improve the quality of life for the Native American population in the State.
4. Utilize alternative dispute resolution methods to resolve outstanding financial impasses originating from federal pass through grants.

### Board of Regents

The Vice President of Finance and Administration of the Board of Regents presented their blueprint to advance South Dakota's public university system. The Board identified four goals and used existing trend data to set targets on 20 metrics for the Regental system by 2020:

1. Student success:
  - Grow the number of degrees and graduates
  - Improve four and six-year graduation rates
  - Improve retention and decrease remediation rates
2. Academic quality and performance:

- Increase the percent of graduates passing licensure examinations
  - Grow total number of accredited programs
  - Increase the number of students participating in experiential learning
  - Grow the number of new graduate programs
3. Research and economic development:
    - Increase start-ups and license agreements signed
    - Increase revenue from grants and contracts expenditures
    - Grow science, technology, engineering and math (STEM) graduates
  4. Affordability and accountability:
    - Improve regional ranking for undergraduate tuition and fees
    - Lower the gap between grant aid and net price
    - Equalize the share of funding support between State and student
    - Reduce the three-year federal loan default rate

### Department of Corrections

The Secretary of the Department of Corrections explained their mission to protect the citizens of South Dakota by providing safe and secure facilities for juvenile and adult offenders committed to its custody by the courts, to provide effective community supervision to offenders upon their release and to utilize evidence-based practices to maximize opportunities for rehabilitation. With feedback provided by the Committee, the Department appeared a second time and identified the following revised goals and performance measures:

1. Safe and secure facilities:
  - Safety measure rates
  - Percentage of inmate population in restrictive housing
2. Effective community supervision:
  - Average end of year parole agent caseload
  - Parole contact standards
  - Juvenile contact standards
  - Parole revocations
  - Juvenile aftercare revocations
3. Evidence-based practices/rehabilitation:
  - Adult recidivism
  - Juvenile recidivism
  - Average length of stay in residential placement (months)

### Bureau of Administration

The Commissioner of the Bureau of Administration explained that the Bureau is currently going through the LEAN process in which they are identifying dashboard measures that will assist them in establishing baseline data for performance measures. The Commissioner provided the following performance measures that will be updated after the LEAN process has been completed:

1. Central Mail:
  - Savings by presorting mail vs. full cost
2. Property Management:
  - Sale value received vs. appraised value
  - Agency rate
3. Federal Surplus Property:
  - Savings to clients
  - Number of clients
4. Central Duplicating:
  - On time project completion (goal 95%)
5. Office of the State Engineer:
  - Project A/E cost savings
  - Projects completed
6. Risk Management:
  - Aviation insurance premium
  - Crime bond premium
  - Property captive premium
7. Fleet and Travel:
  - Gross cost per mile
  - Total miles driven

#### South Dakota State Brand Board

The Director of the South Dakota State Brand Board was present to provide the Committee the State Brand Board Annual Report and answer Committee questions. She reported that the State Brand Board receives no General Fund appropriations and operates entirely on brand inspection fees, brand transfers, and renewal fees.

The annual report contained information on the number of livestock inspected during the calendar year, the fees collected, the number of holds, missing or stolen livestock, recovered strays, livestock investigations, and brand registration activity. The Director reported that 1,826,424 head of livestock were inspected in calendar year 2017, as compared to 1,662,495 inspected in calendar year 2016.

The Committee had additional questions about the relationships between local Sheriff's offices and the brand inspectors. The Director stated that she believed brand inspectors have developed better working relationships with local law enforcement resulting in better outcomes. The Committee will continue to review the operations of the State Brand Board.

### The Building South Dakota Programs (BSD)

The Commissioner of the Governor's Office of Economic Development (GOED), provided an overview of the programs under the GOED. The Finance Director of the GOED explained the two primary purposes of the Economic Development Partnership Program (EDPP): 1) to help local economic development programs with training needs, and 2) to help local economic development programs recapitalize local revolving loan funds. The EDPP awarded four grants during the fiscal year totaling \$9,393.

The Finance Director provided an overview of the Local Infrastructure Improvement Program (LIIP). The program provides grants to assist in funding the construction and reconstruction of infrastructure for the purpose of serving economic development projects. The LIIP awarded eight grants during the fiscal year totaling \$1.6 million. The projected number of jobs created was 506.

The Finance Director provided an overview of the Reinvestment Payment Program (RPP). The program is available to assist companies in offsetting the upfront costs associated with relocating or expanding operations and/or upgrading equipment in South Dakota. This program allows for project owners to receive a reinvestment payment, not to exceed the sales and use tax paid on project costs, for new or expanded facilities with project costs in excess of \$20 million, or for equipment upgrades with project costs in excess of \$2 million. The RPP awarded eight grants during the fiscal year totaling \$25 million. The projected number of jobs created was 269.

The Finance Director provided an overview of the South Dakota Jobs Grant Program (JGP). The program is available to assist companies in offsetting the upfront costs associated with relocating or expanding operations and/or upgrading equipment in South Dakota. There were four JGP grants awarded during the fiscal year totaling \$154,102. The projected number of jobs created was 292.

The Executive Director of the South Dakota Housing Development Authority (SDHDA) was present to address the Committee regarding the South Dakota Housing Opportunity Fund (HOF). The SDHDA distributes HOF funds geographically throughout the State with 30% of the funds targeted for cities with a population of 50,000 or more and 70% of the funds targeted for the rest of the State. As a result of the applications received in FY2018, 11 projects and programs were funded, which will serve 166 individuals and families. In fiscal year 2018, \$1.16 million was awarded by SDHDA.

### South Dakota Board of Technical Education Accountability Report

The Director of the Board of Technical Education (BOTE) reviewed the history of the BOTE and provided the current board members. He advised that they are working on the strategic planning process and provided the BOTE's mission and values. The full time equivalent (FTE) students at South Dakota's four technical institutes for the 2017-2018 school year were:

Western Dakota Tech – 864 FTE, Mitchell Technical Institute – 1,142 FTE, Lake Area Technical Institute – 1,947 FTE, and Southeast Tech – 1,958 FTE.

The Director provided information on recent recognition received by the technical institutes. The Committee asked questions and had concerns about transferrable credits and duplication of coursework between the various higher education options. The President of Western Dakota Tech explained various qualities that make technical institutes unique. The Director provided enrollment data and discussed dual credit learning and the trends of graduates. He also discussed various limited space challenges and programs being at capacity. The Director spoke of the importance of retention and advised they were pleased with their retention rates. The goal is graduation and to place the student in to meaningful employment.

The Director discussed the Build Dakota Scholarship Program and the growth of contributing industry partners. Committee members asked for additional data showing the breakdown between Build Dakota Scholarship Fund dollars and the dollars received from industry partners. The Committee provided suggestions to make the information presented clearer and asked for a revised report to be presented to the Committee at a future meeting.

The Director appeared at a second Committee meeting along with Presidents from three of the four technical institutes. The Committee asked numerous questions about challenges faced by each of the Presidents such as enrollment, retention, placement, space management needs, dual-credit programs, tuition and demographics. The Director thanked the Legislature for the additional instructor salary support funding and maintenance and repair funding. He explained that the additional funding has helped attract and retain qualified instructors. The Director explained in detail the revised accountability report which included data requested by the Committee. The Committee approved the revised annual accountability report.

#### South Dakota 911 Coordination Board

The Deputy Secretary for the Department of Public Safety presented the 9-1-1 Coordination Board report which is submitted each year. There are 32 Public Safety Answering Points (PSAPs), including four tribal PSAPs. The annual report focuses on the 28 PSAPs within sheriff's offices or police departments, because they fall under State jurisdiction.

In 2017, the PSAPs answered 328,900 9-1-1 calls, as well as 1.2 million non-emergency calls. The Next Generation 9-1-1 System (NG9-1-1) is a major priority for the Board. They have installed a statewide phone system to all 28 PSAPs. They have been working on updating to a digital network. Since May, they have updated 22 PSAPs to the new network. They are also working on meeting their data accuracy goal of 98% for the geographic information system (GIS) electronic database.

The Deputy Secretary discussed safeguards within the statewide phone system. She advised Text to 9-1-1 is the last planned phase in the NG9-1-1 project, but the NG9-1-1 project will be ongoing and will continue to evolve. She discussed the 9-1-1 surcharge distribution and how

the funds will be used going forward. The Committee thanked the Deputy Secretary for her efforts as the State 9-1-1 Coordinator and will continue to review the Board's activity in the future.

### **Committee Review of Grant Performance**

The Committee considered ways of looking at grant performance near their half way point and what criteria should be used to determine which grants to be looked at. The Auditor General of the Department of Legislative Audit (DLA) advised that auditors, as part of their risk assessment process, have been asked to read the titles of all grants looking for those that appear to be of higher risk. In addition, as DLA completes their financial and compliance audits, it will discuss identified risks with the Legislative Research Council (LRC). LRC will have this information as they plan and perform their agency program evaluation reviews.

The Interim Secretary of the Department of Education advised that they received a five-year federal grant called the Project Aware Grant. The Committee plans to monitor and follow this grant through its whole process. Committee members agreed that this would be a good first step for reviewing performance.

### **Specific Matters Pertaining to Various State Agencies**

#### **Board of Regents Cash Balance Reports**

The System Vice President of Finance and Administration with the Board of Regents (BOR) presented operating cash balances for each of the State's universities. BOR monitors cash on a quarterly basis and the statements show how much each university has available to operate. The Committee will continue monitoring the operational needs of the Board of Regents.

#### **Bureau of Finance and Management discussed the process for preparing the Sales and Use Tax Exemption Information in the Governor's Budget Summary Book**

The Deputy Commissioner and State Economist with the Bureau of Finance and Management (BFM) reviewed the Sales and Use Tax Exemption section of the Budget Summary Book. This section of the Budget Summary Book provides an annual estimate of General Fund revenue lost through statutory exemptions by industry group. He explained when and how the amounts are updated. The Committee was satisfied with the additional information provided.

#### **Department of Agriculture discussed the County Site Analysis Program**

The Outreach & Operations Director for the Agricultural Development Division with the Department of Agriculture (DOA) discussed the County Site Analysis Program and advised that 57 out of 66 counties in South Dakota have voluntarily requested the analysis. The County Site Analysis Program was designed as a service for interested counties in which geographic information system (GIS) data is used to identify potential sites that could fit various

agricultural related development projects. The final county reports are available on their website and the average study cost was about \$7,000 and took four to six weeks to complete. This program is funded by the Value Added Agriculture Subfund.

The Committee asked questions about tracking results. The DOA lacks a tracking program but is reaching out to the counties through an interactive website. The Committee encouraged the DOA to compile the results and report them to the Committee.

#### Department of Education discussed English as a second language program

The Committee learned what an “English learner” was. The Director of the Division of Finance and Management and Title Programs Administrator with the Department of Education discussed federal requirements and Title I and Title III funding. The Committee was concerned about the eligibility process for receiving funds under the program. The Director explained that it is a federal requirement for the State to set up its own criteria and the English Learner Workgroup developed the newest criteria for entrance and exit to the program. The Committee was satisfied with the additional information provided.

#### Department of Social Services discussed operational issues at the Human Services Center

The Deputy Secretary and the Administrator of the Human Services Center (HSC) with the Department of Social Services gave an update on the operational issues at the HSC. The Administrator started his position on May 29, 2018 and he provided his background in the human services field as well as an overview of the HSC and the three types of treatments provided.

The Administrator provided information about their current full-time equivalent staff numbers, as well as vacancies and turnover rates. Year to date, staff injuries are lower than last year. The Administrator reviewed several incentives and recruitment tactics they are using to address the staffing vacancies. The Committee asked for additional information about admissions and will continue to monitor issues at the HSC.

#### Bureau of Human Resources discussed compensation for transportation technicians

The Commissioner for the Bureau of Human Resources (BHR) discussed compensation for transportation technicians within the Department of Transportation (DOT) and advised that agencies have options to address hiring and retention problems. The Commissioner advised that there are about 90 different special pay plans in place throughout the State and DOT has had multiple special pay plans over several years to help address the issues they see.

The Commissioner advised that BHR and DOT focused on highway maintenance worker compensation in FY18 due to high turnover and implemented a plan in May 2018. Next, they focused on technicians, which includes many different types of technicians and covers two pay grades, finding their biggest problem is attracting people to apply. Changes were made in the



pay plan for technicians to improve recruitment and account for education and experience. Before they could implement the new pay plan, they went through and classified the existing technicians, which was about 135 people. The new plan was implemented in August 2018 and they will address compression and other issues as they come up.

The Committee asked why the process wasn't being constantly evaluated and the Secretary of DOT advised that evaluations are occurring constantly, and they are always working with BHR. BHR is in the process of evaluating all the existing special pay plans. The Committee also had questions and concerns about Career Bands. The Commissioner feels that the work done with Career Bands has been successful. The Committee plans to monitor compensation in the future.

#### Conflicts of Interest

##### *Bureau of Human Resources*

The Committee reviewed the annual compilation of conflict of interest authorizations called for in House Bill (HB) 1064, passed during the 2015 Legislative Session. Under HB 1064 a governing body may authorize an officer or employee of a State agency to benefit from a contract if the contract is fair, reasonable, and not contrary to the public interest; these authorizations are required to be filed with the Commissioner of the Bureau of Human Resources (BHR) and presented to the Committee annually. The Committee reviewed 10 approved authorizations (waivers) for the July 1, 2017 through June 30, 2018 reporting period. The Committee plans to review approved and denied waivers annually.

##### *Auditor General*

The Auditor General provided information on the changes implemented in 2017 with the passage of House Bill 1170. This legislation defined what constitutes a conflict, narrowing it down to an interest in a contract or direct benefit from a contract. The changes also eliminated the requirement for the Auditor General to provide a report on school districts' conflicts of interest. The schools are still required to provide meeting minutes to the Auditor General and the Attorney General where they have authorized a direct benefit. The Auditor General reviewed the report on compiled authorizations to derive a direct benefit from a contract and advised that there were 30 State board members who had submitted waivers. He did not see any concerns when viewing from an auditor's perspective. The Committee had several suggestions for formatting future reports.

#### Obligation Recovery Center

House Bill 1208 was passed during the 2015 Legislative Session and created the Obligation Recovery Center (Center) within the Bureau of Administration (BOA). The Center began operations on July 15, 2016. As required by law, the Commissioner of the BOA provided the Committee the annual report of the activities of the Obligation Recovery Center. The Center

has entered into a memorandum of understanding with each agency that uses the Center to collect debt to ensure agency specific requirements are considered. The BOA contracted with two debt collection agencies with one-year contracts, with four additional one-year optional extension periods. The debt collection agencies began collecting debt on March 13, 2017. During FY2018, the Center collected \$3.5 million for State agencies and established payment plans for \$11.3 million (total financial impact of collection activities of \$14.8 million). Of the \$3.4 million remitted to State agencies, \$831,887 was deposited into the general fund with the remaining monies distributed to various agency funds. The Committee expressed concerns with the process by which agencies respond to debtor inquiries and requested this process be formalized and tracked to ensure agencies are responding in a timely manner.

### State Board of Internal Control

The Commissioner of the Bureau of Finance and Management (BFM) provided the Committee an update on the activity of the State Board of Internal Control (SBIC). She reviewed the background information on the SBIC and stated they are focusing on internal controls and developing a framework for the BFM. BFM has contracted with Price Waterhouse Coopers for their internal control consultant to help establish a statewide internal control framework and implement it within agencies. She anticipates adopting a framework for BFM by December 2018. The SBIC plans to start working with the Department of Revenue (DOR) in the fall of 2018 and hopes to adopt a DOR framework by the 2019 legislative session. The Committee will monitor the State Board of Internal Control's activity on an annual basis.

### Board of Regents

#### *University Centers*

In accordance with House Bill 1005, 2017 Session, the Committee reviewed annual accountability reports for each of the University Centers. The Vice President of Finance and Administration for the Board of Regents presented operating statements for each of the University Centers, along with enrollment data for fiscal years 2013 through 2018. Each University Center is structured differently financially, and the operating statements and footnotes attempt to show the differences. The Director explained some of the challenges facing each of the University Centers. They are moving away from the model used for the last three years. The Committee will continue to review the University Centers in the future.

### Department of Legislative Audit was asked to provide information on various topics

#### *Local Bank Accounts*

A State Government Audit Manager with the Department of Legislative Audit provided a list of State entities that had approved local bank accounts, the balances and where the funds were accounted for in the Comprehensive Annual Financial Report for the State of South Dakota. He provided the State statutes and administrative rules regarding the receipt of monies and the

procedures authorizing agencies to open local bank accounts. The Committee took no further action on this subject.

#### *List of federal programs*

A State Government Audit Manager with the Department of Legislative Audit (DLA) provided a list of federal programs which were taken from the FY2017 State of South Dakota Schedule of Expenditures of Federal Awards (SEFA) and sorted by dollar amount. DLA follows federal guidance and selects federal programs from the SEFA each year to perform financial and compliance audits on. The Committee discussed criteria they should use to determine which grants to look at from a performance perspective.

The Committee asked if there was a place for citizens or employees to raise a red flag. DLA has a place on its website for anyone to report suspicion of fraud, noncompliance or abuse. There have been reports submitted through the website and the audit managers have reviewed them and determined the best way to proceed. The Auditor General explained how DLA responds to the issues brought forward. DLA will provide information to the Committee when they deem appropriate.

#### *Program risk evaluation form*

A State Government Audit Manager with the Department of Legislative Audit (DLA) discussed DLA's risk assessment procedures for federal programs as a part of the Statewide Single Audit. Anything determined to be high risk must be audited. If a Legislator brings forward concerns about a program, it could be audited. If State funds are matched with federal funds, both types of funds are audited. Some of the State's programs are audited with the State's Comprehensive Annual Financial Report. The Committee discussed the need for financial accountability as well as outcome accountability and hopes the Committee can help tie those together. The Auditor General advised that DLA will bring things of concern to the Committee on an informal basis when the need arises.

#### *Information on the rule making authority of various State authorities and other entities*

At the request of the Committee, the Department of Legislative Audit completed a review of the various authorities and other entities of the State and identified those that are required to follow the administrative procedures and rules process identified in South Dakota Codified Law chapter 1-26 and which entities have been granted their own rule making ability by the Legislature. The Committee took no further action on this subject.

#### *GOAC Blue Book for fiscal year 2018*

A State Government Audit Manager with the Department of Legislative Audit (DLA), presented the 2018 GOAC Other Fund Information by Agency book (GOAC Blue Book). The Committee asked if he identified anything that the Committee should review further. He presented a list

showing all funds with changes to equity of \$500,000 or more. The Committee asked for a multiyear average of dollars spent against their current cash balance, to help identify funds that might go negative and need the Committee's attention. The Committee discussed different ways to address funding concerns, as well as when these concerns should be addressed. At the request of the Committee, DLA prepared a report which compared annual expenses to average daily cash balance for Other Fund companies to get a better idea of those companies that may need attention and increased funding in the future. The report also reflected Other Fund companies that appeared to have over 100% of their annual expenses accounted for when compared to their average daily cash balances. The Committee approved the report and will recommend the 2019 Government Operations and Audit Committee consider the report for further review.

#### Unified Judicial System debt collection process

The Committee had questions about how State agencies attempt to collect debts owed to them prior to submitting the debt to the Obligation Recovery Center (ORC). The Committee asked the Unified Judicial System (UJS) in to explain its process. The Director of Budget and Finance with the UJS stated that UJS did not have a uniform statewide process for collecting debt prior to the establishment of the ORC. He explained that the debt comes from financial obligations ordered on a case at the time of sentencing and the judge determines when the payment is due. If no payment is made 15 days after the due date, a notice of unpaid debt letter is sent to the individual. If no contact is made after a total of 45 days, a final notice letter is sent giving them 14 days to pay in full or make payment arrangements. If there has been no contact after the final 14 days, the debt is automatically transferred to the ORC by an electronic file. Once the debt has been transferred to the ORC, payments can only be made to the ORC.

The Director explained that they have had a process in place for about a year to address questions from the third-party collection agencies about the original debt. When there is a question, CGI Technologies emails a central email address at UJS that is checked by five clerks. The clerks usually respond to CGI within 24-48 hours. He feels that their process is working but is unsure of CGI's process to relay the information. The Director advised that the ORC has been beneficial to the UJS, and they have had a lot of success with the notice process that they have put in place. The Committee will continue to monitor the success and efficiencies of the ORC.

#### South Dakota High School Activities Association provided historical information on activity with the South Dakota Community Foundation and High School Activities Association Foundation

The Executive Director of the South Dakota High School Activities Association (SDHSAA) provided ten years of financial history of the SDHSAA. The Committee asked for ten years of itemized detail for the General and Administrative operating expenses. The Executive Director discussed dues and stated the majority of SDHSAA's revenue comes from ticket sales from sub-state and state events and official registration fees. The Committee encouraged the SDHSAA to be as transparent as possible.

The Executive Director provided a list of the contributions made to the South Dakota Community Foundation totaling \$342,393 with the beneficial interest going to the South Dakota High School Activities Association Foundation. There have been interest disbursements, otherwise the interest has been reinvested. The Committee asked if there are written guidelines as to what the interest can be used for. The Executive Director explained he is an ex officio member of the South Dakota High School Activities Association Foundation board and they determine what will be done with disbursements. The Committee plans to continue to monitor this activity.

#### Department of Education

##### *Presented the annual report of the Workforce Education Fund*

The Director of Finance and Management with the Department of Education (DOE) reviewed the Workforce Education Fund (WEF) Annual Report and provided an overview of the WEF. He discussed the Secondary Career and Technical Education (CTE) grants or Workforce Education Grants, their requirements and provided a list of grants awarded, with six being awarded in 2018. He also discussed One-Time Education Enhancement Programs, which includes the South Dakota School of Mines & Technology Summer Math program, the Paraprofessional Tuition Assistance Scholarship Program and the Native American Achievement School Grants.

The Committee asked if there was a tracking mechanism for CTE grant recipients after they graduate and for outcomes relating to the Native American Achievement School Grants. The Director of Career and Technical Education with DOE stated they have not directly tracked them, and it could be difficult due to student privacy laws. The Committee encouraged the DOE to track outcomes and will continue requesting performance information in the future.

##### *Provided an update on the work completed to implement a dyslexia program plan*

The Interim Secretary of the DOE provided information on the five-year State plan to support struggling readers. She provided history about how the dyslexia plan came about and advised that the State recognizes dyslexia as a specific learning disability. A group of stakeholders met in 2016 and developed the five-year plan. The plan has four phases: identification of students with dyslexia, guidance and supports, connections with postsecondary education, and data and feedback. They are currently transitioning to using the Response to Intervention (RTI) model to identify children with dyslexia. With the help of the workgroup, DOE has developed a brochure about recognizing and addressing dyslexia and have updated their dyslexia handbook. They have also had professional development activities for educators and are working with Dakota State University and hope to make more connections with postsecondary education. DOE sends out a survey to the school districts where they ask educators how they identify students with dyslexia and the intervention methods they are using. The Director of Special Education with the DOE provided additional information about the dynamic of the workgroup. She stated that they participate in several outside groups and continually gather information and provide it

to educators. The Committee encouraged the DOE to continue to follow through with addressing the issue of dyslexia.

#### Department of Public Safety

The Committee requested information from the Department of Public Safety (DPS) on the State's terrorism preparedness efforts and on security measures for the future pipeline project. The interim Cabinet Secretary provided a letter to the Chair explaining the State's efforts to prepare for potential civil disturbances and how the State has supported local civil disturbance preparedness activities. The Committee passed a motion to refer this letter to the House and Senate State Affairs Committees with a recommendation that those Committees be briefed on this letter and consider further review of this topic during the 2019 Legislative session.

#### Department of Social Services Division of Child Support

At the request of the Committee, the Department of Social Services Division of Child Support (DCS) presented a detailed explanation of the State's child support collection process. The DCS presented a report that identified services provided, enforcement measures, the collection process, reporting requirements, program outcomes, and program effectiveness measured against required federal compliance percentages.

The Committee recognized the importance of the collection process for families but expressed concerns that the process is complicated and at times burdensome to employers. The Committee encouraged DCS to look for ways to improve information sharing between all parties involved in the child support collection process.

#### Department of Transportation

The Secretary of the Department of Transportation (DOT) appeared before the Committee and presented the re-inspection report, dated October 15, 2018, from the Federal Railroad Administration (FRA). The subject of the report stated, "Re-inspection of non-compliance deficiencies noted during the Dakota Southern Railway Company 2018 Multi-discipline Focused Safety Compliance Audit conducted the week of April 30 through May 4, 2018. Re-inspection activities took place during the months of August and September 2018". The conclusion of the re-inspection report acknowledged the continuous efforts made by the operator to become compliant with Federal Safety Laws and Regulations and the commitment the operator has made to becoming a safer and more efficient railroad. The Secretary told the Committee at the October 25, 2018 Committee meeting that the South Dakota Railroad Board has not yet had an opportunity to review the FRA re-inspection report and the South Dakota Railroad Board plans to review the report at their November 2018 meeting.

The Secretary answered numerous Committee questions about the FRA inspection, the nature of the defects and violations noted in the inspection report, and the DOT's efforts to monitor the State-owned rail line in the future. The Secretary stated that a new State inspector has

been hired and will be inspecting the State-owned line. In addition, subcommittees of the South Dakota Railroad Board have been assigned specific sections of the State-owned rail line to complete their own inspections and report back to the full board. The results of their inspections will be included in the meeting minutes of the South Dakota Railroad Board. The Secretary has asked the FRA to notify the DOT when they will be performing future inspections on State-owned rail line. The Committee will continue to monitor the oversight of the State-owned rail line.

## **Juvenile Corrections**

The Committee is charged with the responsibility to review any findings of abuse or neglect of juveniles in a juvenile correctional facility.

Since the Star Academy was closed on April 8, 2016, there were no Juvenile Corrections Monitor reports to the Committee during the 2018 interim. Senate Bill 82, 2017 Session, required the Department of Corrections to compile a confidential report of all allegations of abuse and neglect of individuals under the jurisdiction of the Department of Corrections within private contracted facilities. The Director of Juvenile Services presented the report for the time period from July 1, 2017 through June 30, 2018. Seven cases were reported to the Committee during the period. The Committee requested future reports include the report date, investigation date and resolution date.

## **Audit Reports**

### South Dakota Single Audit Report for FY17

The Committee reviewed the South Dakota Single Audit Report and other separately issued audit reports for the fiscal year ended June 30, 2017.

Financial and compliance audits involve testing financial transactions of the state to determine that money is properly accounted for and expended in accordance with state and federal laws and regulations. All audits conducted of state agencies were consolidated and reported in the Single Audit Report. The Single Audit Report includes the Comprehensive Annual Financial Report for the State of South Dakota prepared by the Bureau of Finance and Management, a schedule showing the federal awards administered by the state and related expenditures, and audit findings and recommendations issued by the Department of Legislative Audit.

The Single Audit Report was issued in accordance with auditing standards generally accepted in the United States of America, Government Auditing Standards issued by Comptroller General of the United States, U.S. Office of Management and Budget (OMB) Uniform Guidance, and South Dakota Codified Laws. A copy of this report may be obtained from the Department of Legislative Audit.

The Committee reviewed financial reporting, internal control and compliance deficiencies written on eight state organizations, containing twenty-one recommendations for corrective action. Six recommendations related to compliance and/or internal control findings relating to federal laws and regulations; and, fifteen recommendations related to inadequate internal control procedures over receipts, revenue collections, expenditures, and financial reporting.

The following represents the state agencies with audit findings and recommendations from fiscal years 2017 and 2016 and the implementation of fiscal year 2016 audit recommendations:

State Agency	Recommendations		
	Fiscal Year <u>2017</u>	Fiscal Year <u>2016</u>	FY2016 Imple- mented
Department of Revenue	12	2	2
Soybean Research & Promotion Council	1	2	1
South Dakota Corn Utilization Council	1	2	1
Ellsworth Development Authority	1	1	0
Department of Environment and Natural Resources	1	0	N/A
Department of Transportation	0	2	2
Department of Social Services	1	3	3
Department of Education	1	3	3
Department of Human Services	0	1	1
Department of Game, Fish and Parks	3	6	3
Housing Development Authority	0	1	1

N/A This agency did not have any FY2016 audit recommendations.

The Committee had additional questions regarding the Department of Game, Fish and Parks (GF&P) audit findings for the Fish and Wildlife federal program. The Finance Officer for the GF&P appeared before the Committee and explained the corrective action plans the Department is implementing. The Committee plans to follow-up on the Department's corrective action plans.

The Committee had additional questions regarding the Department of Education (DOE) audit finding regarding formal cash management procedures. The Finance Officer for the DOE appeared before the Committee and explained the corrective action plans the Department is implementing. The Committee was satisfied with the corrective action plan.

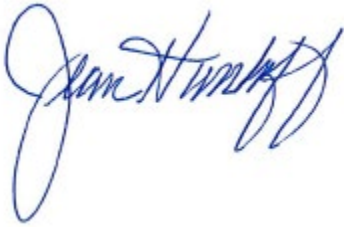
The Committee had additional questions regarding the Department of Social Services (DSS) audit finding relating to inadequate controls over subrecipient monitoring of the Aging Cluster federal program. The Finance Officer for the DSS appeared before the Committee and provided



information about how the finding occurred and what has been done in the implementation of the corrective action plan. The Committee was satisfied with the corrective action plan.

South Dakota High School Activities Association

The Committee reviewed the FY17 audit report of the South Dakota High School Activities Association (SDHSAA). The Committee had questions about the newly created South Dakota High School Activities Association Foundation, a separate 501(c)(3) organization. The Committee expressed concern with oversight as it relates to the activity of the new foundation. The Finance Director for the SDHSAA explained the new foundation will not be reported as part of the SDHSAA's financial statements. The Executive Director for the SDHSAA stated that he has advised the foundation board to obtain an audit. The Committee plans to revisit this topic in the future.

A handwritten signature in blue ink, appearing to read "Jean Hunhoff". The signature is stylized with a large initial "J" and a long, sweeping underline.

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Representative Jean Hunhoff, Chair  
Government Operations and Audit Committee



*South Dakota*  
**DEPARTMENT OF THE MILITARY**  
**OFFICE OF THE ADJUTANT GENERAL**  
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June 11, 2018

TO: Government Operations and Audit Committee  
 FROM: Major General Timothy A. Reisch, Secretary  
 DATE: 6/11/2018  
 SUBJECT: Summary Report for Strategic Plan

**Mission:** The South Dakota National Guard provides ready forces to support global and domestic requirements under the direction of civil authority.

**Vision:** The South Dakota National Guard will be the most professional, competent, and reliable National Guard organization in the United States of America.

**Values:** The South Dakota National Guard's core values are loyalty, duty, respect, selfless service, honor, integrity, personal courage, and excellence in all we do.

**Adjutant General's Priorities:** The Adjutant General (TAG) has identified nine priorities to build the foundation for what is important for all members of our organization. Along with our values, these priorities define our organizational culture. These priorities are:

• **Taking Excellent Care of Soldiers, Airmen and Their Families**

- Maintaining high levels of readiness
- Remaining relevant
- Embracing diversity and inclusion
- Enhancing communications
- Army and Air Guard working together
- Supporting the State Partnership Program
- Developing leaders
- Ensuring safety

**Lines of Effort:** The organization has identified lines of effort to meet TAG priorities by conducting an environmental scan, which allows planners to focus on the organization's key strategic challenges over the next three years. These lines of effort are:

**Line of Effort 1: Provide excellent care for Service Members and Families**

- *Objective 1.1: Develop and maintain a fit force*
- *Objective 1.2: Ensure a skilled-resilient force*
- *Objective 1.3: Develop and maintain a professional force*
- *Objective 1.4: Develop and maintain a high level of family readiness*

**Line of Effort 2: Maximize Readiness & Maintain Relevancy**

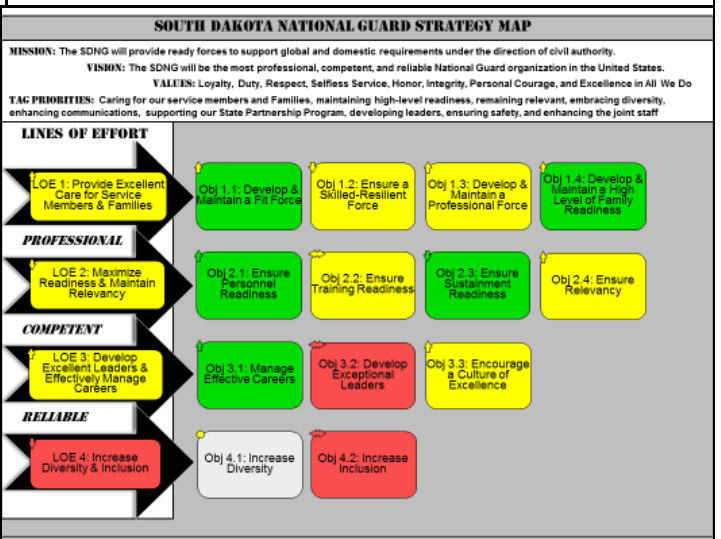
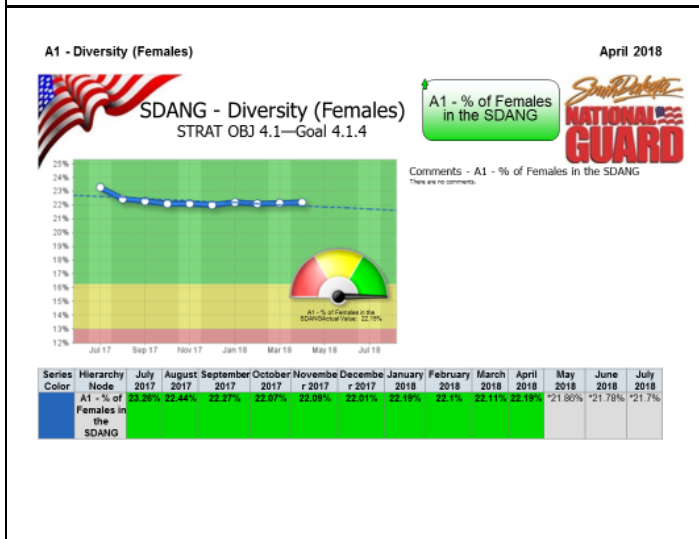
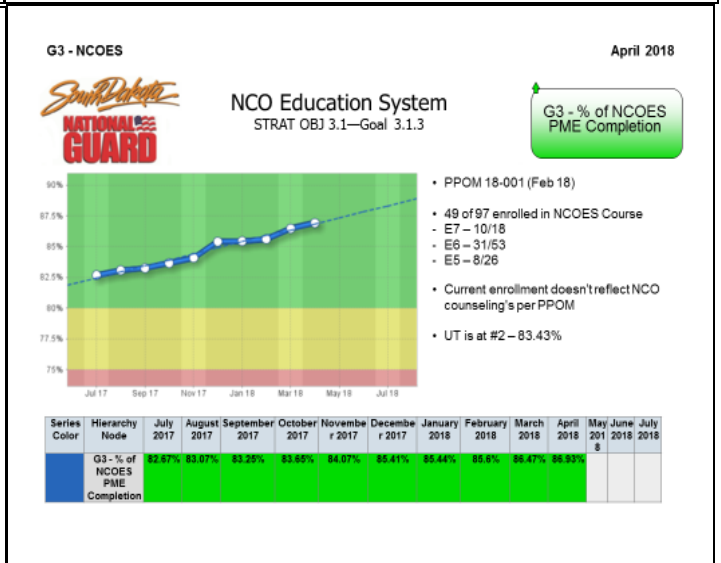
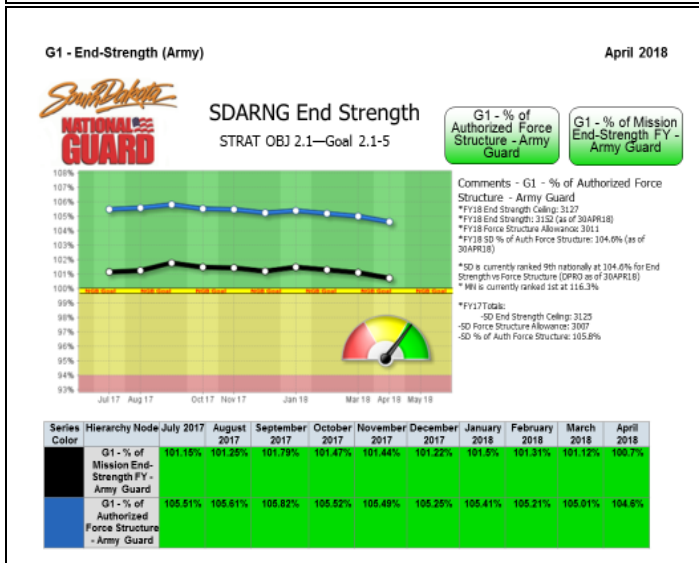
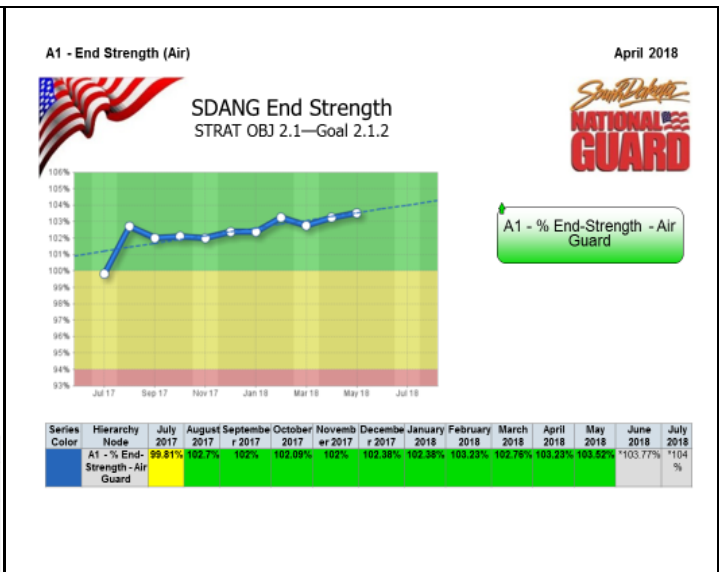
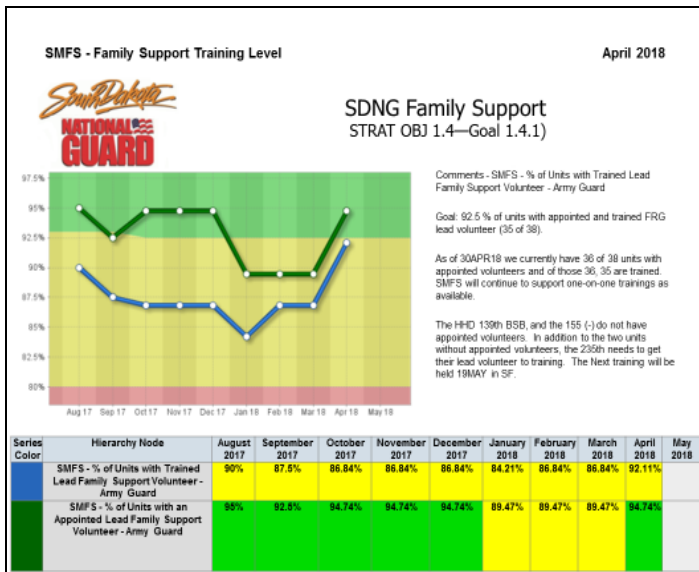
- *Objective 2.1: Ensure Personnel Readiness*
- *Objective 2.2: Ensure Training Readiness*
- *Objective 2.3: Ensure Sustainment Readiness*
- *Objective 2.4: Ensure Relevancy*

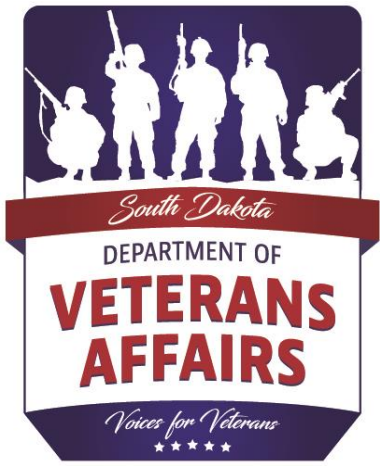
**Line of Effort 3: Develop Exceptional Leaders & Effectively Manage Careers**

- *Objective 3.1: Manage Effective Careers*
- *Objective 3.2: Develop Exceptional Leaders*
- *Objective 3.3: Ensure a Culture of Excellence: Innovation, Org Development, Process Improvement*

**Line of Effort 4: Increase Diversity & Inclusion**

- *Objective 4.1: Increase Diversity*
- *Objective 4.2: Increase Inclusion*





**South Dakota Department of  
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**Fax 605.333.5306**

<http://vetaffairs.sd.gov>



Date: June 11, 2018  
TO: Government Operations and Audit Committee  
FROM: Larry Zimmerman, Secretary  
SUBJECT: Summary Plan for Strategic Plan

The South Dakota Department of Veterans Affairs' mission and vision remain unchanged. We are the voice for South Dakota's veterans.

Nationally, and at the state level, extensive work is being done to identify veterans with unmet needs as well as those veterans who have not accessed their benefits through the federal VA. Our Department, along with our many partners, have made headway with outreach during the past five years, but much work remains as we work to reach as many veterans and their dependents as we are able to.

To accomplish our mission and continue our vision, we will need to remain steadfast in our pursuit of the following three pillars:

#### Workforce Development

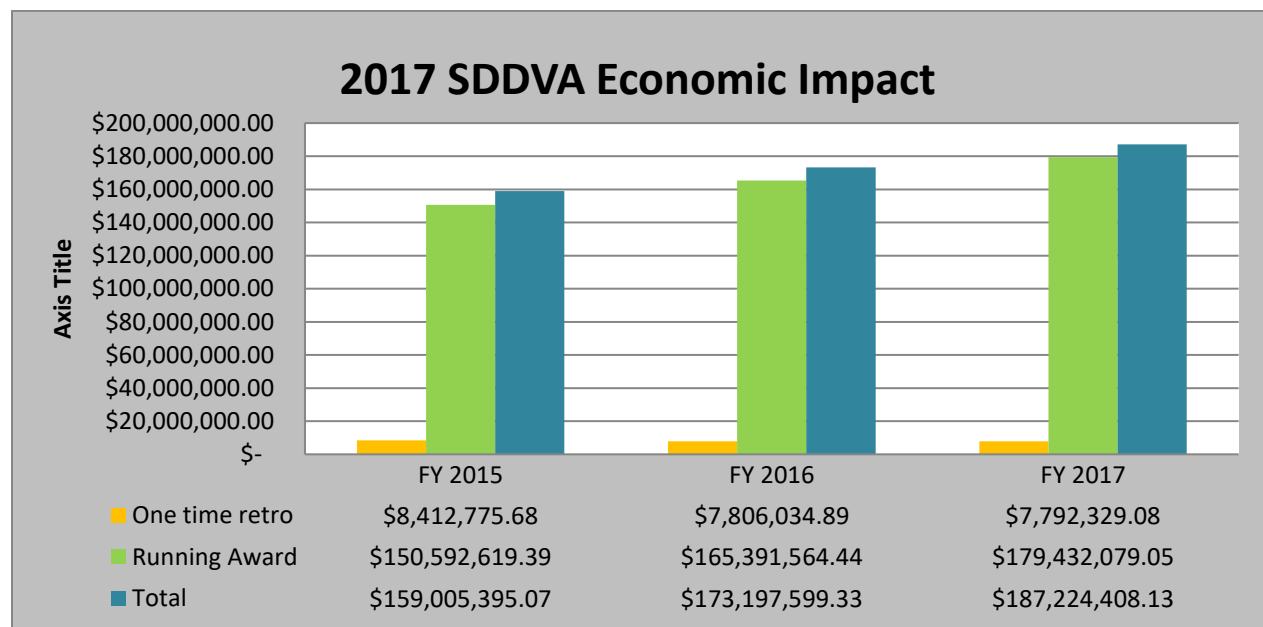
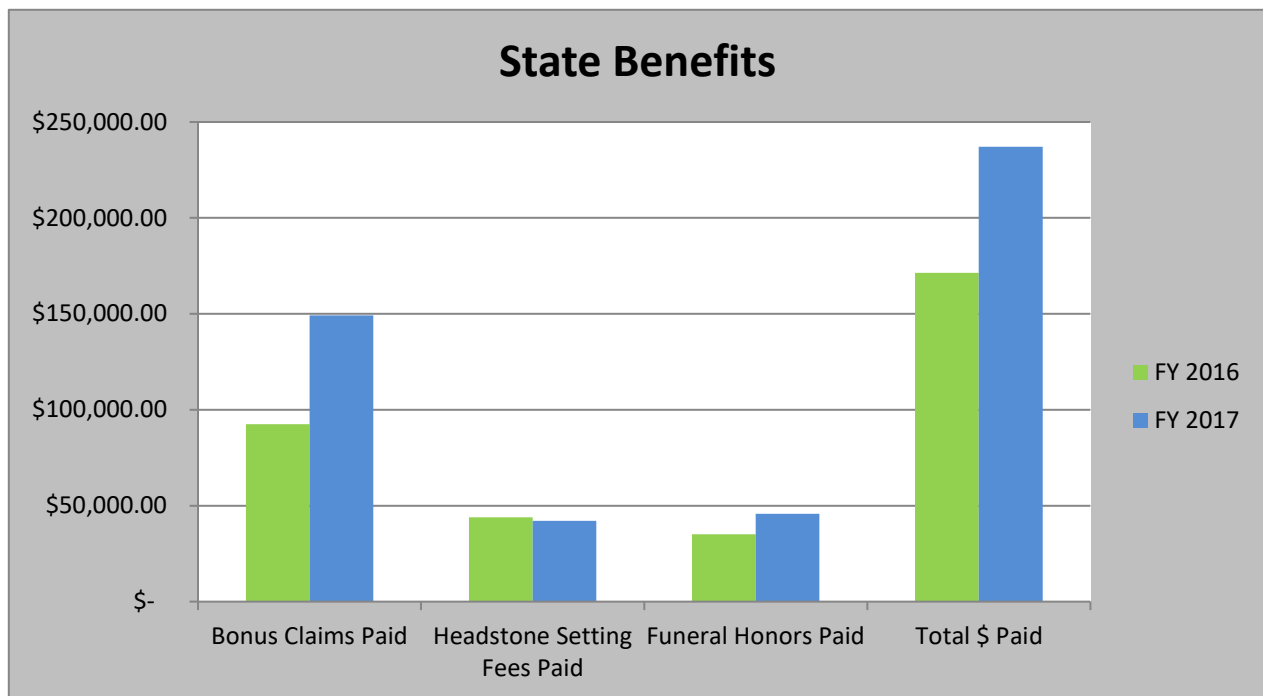
- Increase Training
- Retain Knowledgeable, Skilled, and Prepared Workforce
- Remain Flexible
- Maximize Effectiveness

#### Economic Impact

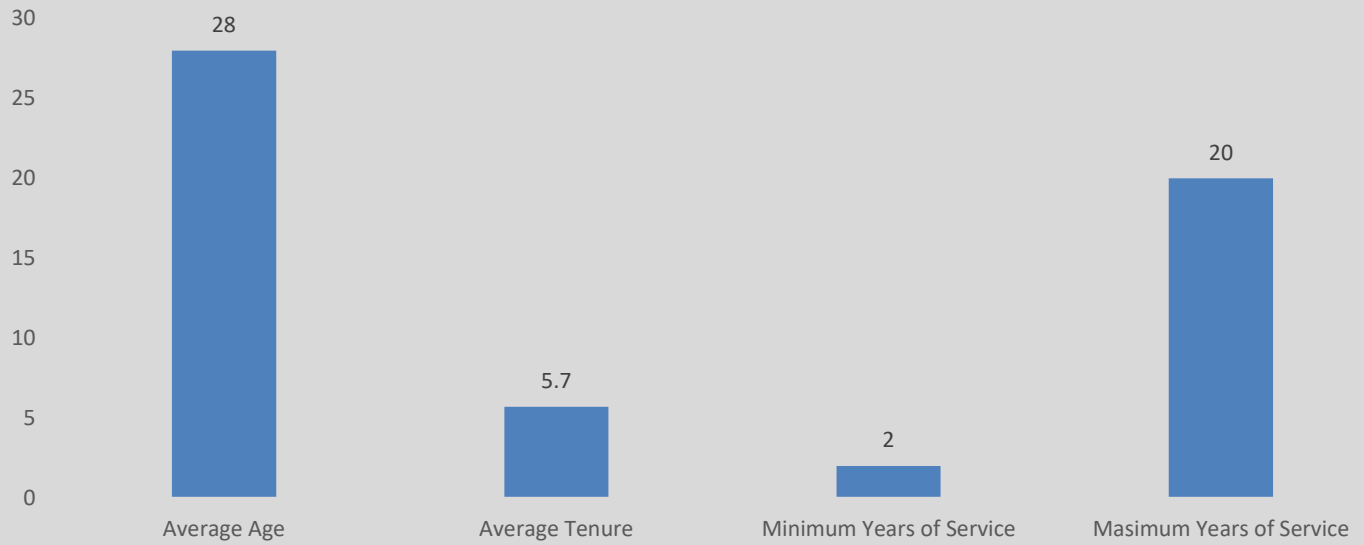
- Increase Education and Awareness
- Increase Revenue Generated by Department for Veterans

#### Customer Service

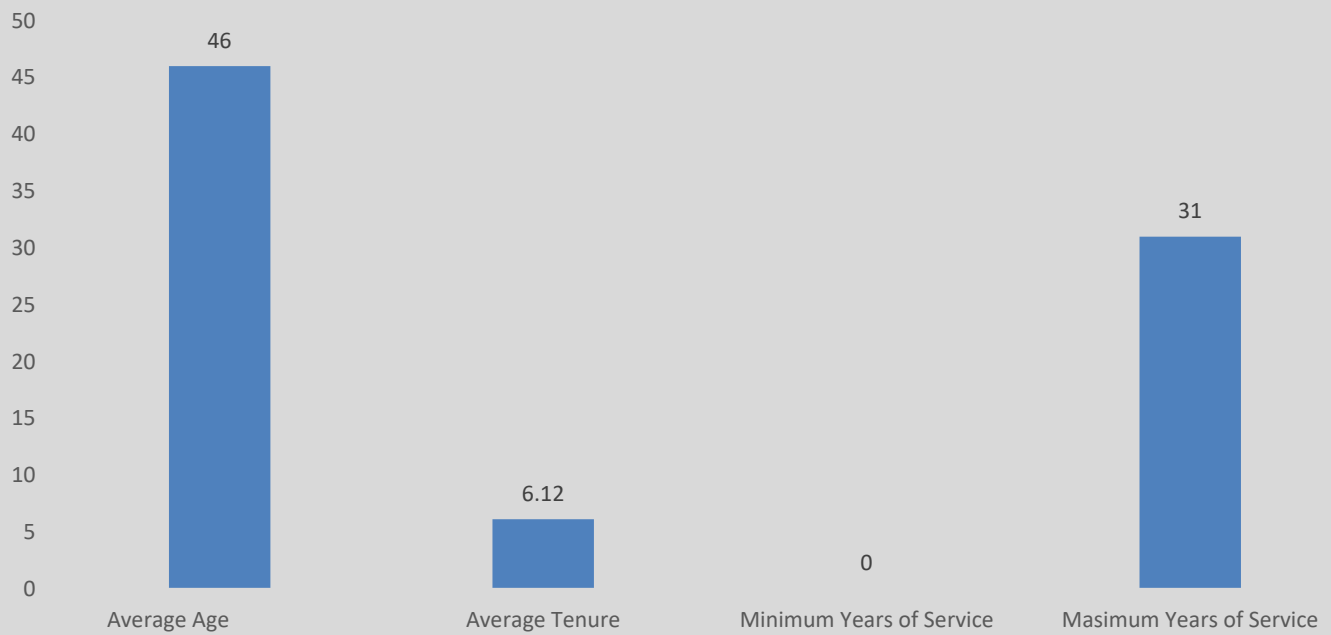
- Sustain Outreach
- Ensure Quality of Care
- Provide Information on the Ever-Changing Benefits and Services
- Ensure that our Department has the Tools and Resources Necessary to Reach as Many Veterans as we are able
- Strengthen Partnerships with Veterans Service Organizations, County and Tribal Veterans Service Officers, Healthcare Providers, and Community Leaders
- Raise Awareness of the Resources Available to Veterans
- Grow Programs to Assist Incarcerated Veterans

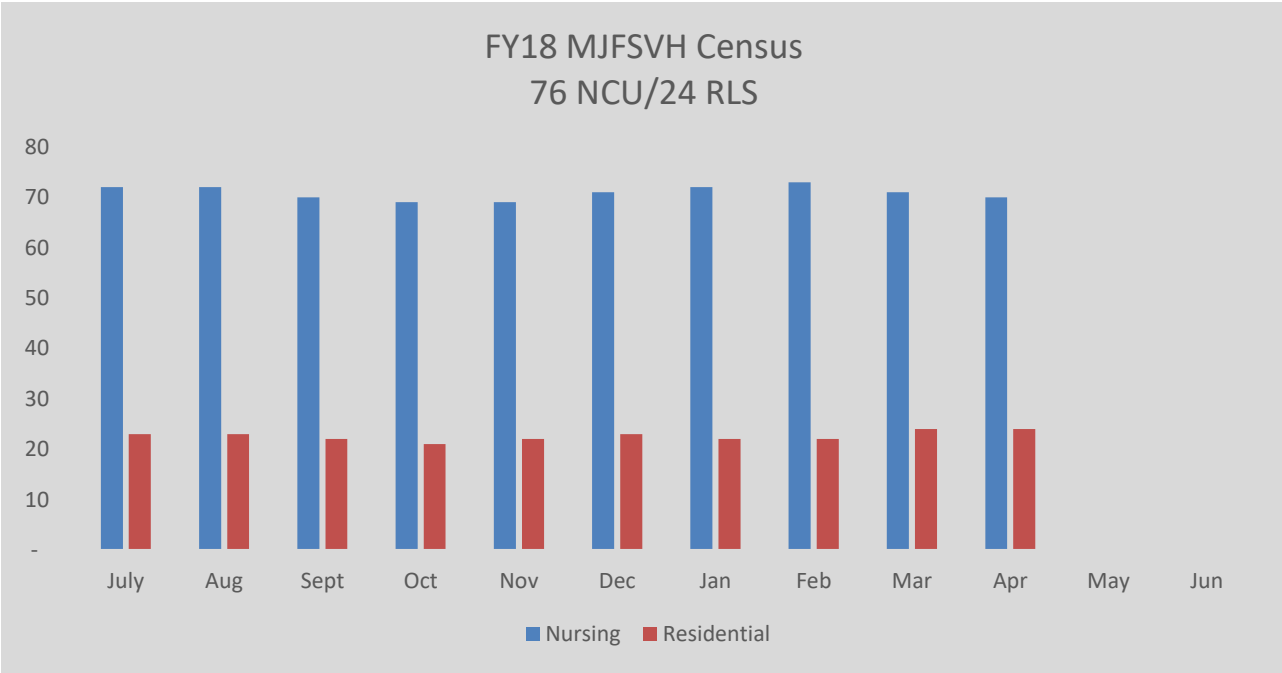
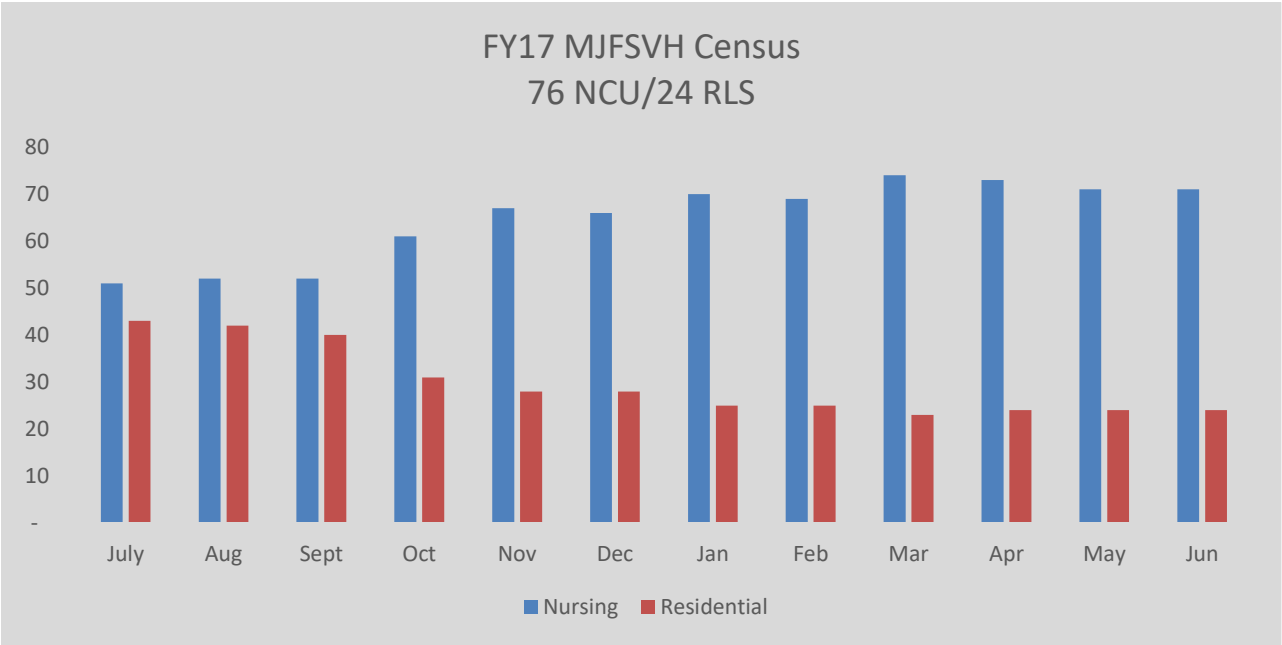


### Stats for State Veterans Home Staff

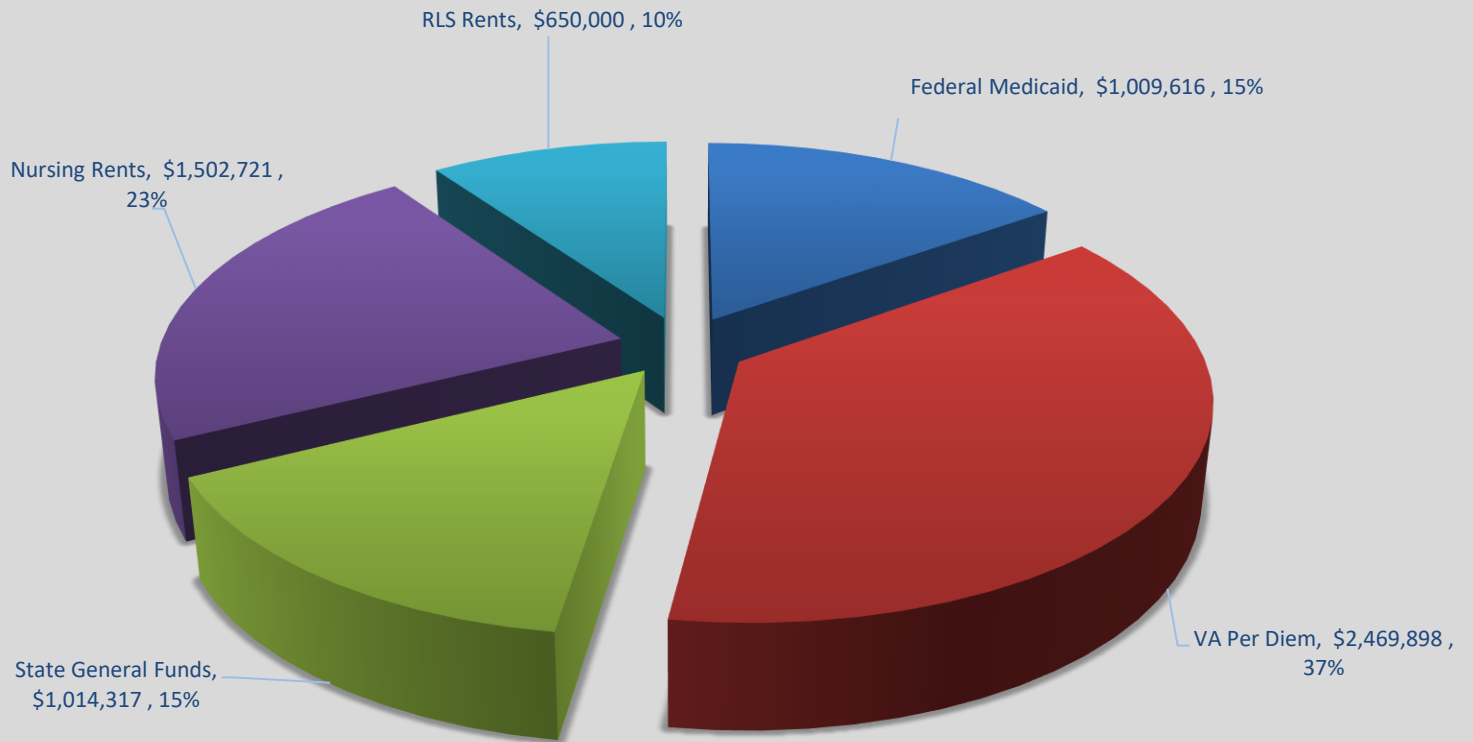


### Stats for Benefits Staff

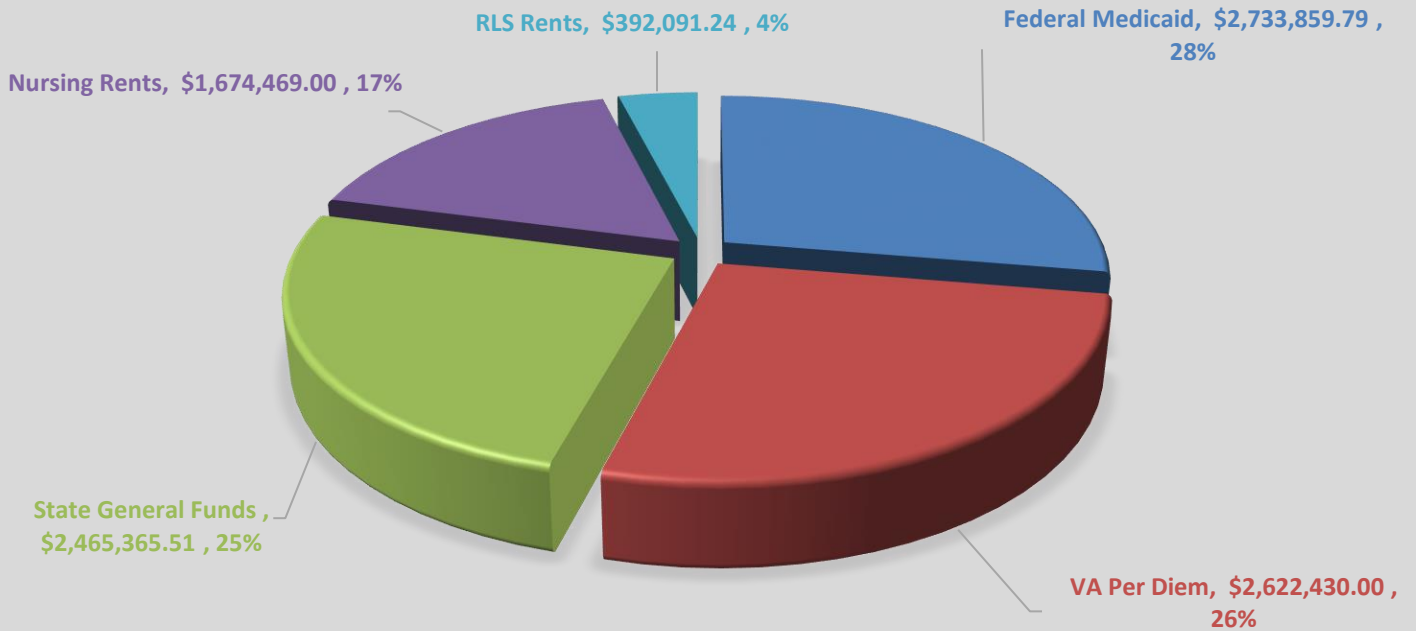




## FY16 MJFSVH Revenues



## FY17 MJFSVH REVENUES





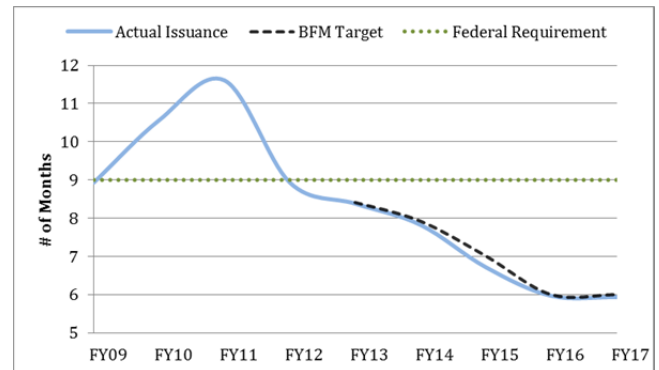


# Performance Metrics

The mission of the Bureau of Finance and Management (BFM) includes advising the Governor on overall fiscal policy; completing and presenting the annual fiscal plan; promoting the efficient and effective management of the state of South Dakota; preparing the state's annual financial report; and, managing the central accounting and payroll systems for the state.

## Goal: Issue the Comprehensive Annual Financial Report (CAFR) within six months of fiscal year completion.

- Federal regulations require issuance within nine months (green line).
- Governor's goal is to complete it in six months. BFM set target dates to reach this six month goal (black line).
- Target dates met since FY2013.
- Six month goal met in FY2016 and FY2017 (blue line).



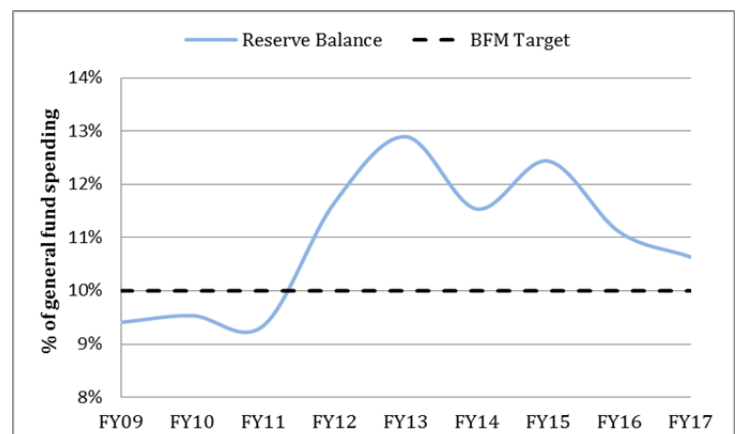
## Goal: Maintain best public issuer credit ratings possible.

- South Dakota has had the best possible ratings from Standard & Poor's, Moody's, and Fitch since 2016.
- Only twelve states hold the highest rating across all three rating agencies. (PEW Charitable Trusts)
- Upgrades typically allow issued bonds to carry a lower interest rate, providing interest savings to issuers that translate through to the state of South Dakota.

	S&P	Moody's	Fitch
<b>Top Ratings</b>	<b>AAA</b>	<b>Aaa</b>	<b>AAA</b>
2009	AA	N/A	AA
2010	AA	N/A	AA+
2011	AA+	N/A	AA+
2012	AA+	N/A	AA+
2013	AA+	N/A	AA+
2014	AA+	N/A	AA+
2015	AAA	N/A	AA+
2016	AAA	Aaa	AAA
2017	AAA	Aaa	AAA

## Goal: Maintain budget reserve at 10% of general fund spending.

- \$159.5M in reserves (budget reserve fund and general fund replacement fund) as of today.
- BFM policy is to maintain a combined balance equal to 10% of general fund spending (black line).
- The reserve balance has been above 10% since FY2012 (blue line).

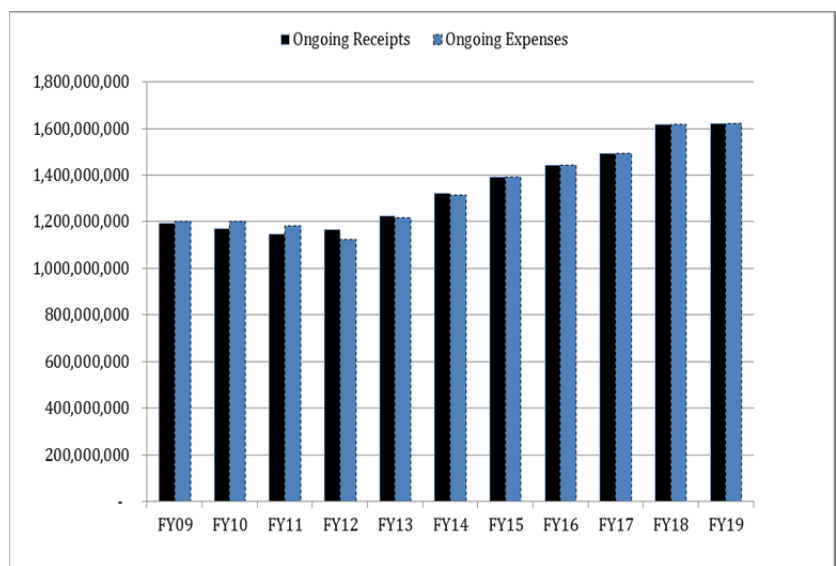


## Goal: Implement internal controls for all state agencies.

- BFM led a workgroup to create tools to ensure agencies are in compliance with the federal government's Uniform Grant Guidance.
- The State Board of Internal Controls is meeting to establish and maintain guidelines for a system of internal controls.
- BFM is leading a project to create an Internal Control Framework that will be applicable statewide.
- The framework will be implemented within BFM first, and then implemented in other state agencies.

## Goal: Maintain a structurally balanced budget.

- South Dakota is committed to fiscal responsibility and conservative management principles. We use ongoing money for ongoing expenses.
- The ongoing expenses include appropriations in the General Appropriations Act, as well as continuous appropriations.
- The Governor has recommended a budget with ongoing receipts (black bar) equal to or greater than ongoing expenses (blue bar) in each of the past eight years.



## Goal: Improve government transparency.

- Continually seek ways to make more government financial information accessible to the public by implementing new functionality on the state's website. Open SD provides access to state government spending, state employees' salaries, financial publications and reports, the state's checkbook, contracts, grants, budget, tax expenditures, and a variety of other financial information.
- Each year, BFM produces three public documents to strengthen the financial practices of the state: Long-Term Financial Plan, Five-Year Capital Expenditure Plan, and Debt Limitation and Management Policy.
- Financial Metrics and Dashboards can be found on BFM's website. Included are: updated snapshots of budget and actual expenditures compared to projected expenditures, the state's general fund receipts and comparison with the most recent forecasts, and the balance of the cash flow account and trust funds.
- This March, BFM released a new financial publication called the Citizen's Financial Report. It is intended to be a clear and understandable summary of several other large and complex documents, including the Budget Report, CAFR, Long Term Financial Plan, and Economic Updates.



SOUTH DAKOTA  
DEPARTMENT  
OF PUBLIC SAFETY

prevention — protection — enforcement

**The South Dakota Department of Public Safety includes 12 agencies with the mission to keep South Dakota a safe place in which to live, work, visit and raise a family.**

**Our agencies work to protect and serve South Dakota by:**

- Coordinating with state, local and tribal governments to prevent acts of terrorism.
- Communicating homeland security terrorism preventive and response measures to private and public entities.
- Providing highway patrol services that protect our citizens and visitors by promoting public safety through education, enforcement and example. Commercial vehicle regulation is also part of the Highway Patrol.
- Providing highway safety grants and information.
- Compiling and analyzing accident records and motor vehicle crash data.
- Developing and integrating all hazard emergency plans for disasters.
- Assisting state, local, and tribal governments with emergency management efforts to prepare, respond, recover and mitigate natural and man-made disasters before they occur.
- Providing fire prevention services including fire reporting, training, investigation, public education, fire prevention, code enforcement and other state fire marshal services.
- Coordinating a statewide 9-1-1 system by providing local governments in South Dakota with technical assistance, funding oversight, and monitoring administrative rule compliance.
- Issuing identification, testing, licensing and regulating commercial and non-commercial drivers.
- Providing state inspections and weights and measures services for businesses and consumers.

### The Office of Homeland Security assists in our mission by:

- Coordinating with state, local and tribal governments to prevent acts of terrorism.
- Communicating homeland security terrorism preventive and response measures to private and public entities.

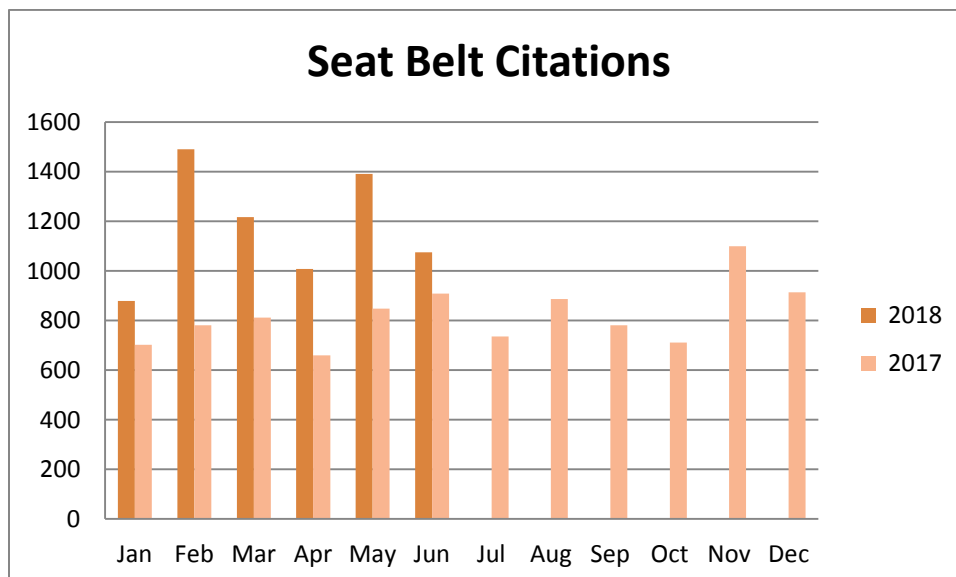
	Grant Year 15 Actual	Grant Year 16 Actual	Grant Year 17 Actual
<b>Homeland Security:</b>			
# of Agencies Served by Homeland Security Grants			
Local	95	108	89
State	8	8	7
# of Projects Funded by Homeland Security Grants			
Local	137	122	101
State	22	14	14

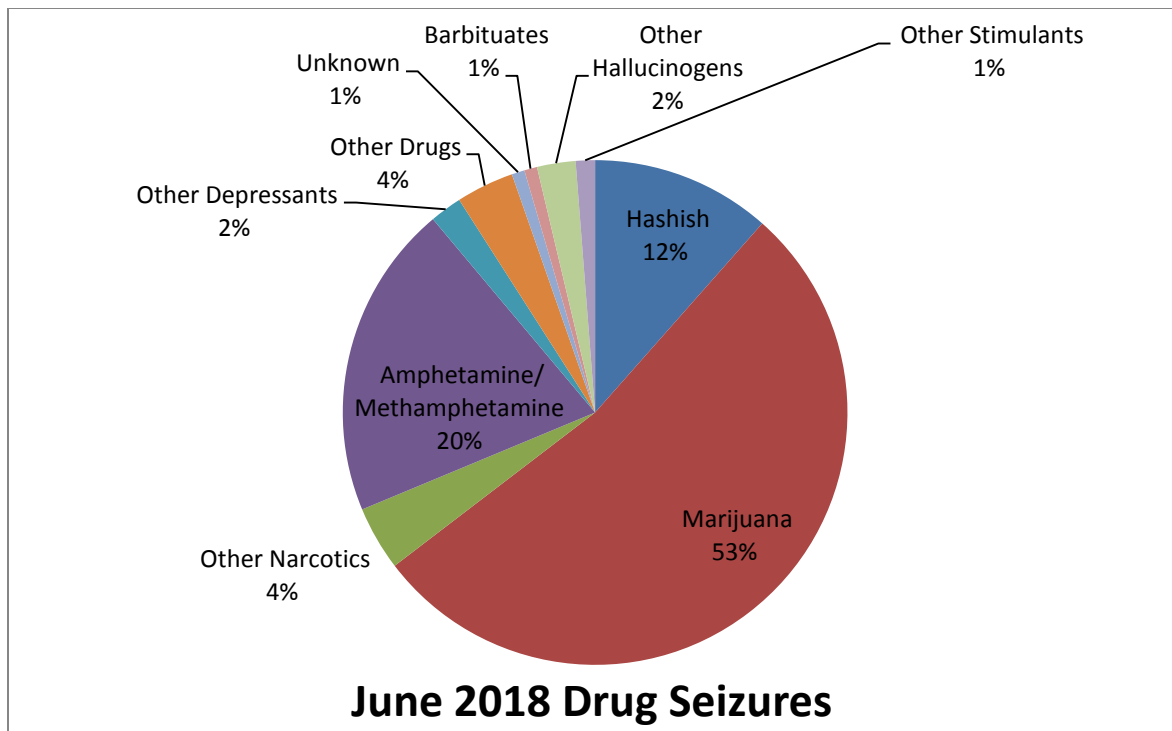
### The Highway Patrol assists in our mission by:

- Providing highway patrol services that protect our citizens and visitors by promoting public safety through education, enforcement and example. Commercial vehicle regulation is also part of the Highway Patrol.

Seatbelt enforcement efforts by the Highway Patrol:

- Calendar Year (CY) 2014 – Arrests (A): 5,647 Warnings (W): 2,192 Total Seatbelt contacts: **7,839**
- CY 2015 – A: 5,937 W: 2,292 Total Seatbelt contacts: **8,229**
- CY 2016 – A: 5,617 W: 1,937 Total seatbelt contacts: **7,554**
- **December 2016** – issued Seatbelt Directive that instructed all troopers to write citations for every seatbelt violation they observed.
- CY 2017 – A: 10,256 W: 17 Total seatbelt contacts: **10,273**
- CY 2018 YTD – A: 7,870 W: 4 Total seatbelt contacts YTD 18: **7,874**





## POLICE SERVICE DOG TROOPER - STATISTICS

	Quarter 1 (January-March)	Quarter 2 (April-June)	Quarter 3 (July-September)	Quarter 4 (September-December)	Total 2018
<b>Misdemeanor - Drug Arrests</b>	181	178			
<b>Felony - Drug Arrests</b>	93	88			
<b>Total - Drug Arrests</b>	274	266			
<b>Methamphetamine (Grams)</b>	12,910	515			
<b>Methamphetamine (Pounds)</b>	28.4	1.13			
<b>Marijuana (Ounces)</b>	14,383	1097			
<b>Marijuana (Pounds)</b>	898.9	68.56			
<b>BHO/WAX (Grams)</b>	587	1070			
<b>BHO/WAX (Pounds)</b>	1.29	2.35			
<b>THC Edibles (Grams)</b>	0	118			
<b>THC Edibles (Pounds)</b>	0	0.25			
<b>Heroin (Grams)</b>	0	0			
<b>Cocaine (Grams)</b>	0	91			
<b>Psilocybin Mush (Grams)</b>	0	44			
<b>Fentanyl (Grams)</b>	0	0			
<b>Pills (Dosage Units)</b>	0	19			
<b>Guns</b>	0	4			
<b>US Currency Seized</b>	\$4,268	\$47,700			
<b>Property Seized</b>	\$18,000	\$60,000			



# METH TROOPER - STATISTICS

	Quarter 1 (January- March)	Quarter 2 (April-June)	Quarter 3 (July- September)	Quarter 4 (September- December)	Total 2018
<b>Misdemeanor - Drug Arrests</b>	190	132			
<b>Felony - Drug Arrests</b>	109	74			
<b>Total - Drug Arrests</b>	299	206			
<b>Methamphetamine (Grams)</b>	15,702	6160			
<b>Methamphetamine (Pounds)</b>	34.58	13.56			
<b>Marijuana (Ounces)</b>	14,670	265			
<b>Marijuana (Pounds)</b>	917	16.56			
<b>BHO/WAX (Grams)</b>	1,111	38			
<b>BHO/WAX (Pounds)</b>	2.48	0.08			
<b>THC Edibles (Grams)</b>	0	1055			
<b>THC Edibles (Pounds)</b>	0	2.32			
<b>Heroin (Grams)</b>	0	0			
<b>Cocaine (Grams)</b>	1	16			
<b>Psilocybin Mush (Grams)</b>	0	8			
<b>Fentanyl (Grams)</b>	0	0			
<b>Pills (Dosage Units)</b>	0	152			
<b>Guns</b>	1	1			
<b>US Currency Seized</b>	\$59,972	\$17,915			
<b>Property Seized</b>	\$20,600	\$15,000			

	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Actual	FY17 Actual
<b>Highway Patrol:</b>					
Percent of Time Patrolling Public Hwys	61%	60%	54%	59%	55%
<b>Enforcement Activity:</b>					
DWI	2,352	2,302	2,329	2,492	2,314
Warnings Issued	73,529	74,536	95,515	97,638	87,663
Citations Issued	47,721	49,547	56,530	58,470	57,131
Bus Inspections (Hours)	2,066	729	649	563	203
Motorist Assists (Hours)	1,277	1,881	1,736	2,347	2,395
Safety Education Hours	3,878	4,524	3,932	4,067	3,731
<b>Drug Related Arrests:</b>					
Felony	617	751	882	1,014	997
Misdemeanor	2,332	2,444	3,004	3,386	2,780

Stationary/Mobile Port Activity:					
Trucks Checked	591,960	559,608	585,095	659,714	615,068
Total Miles Driven All Operations	4,879,967	5,002,940	5,227,090	5,264,425	5,057,264
Fatal Accidents Investigated by SDHP	91/78%	106/80%	86/80%	95/86%	72/78%
Injury Accidents Investigated by SDHP	929/24%	927/24%	879/24%	1053/26%	912/24%
Non-injury Accidents Investigated by SDHP	2,764/23%	2,652/20%	2,647/21%	2,842/21%	2,876/21%

**The Office of Highway Safety assists in our mission by:**

- Providing highway safety grants and information.

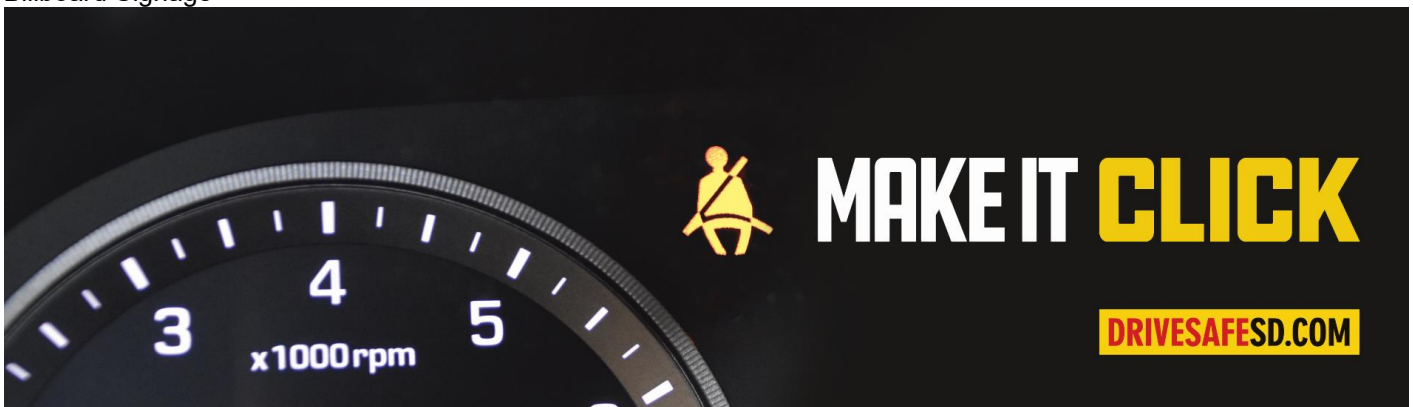
	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Actual	FY17 Actual
<b>Accident Records/Highway Safety:</b>					
Accidents Processed	15,861	16,963	16,868	17,952	17,465
Fatal Crashes Processed	118	133	107	111	92
Highway Safety Projects Funded	105	92	94	117	107
Motorcycle Safety Courses Offered	310	275	335	339	345
Motorcycle Riders Trained	1,900	1,709	1,786	1,771	1,741

For FFY2019 (October 1, 2018-September 30, 2019), the South Dakota Office of Highway Safety will dedicate funds to the following projects that will focus on seatbelt use:

- Law Enforcement Overtime, which includes seatbelt enforcement if noted after stop
- Community Outreach Programming (adults, younger drivers, and children)
- Seatbelt Survey as required by Feds (to determine the seatbelt use rate in SD)
- Seatbelt Advertising (TV, radio, social media, billboards)

Below are images from our FY2018 Highway Safety creative/campaign/ads:

Billboard Signage





Wrapped Icons – Zamboni in Pierre



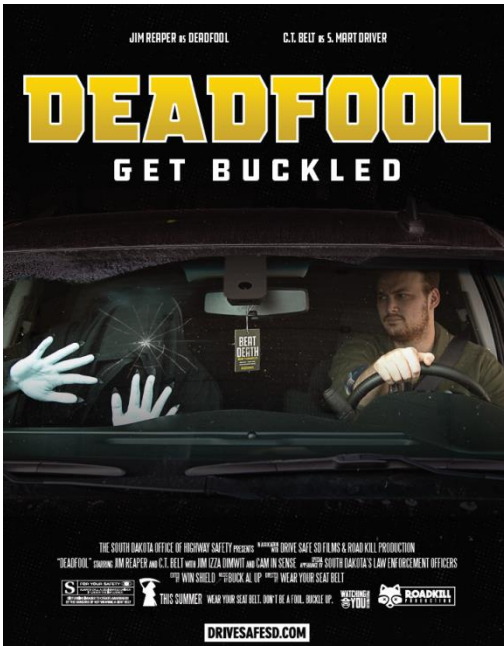
Empire Mall in Sioux Falls



Jim Reaper with the Lieutenant Governor

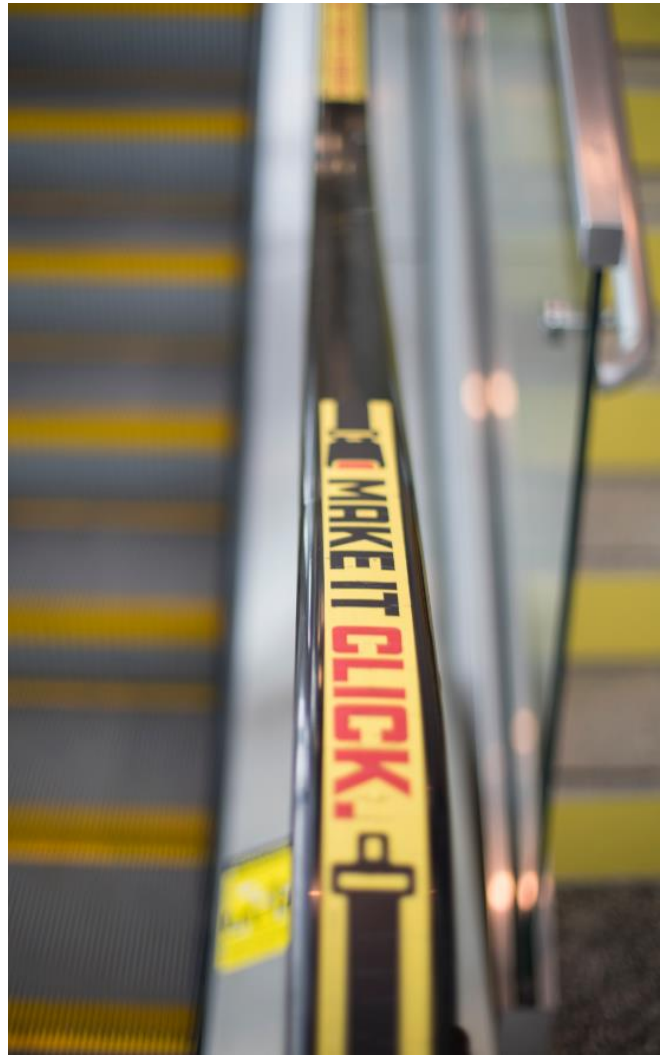


Print Placement





## Summit League Basketball Tournament



## Building graphic outside of KSFY downtown Sioux Falls (during winter of 2018)

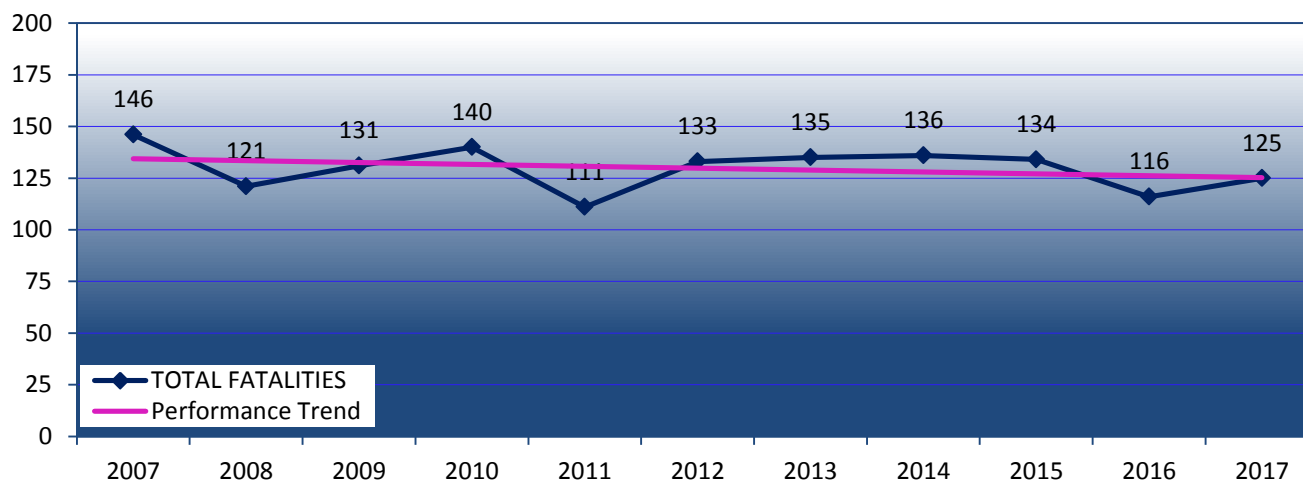


## The Office of Accident Records assists in our mission by:

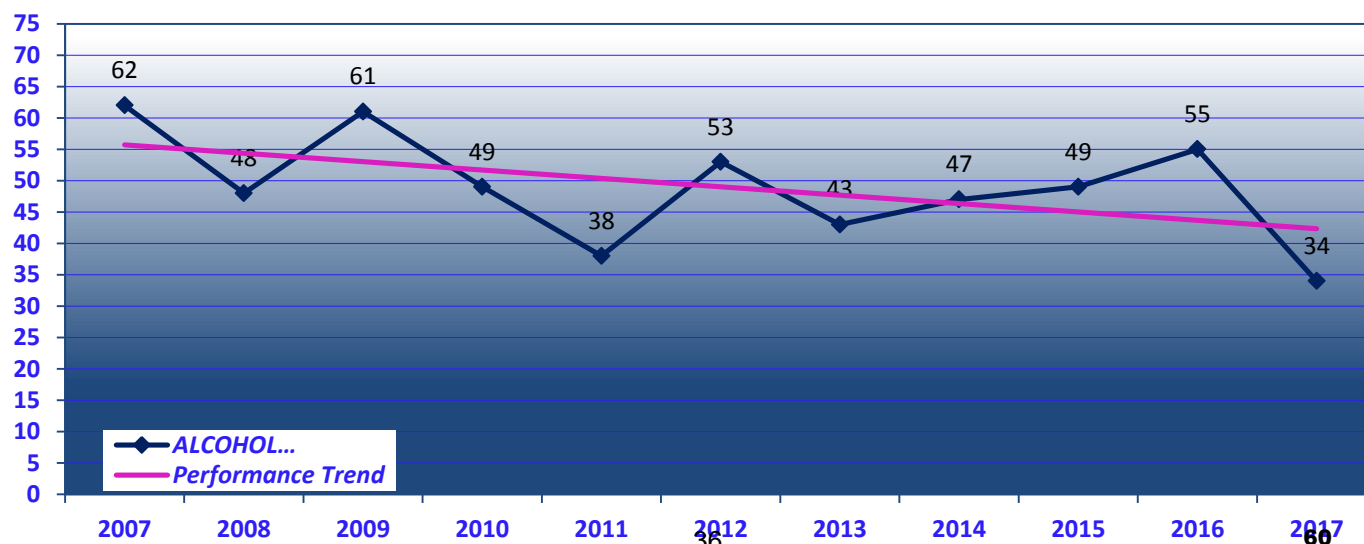
- Compiling and analyzing accident records and motor vehicle crash data.
  - **48.6%** of all speed-related crashes involve drivers under age 25
  - **31%** of all alcohol-related crashes involve drivers under age 25
  - Percent of licensed drivers under the age of 25? **15.3%**

Fatalities' Seat Belt Usage - Year to Date			Speed & Alcohol - Year to Date			
<i>Belt usage may change as additional information is received</i>						(2013-2017) 5 yr avg
20	With belt	37.04%	Alcohol Related	2018 18	2017 15	20.0%
31	Without belt	57.41%				
3	Unknown	5.56%	Speed Related	20	13	53.8%
16	Not applicable (Motorcycle, Pedestrian, etc.)					
70	Total Fatalities		These are preliminary numbers and may change as additional information is received			

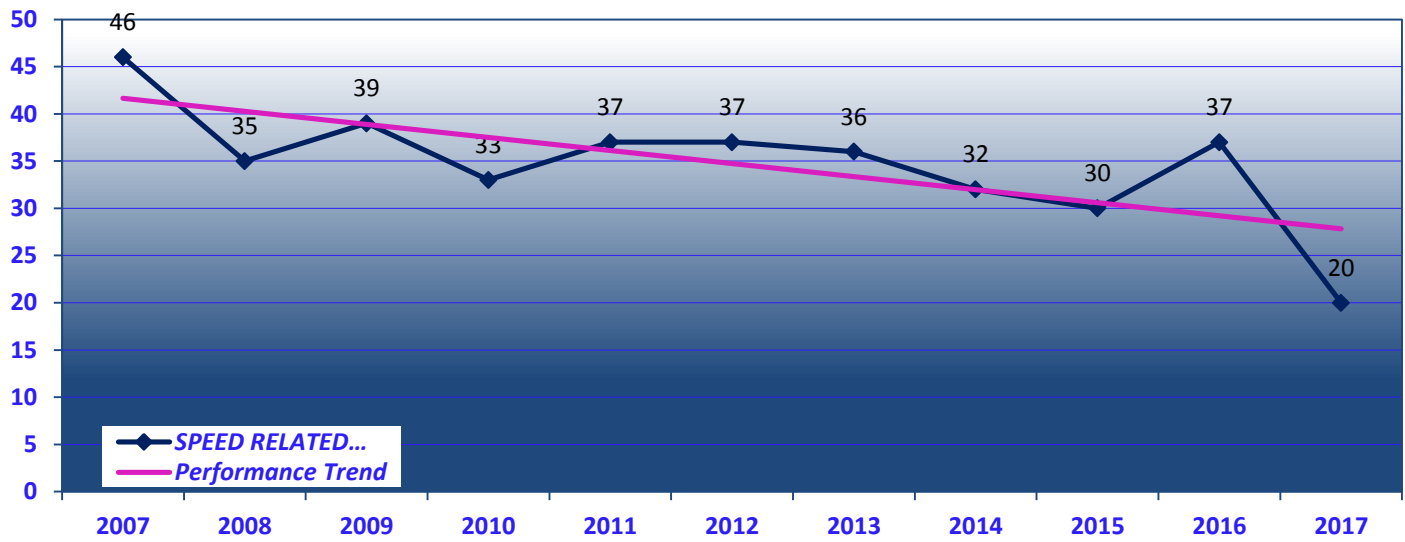
## SOUTH DAKOTA TRAFFIC CRASH FATALITIES 2007-2017



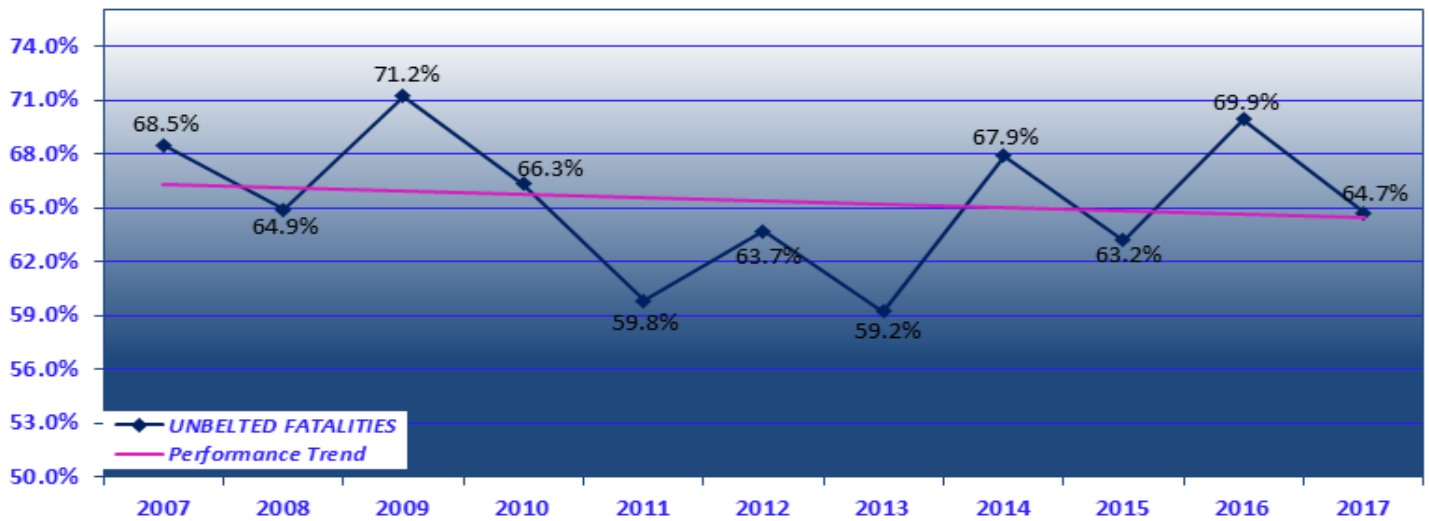
## ALCOHOL RELATED FATALITIES 2007-2017

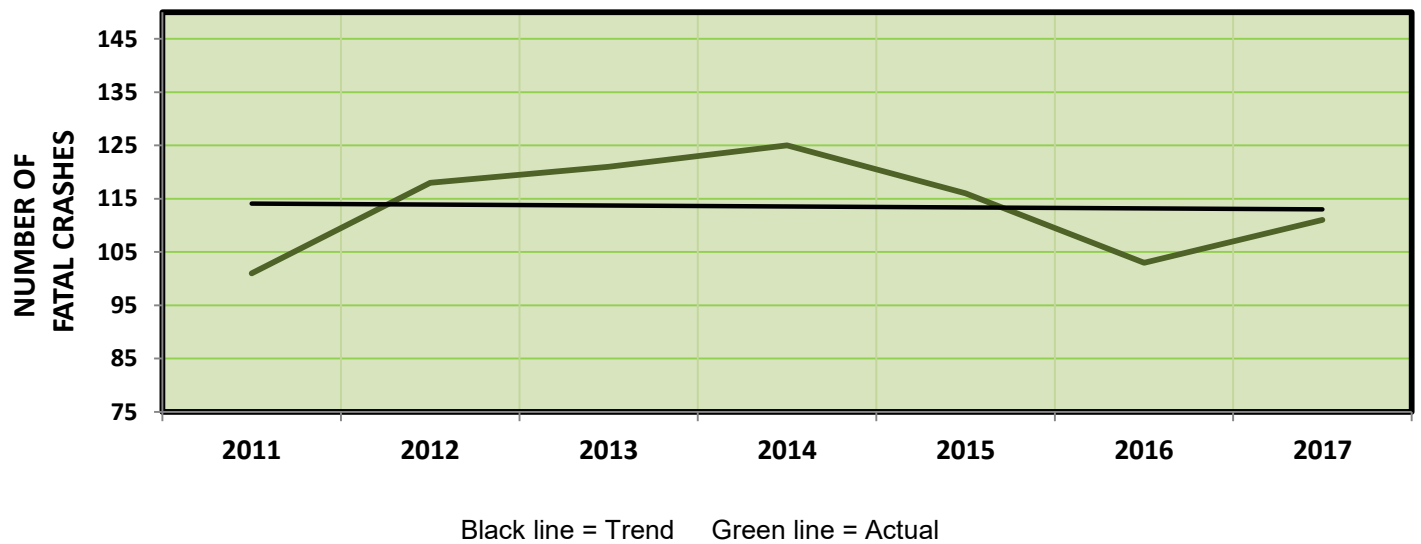
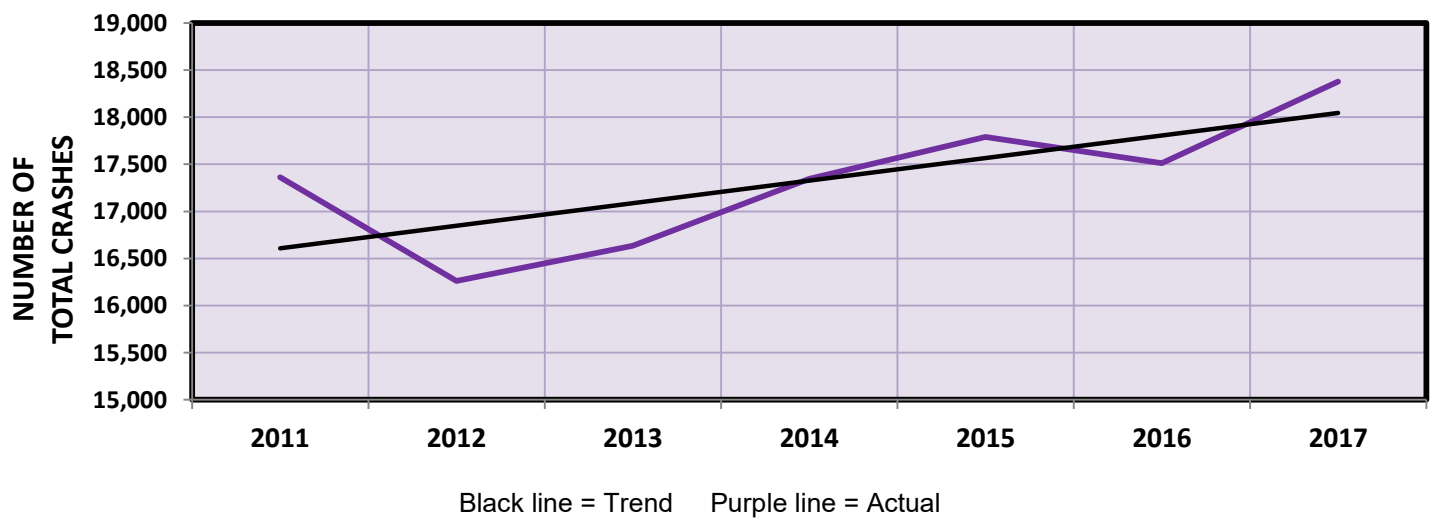
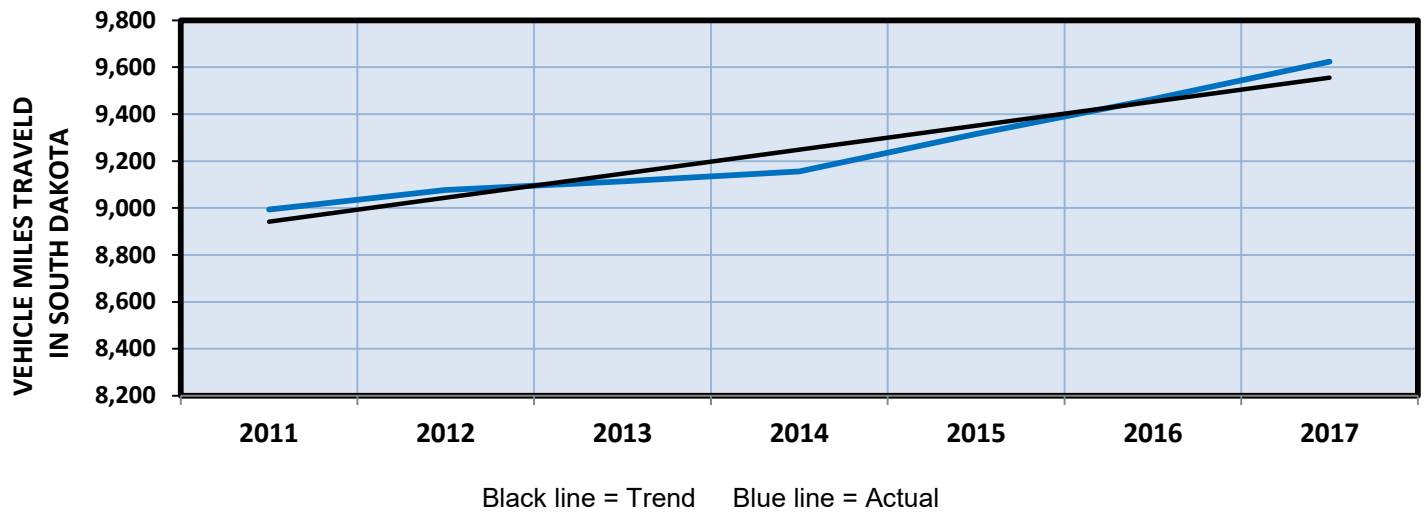


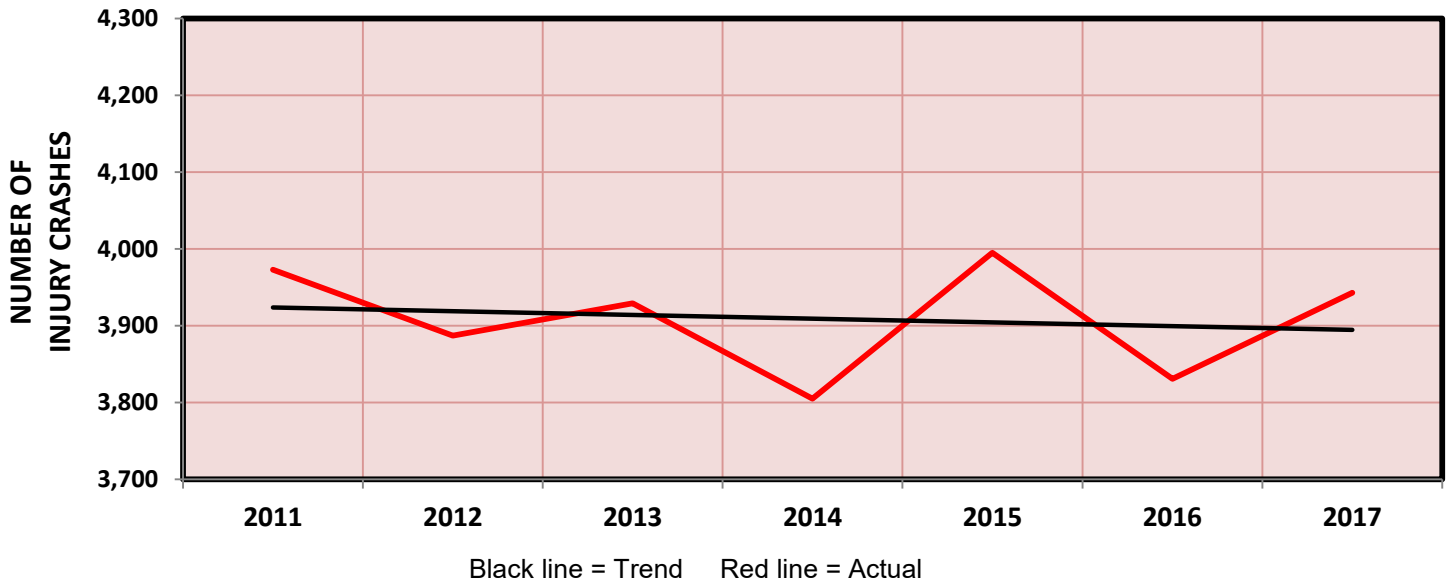
## SPEED RELATED FATALITIES 2007-2017



## UNBELTED FATALITIES







- Seatbelt Use Rate (increase over the last five years):
  - 2013: 68.7%
  - 2014: 68.9%
  - 2015: 73.6%
  - 2016: 74.2%
  - 2017: 74.8%

**The Office of Emergency Management assists in our mission by:**

- Developing and integrating all hazard emergency plans for disasters.
- Assisting state, local, and tribal governments with emergency management efforts to prepare, respond, recover and mitigate natural and man-made disasters before they occur.

	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Actual	FY17 Actual
<b>Emergency Management:</b>					
On-site Assistance/Counties Visited	300/66	400/66	443/66	695/72	599/72
Duty Officer Calls	421	348	328	315	257
Active Disasters	10	11	10	7	8
# of disaster Project Worksheets	5,992	6,458	6,361	3,435	3,450
# of Disaster Large Projects	175	391	616	237	255
# of Disaster Payments	85	315	221	121	117
# of Disasters Closed this Year	3	2	1	2	1
Total FEMA Disaster Dollars (millions)	179	240	248	161	176
# of Mitigation Projects	136	119	134	96	140
Total FEMA Mitigation Dollars (millions)	21	23	25	30	20
# of Trainings Coordinated	41	40	41	57	58
# of People Trained	776	683	738	1,105	1,539
# of Exercises Coordinated	47	35	38	43	42
# of Exercise Participants	875	1,583	1,610	1,311	1,252

# of Local & Tribal Planning Contacts Made	112	117	123	236	905
# of State & Federal Planning Contacts Made	328	344	362	444	2,421
# of VOAD Planning Contacts Made	135	141	368	404	283
# of Social Media Followers	993	2,500	3,874	4,980	6,049

### **The State Fire Marshal's Office assists in our mission by:**

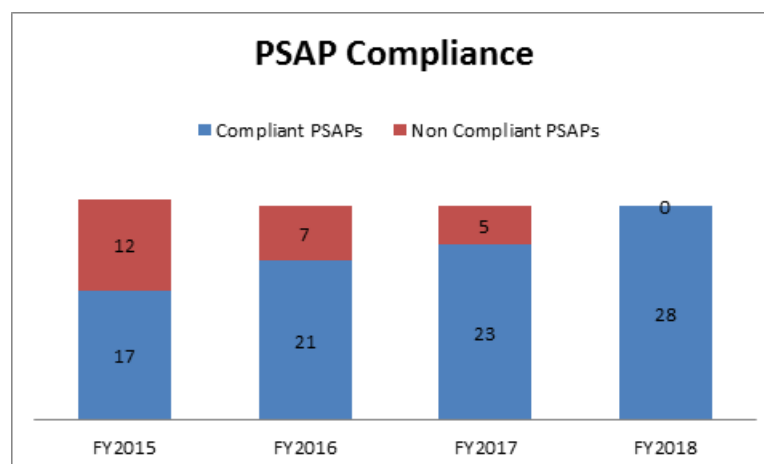
- Providing fire prevention services including fire reporting, training, investigation, public education, fire prevention, code enforcement and other state fire marshal services.

	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Actual	FY17 Actual
<b>Fire Marshal:</b>					
Fire Investigations	71	68	79	86	71
Schools Inspected	206	236	223	215	234
Fireworks Licenses	386	377	393	375	379
Boiler Inspections/Insurance	2,566	2,165	2,409	2,634	2,566
Boiler Inspections/State	2,099	2,072	1,913	2,099	2,099
Certified Firefighters	188	181	168	206	258
Smoke Alarm Grant Program			2,913	2,521	1,200

### **The State 9-1-1 Coordination Program assists with our mission by:**

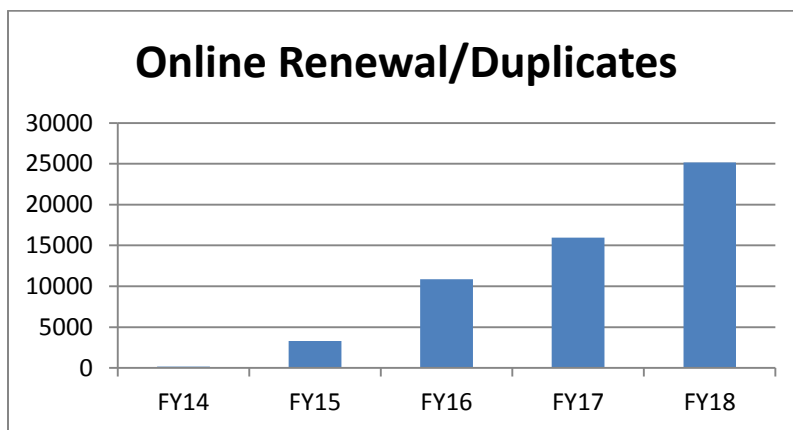
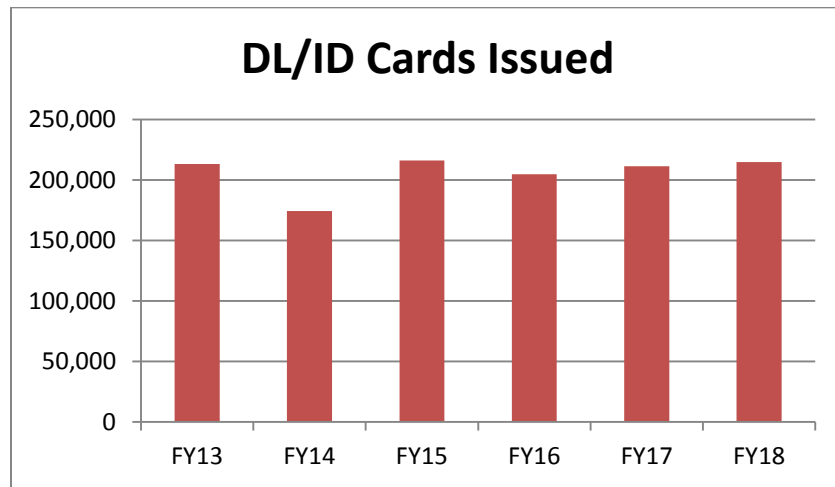
- Coordinating a statewide 9-1-1 system by providing local governments in South Dakota with technical assistance, funding oversight, and monitoring administrative rule compliance.

	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Actual	FY17 Actual	FY18 Actual
<b>911 Coordination Fund:</b>						
Total # of PSAPs	33	33	33	32	32	32
Average # of Lines per Month	855,367	836,501	822,908	814,392	806,727	813,917
% of PSAPs compliant w/ Admin Rule		41%	45%	75%	82%	100%
% of PSAPs/Counties w/ no misuse of funds	68%	98%	99.9%	100.0%	100.0%	100.0%
Total # of PSAPs cut over to CPE			1	13	27	28

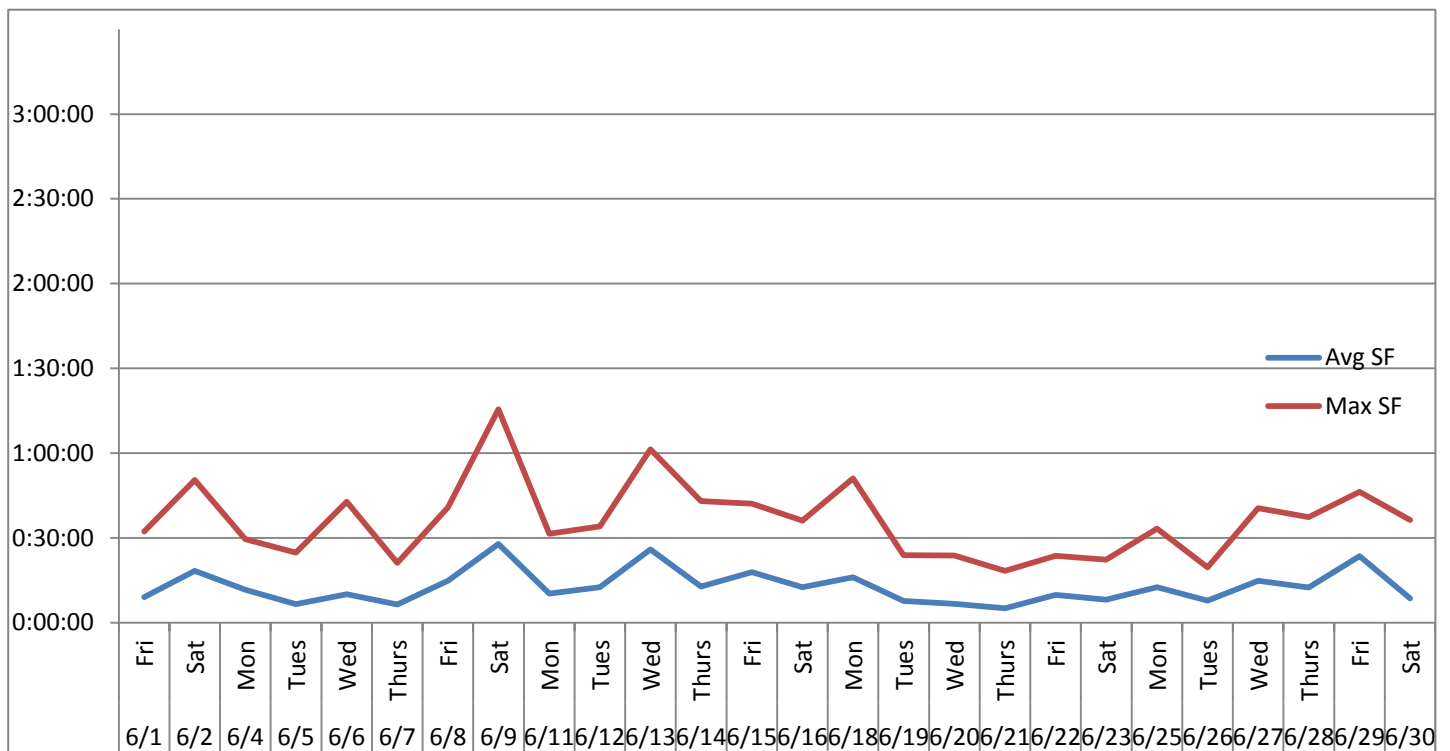


## The Driver Licensing Program assists with our mission by:

- Issuing identification, testing, licensing and regulating commercial and non-commercial drivers.



Wait Times - Sioux Falls Driver Exam Station – June 2018





**The State Inspection Program and Office of Weights and Measures assist with our mission by:**

- Providing state inspections and weights and measures services for businesses and consumers.

	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Actual	FY17 Actual
<b>Weights &amp; Measures:</b>					
Heavy Scales Inspections	2,289	2,281	2,347	2,365	1,772
Retail Scales, Pumps, Meters	7,825	11,906	8,410	8,158	8,133
Metrology Lab	1,247	1,274	2,503	3,470	3,615
Bulk LP		137	61	98	106
<b>Inspections for Other Agencies:</b>					
DOE	1,146	1,168	1,096	1,145	1,101
DSS	725	859	792	687	754
Lottery	16,538	19,641	20,207	20,961	18,196
DOH	7,568	8,586	8,349	7,917	7,121
DOA	2,346	2,188	2,102	2,120	1,753
FM		236	223	215	234
USDA COOL Inspections					22
Complaints/Requests	33	18/51	21/32	18/28	19/4

**The Victims' Services Program assists in our mission by:**

- Providing funding to programs that offer shelter, advocacy, crisis counseling, and other victims' services to sexual assault, domestic violence, stalking, and other violent crimes.
- Providing monetary assistance to victims of violent crimes.

	FY18	FY17	FY16
<b>State Funding</b>			
Domestic and Sexual Abuse Program (DASA)	\$ 225,000	\$ 225,000	\$ 225,000
<b>Federal Funding</b>			
Family Violence Prevention and Services Act (FVPSA)	\$ 791,900	\$ 785,131	\$ 784,417
Violence Against Women Act (STOP VAWA)	\$ 916,868	\$ 908,287	\$ 911,392
Sexual Assault Services Program (SASP)	\$ 350,918	\$ 350,955	\$ 350,915
Victims of Crime Act (VOCA) Assistance	\$ 9,213,724	\$ 5,316,625	\$ 6,285,230
Victims of Crime Act (VOCA) Compensation	\$ 119,000	\$ 81,000	\$ 30,000
Access and Visitation	\$ 100,000	\$ 100,000	\$ 100,000
<b>TOTAL</b>	<b>\$ 11,717,410</b>	<b>\$ 7,766,998</b>	<b>\$ 8,686,954</b>
*Amounts highlighted in green are anticipated for a Fall 2018 award			





## South Dakota Department of Tribal Relations

### Performance Metrics

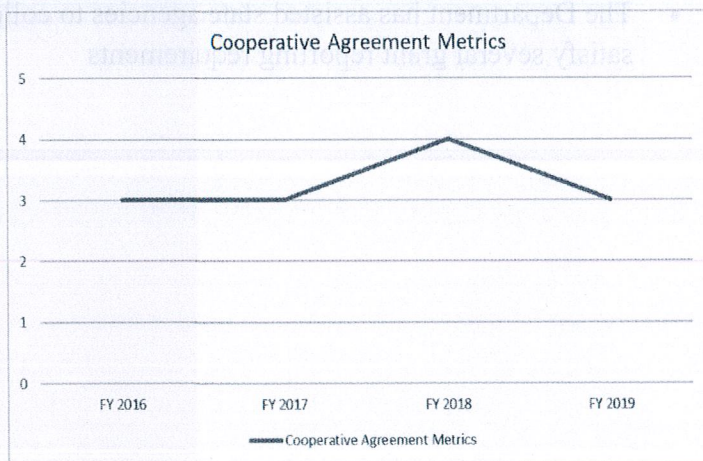
The mission of the Department of Tribal Relations includes recognizing the 9 tribes of SD as distinct political entities, supporting tribal self-governance, working with tribal leaders in a cooperative government-to-government relationship, identifying and coordinating state and federal resources to increase partnerships between state and tribal agencies, and introducing or supporting legislation which improves the quality of life for Native American state citizens.

### Goal: Cooperative Development of Tribal Inclusive State Policy and Programming with State Agencies and Constitutional Offices

- Development of tribal specific grant review guidelines adapted to Indian Country jurisdictional issues with Governor's Office of Economic Development
- Development of Tribal Specific Annex within State Disaster Response Plan with Office of Emergency Management
- Updates to publicly distributed Tribal Tax Fact publication with Department of Revenue

### Goal: Establishment of Intergovernmental Agreements made by Tribal Governments with State Agencies and Constitutional Offices for Cooperative Works

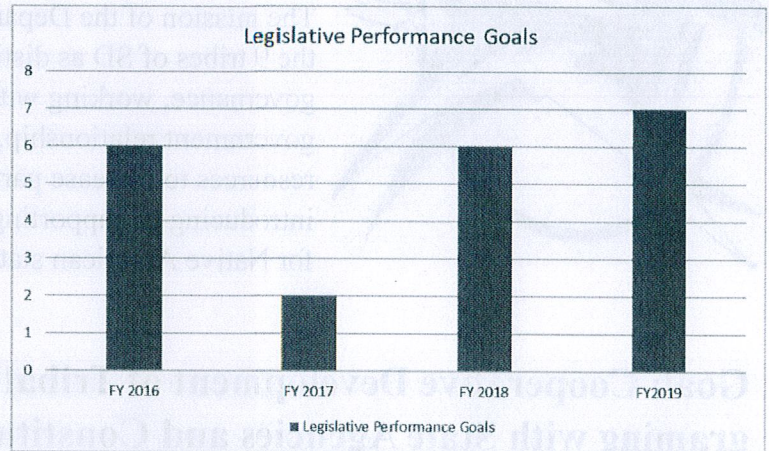
- Sisseton-Wahpeton and Flandreau Santee Parole Program partnership with Department of Corrections
- Tribal Unified Commercial Code Business Filing Agreements with Office of Secretary of State
- Memorandums of Understanding with Department of Game, Fish, and Parks for Cooperative Wildlife Management and Data Sharing





## Goal: Increase Tribal Government Participation in the South Dakota Legislative Process and Introduce or Support Legislation Developed to Improve the Quality of Life for the Native American Population in the State

- Assisted Legislature Leadership in Development of the State of the Tribes Address
- Developed in partnership with the Legislative Research Council an annual tribal leader legislative training offered to increase tribal input on bills during Legislative Session
- Plan and produce the State-Tribal Relations Day listening session, legislative reception, and rotunda ceremony highlighting state-tribal cooperation on various government policy topics
- Develop, introduce, and support numerous bills to the Legislature supporting tribal interests and self-governance efforts



## Goal: Utilize Alternative Dispute Resolution Methods to Resolve Outstanding Financial Impasses Originating from Federal Pass Through Grants

- The Department has assisted the Office of Emergency Management to recoup FEMA disaster recovery grant dollars committed in Indian Country for projects which were not completed.
- The Department has assisted the Department of Labor and Regulation to establish a repayment plan for an unemployment insurance account which fell into serious default
- The Department has assisted state agencies to collect necessary reporting data from Indian Country to satisfy several grant reporting requirements

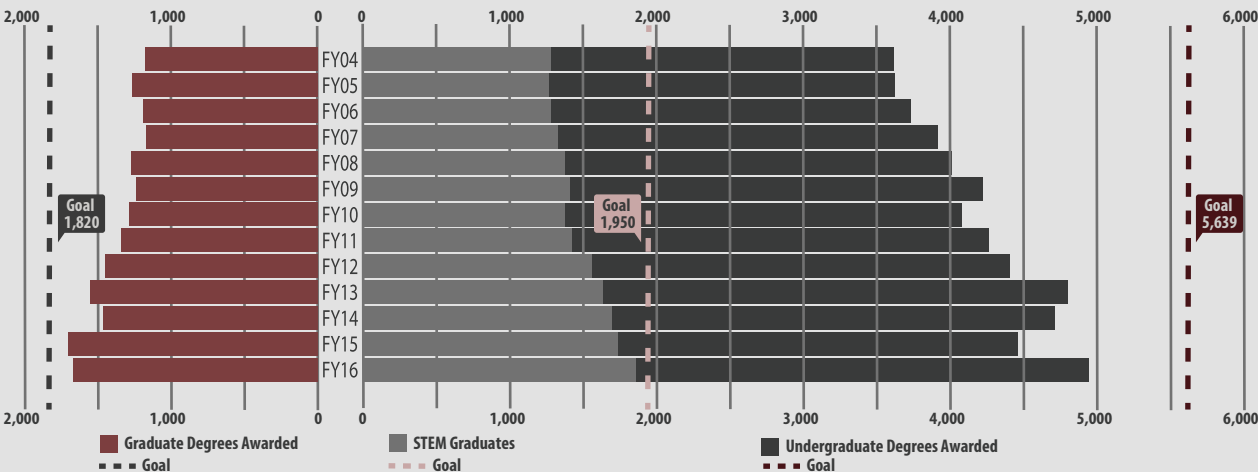


# The Board of Regents 2020 Strategic Plan

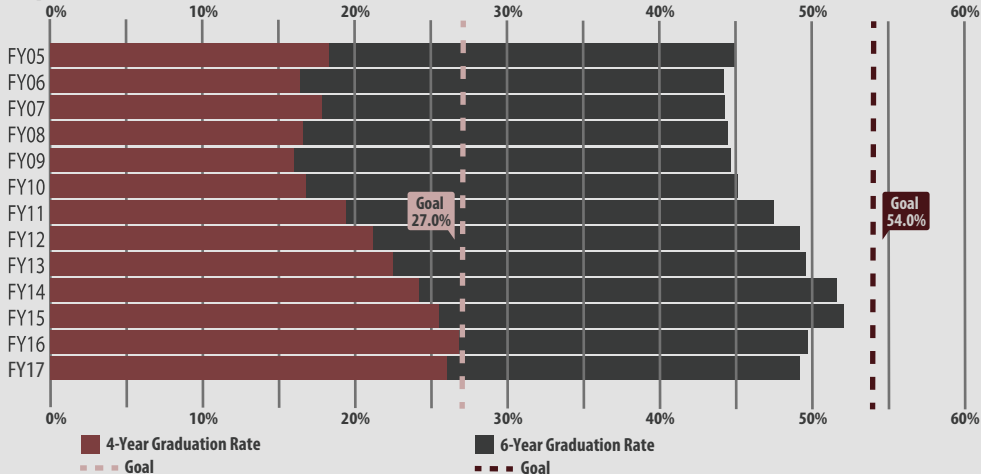
In October 2014, the Board of Regents adopted a strategic plan to serve as a blueprint to advance South Dakota's public university system. The Board identified four specific goals – student success, academic quality and performance, research and economic development, and affordability and accountability – and used existing trend data to set targets on 20 metrics for the Regental system by 2020. These metrics are evaluated annually and used in the annual evaluation for each university and superintendent. This infographic illustrates the Board's progress on these goals using the most recent data.

## Goal 1: Student Success

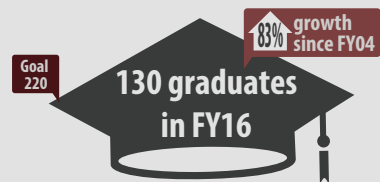
### Grow the Number of Degrees and Graduates



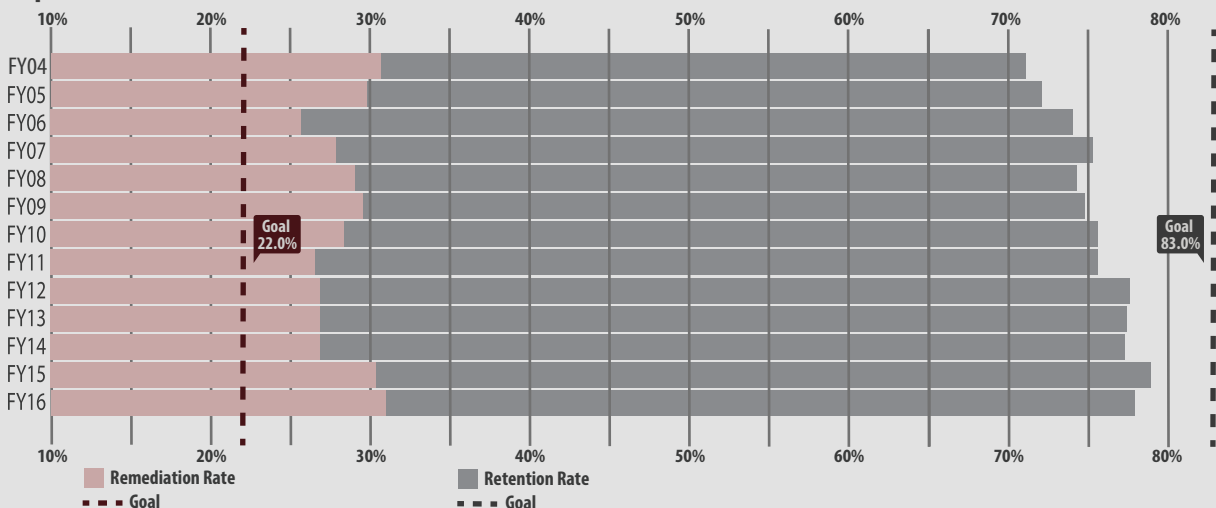
### Improve 4- and 6-Year Graduation Rates



### Increase the Number of Degrees Awarded to American Indian Students

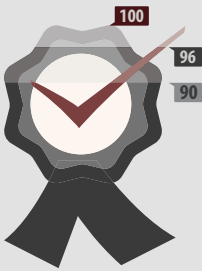


### Improve Retention and Decrease Remediation Rates

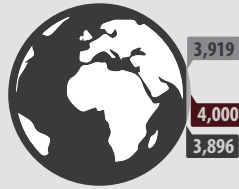


## Goal 2: Academic Quality and Performance

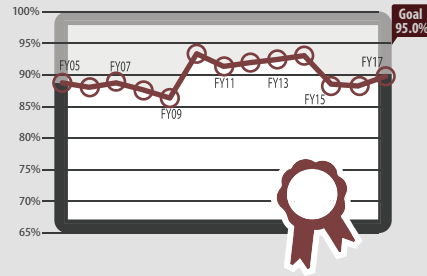
Grow Total Number of Accredited Programs



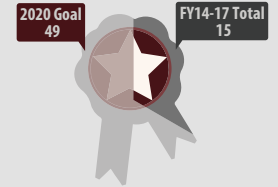
Increase the Number of Students Participating in Experiential Learning



Increase the Percent of Graduates Passing Licensure Exams

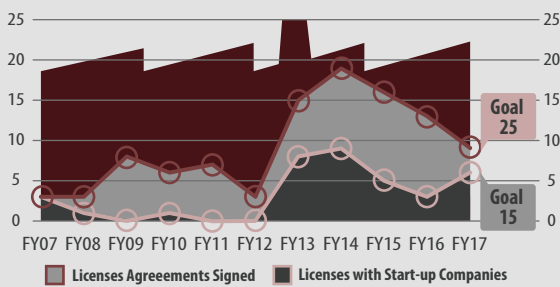


Grow the Total Number of New Graduate Programs

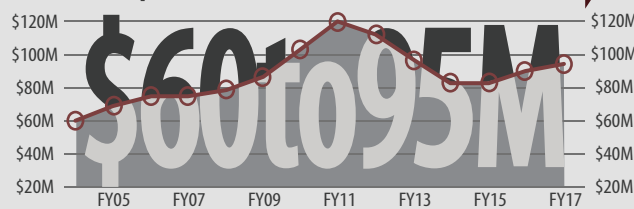


## Goal 3: Research and Economic Development

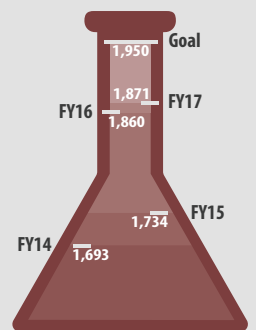
Increase Start-ups and License Agreements Signed



Increase Revenue from Grants and Contracts Expenditures

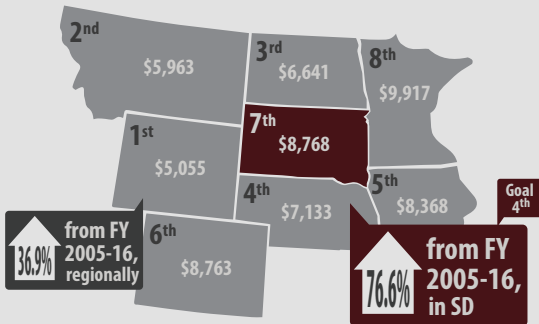


Grow STEM Graduates

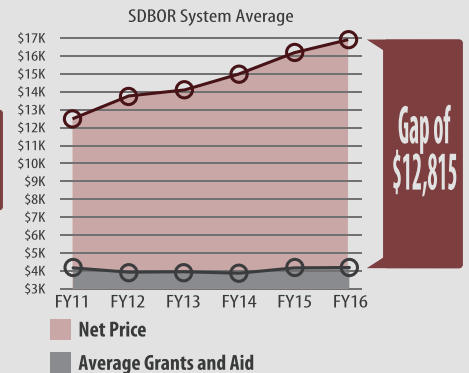
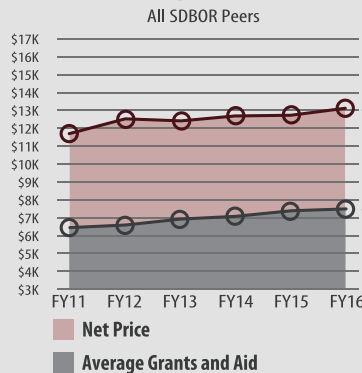


## Goal 4: Affordability and Accountability

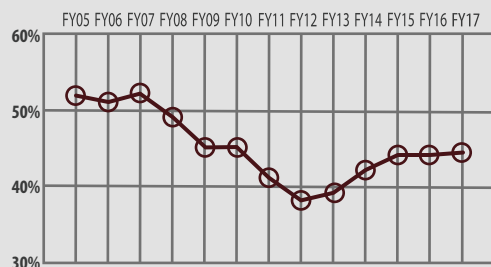
Improve Regional Ranking for Undergraduate Tuition and Fees



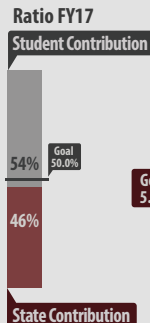
Lower the Gap Between Grant Aid and Net Price



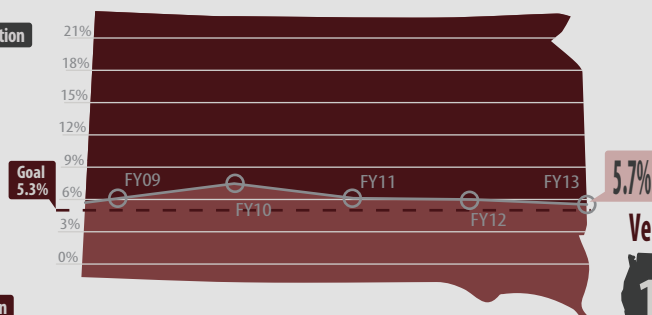
Equalize the Share of Funding Support Between State and Student



Contribution Ratio FY17



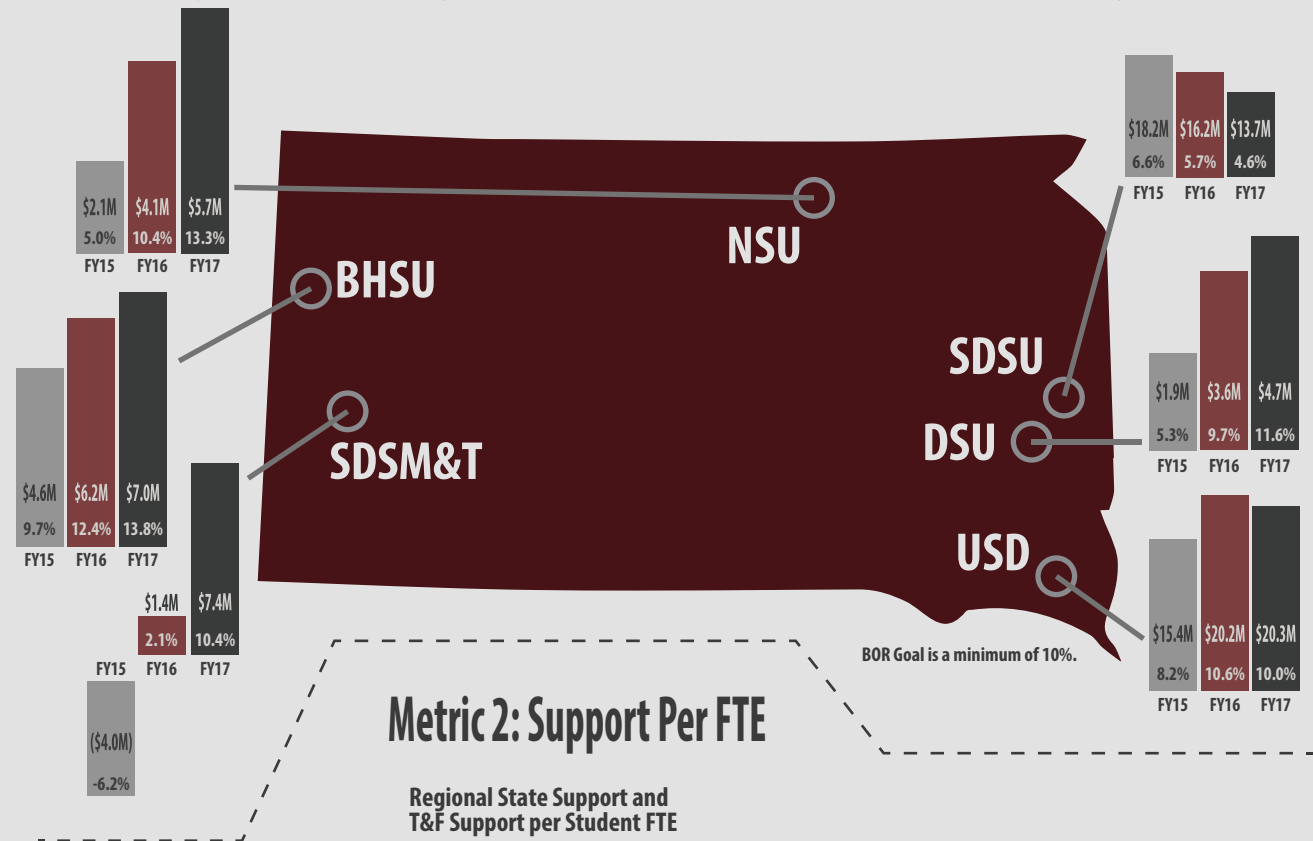
Reduce the 3-Year Federal Loan Default Rate



# The Financial Metrics for Public Higher Education in South Dakota

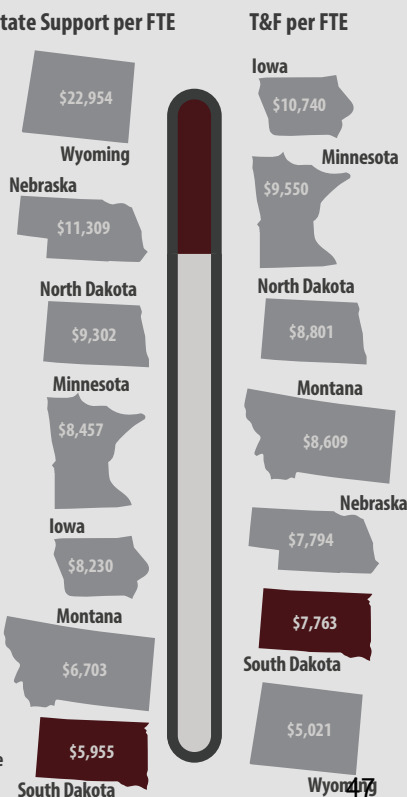
The South Dakota Board of Regents provides leadership and sets policies for the six public universities to balance education-related costs between the state and students, while maintaining quality. The Board of Regents engages with these institutions regularly to ensure they operate with fiscal responsibility by monitoring the most recent financial data and providing guidance where necessary.

## Metric 1: Adjusted Operating Cash Balance as a Percent of Total Operating Expenses



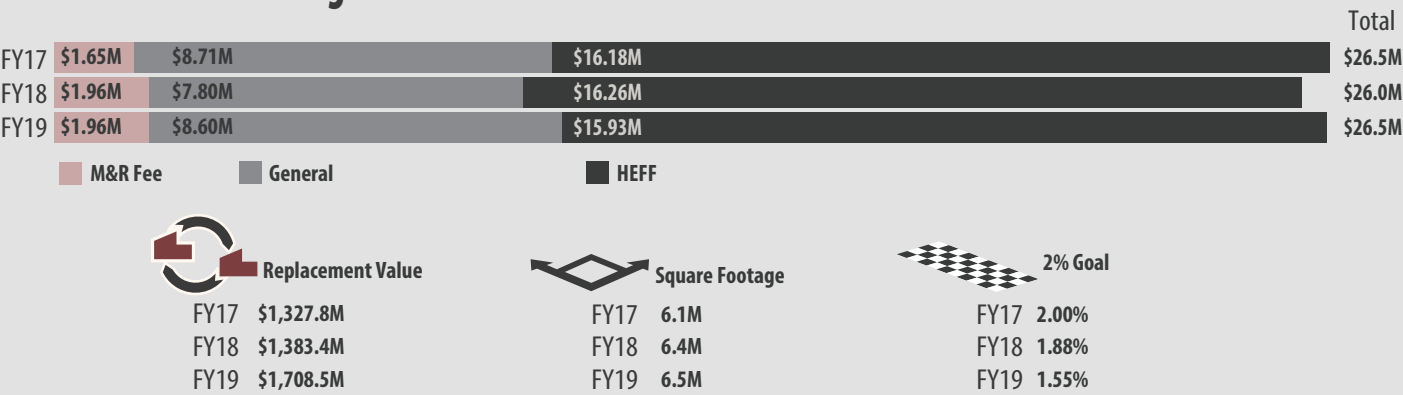
## Metric 2: Support Per FTE

Regional State Support and T&F Support per Student FTE

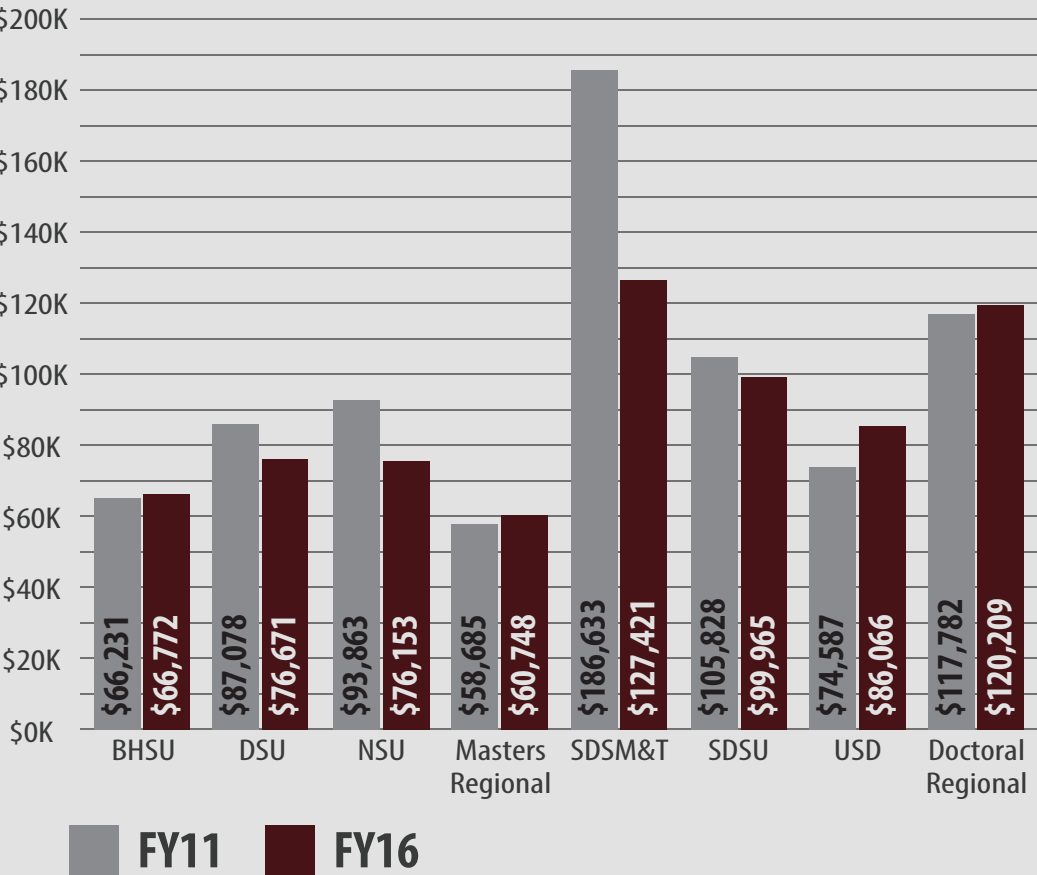


SD is a low nonresident cost state, so the average cost is low, while resident costs are high.

### Metric 3: M&R Funding and Related Indicators



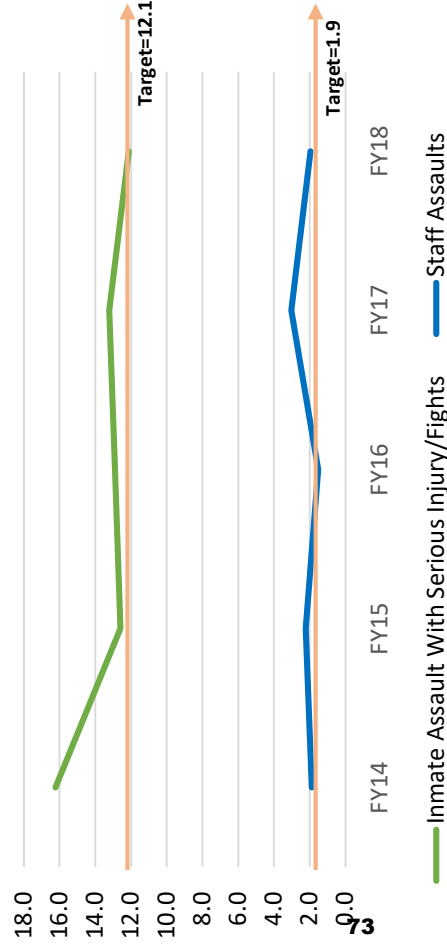
### Metric 4: FY16 Annual Expenditures Per Degree Awarded



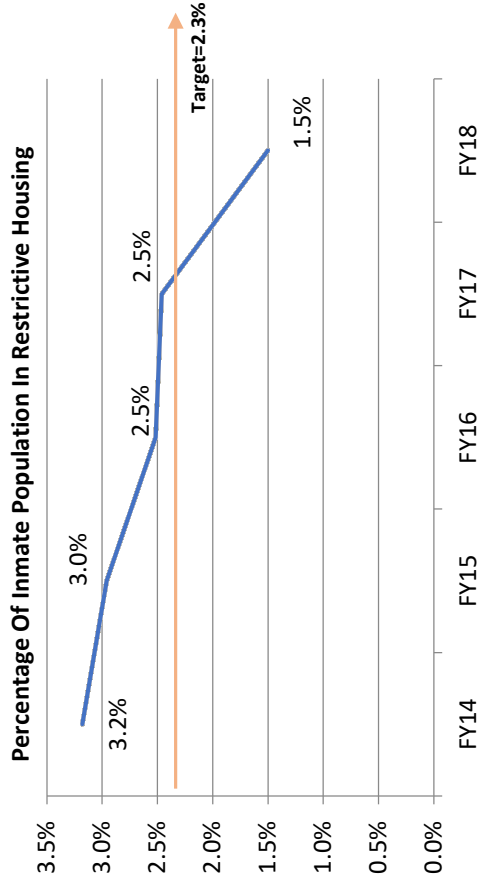
**Mission:** To protect the citizens of South Dakota by providing safe and secure facilities for juvenile and adult offenders committed to our custody by the courts, to provide effective community supervision to offenders upon their release, and to utilize evidence-based practices to maximize opportunities for rehabilitation.

## Goal 1: Safe And Secure Facilities

Safety Measure Rates

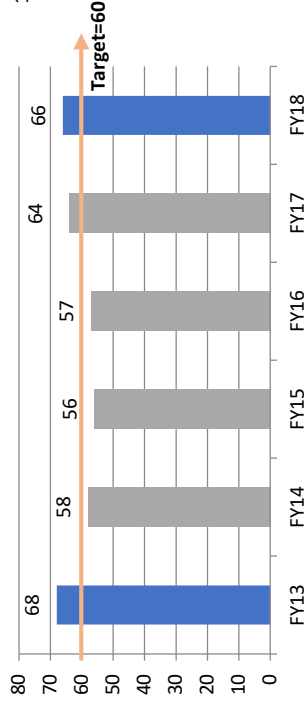


\*Rate per 100,000 inmate days

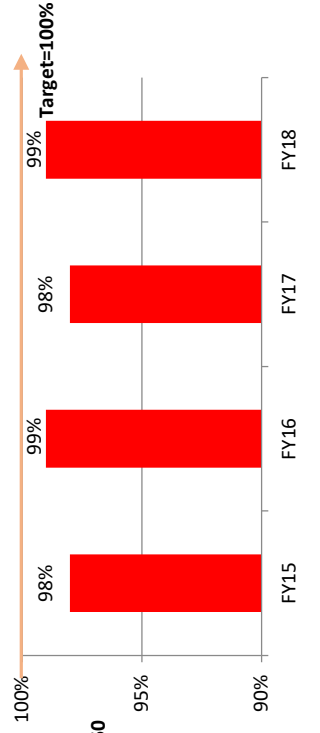


# Goal 2: Effective Community Supervision

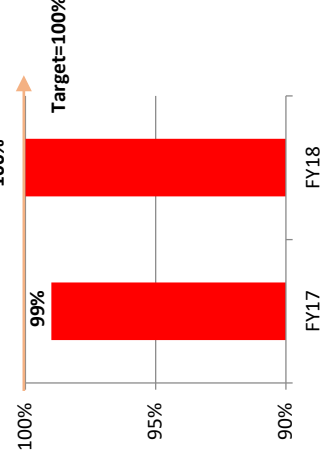
Average End Of Year Parole Agent Caseload



Parole Contact Standards

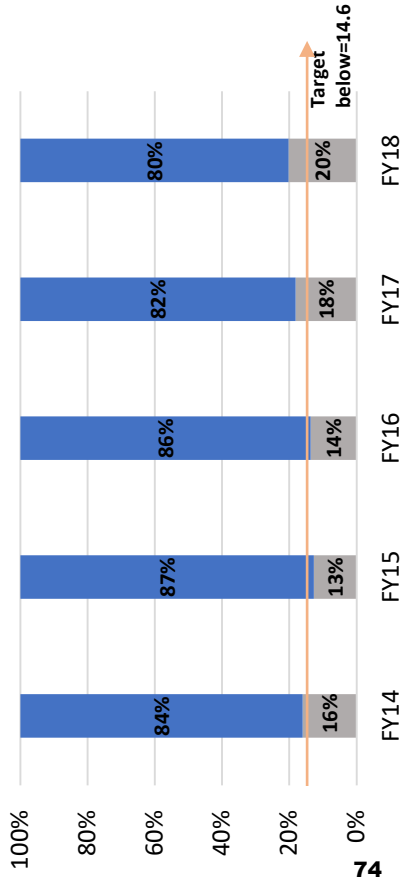


Juvenile Contact Standards

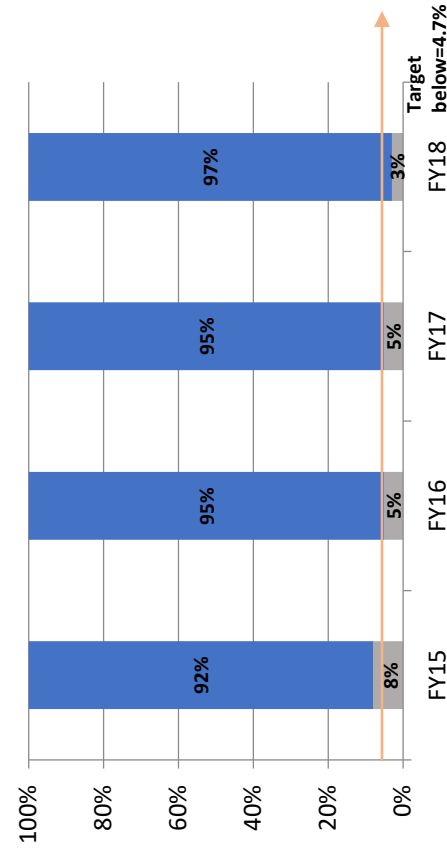


50

Parole Revocations



Juvenile Aftercare Revocations



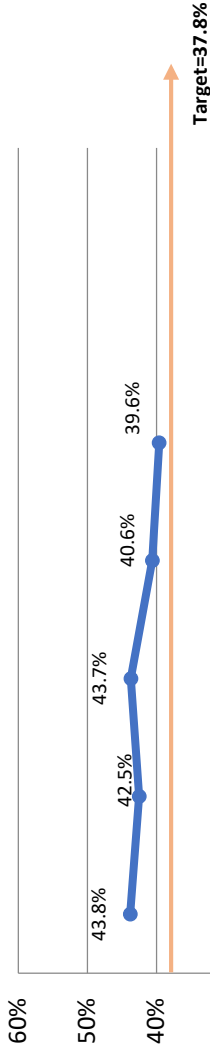
■ Revoked ■ Not Revoked

10/24/2018

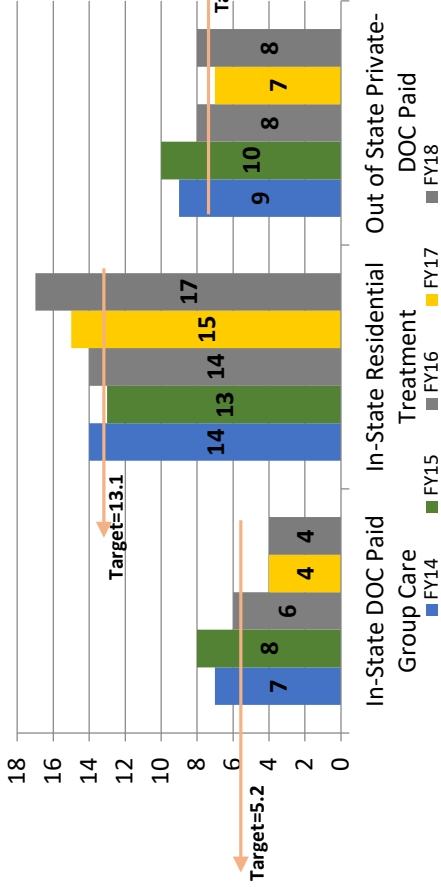


# Goal 3: Evidence-based Practices/Rehabilitation

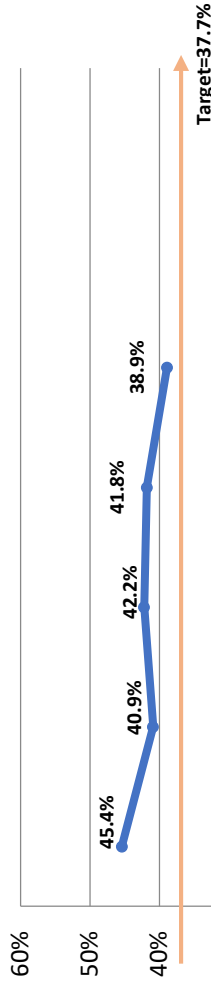
Adult Recidivism



Average Length of Stay in Residential Placement (Months)



Juvenile Recidivism



Performance Measure	Actual FY17	Actual FY18	Projected FY19	Projected FY20
<b>Central Mail:</b>				
Savings by presorting mail vs full cost	\$ 561,797	\$ 587,855	\$ 575,000	\$ 575,000
<b>Property Management:</b>				
Sale value received vs Appraised value	28.79%	41.46%	30.00%	30.00%
Agency Rate	.43/\$100	.47/\$100	.47/\$100	.47/\$100
<b>Federal Surplus Property:</b>				
Savings to Clients	\$ 2,831,931	\$ 4,298,942	\$ 4,000,000	\$ 4,000,000
Clients	379	385	400	400
<b>Central Duplicating</b>				
On Time Project Completion (Goal 95%)		89.40%	95.00%	95.00%
<b>Office of the State Engineer:</b>				
Project A/E Cost Savings	\$	\$ 754,000	\$ 400,000	\$ 350,000
Projects Completed	233	265	290	290
<b>Risk Management:</b>				
Aviation Insurance Premium	\$ 60,687	\$ 54,637	\$ 49,529	\$ 49,500
Crime Bond Premium	\$ 18,000	\$ 18,000	\$ 16,543	\$ 16,453
Property Captive Premium	\$ .0482/\$100	\$ .0461/\$100	\$ .0437/\$100	\$ .0441/\$100
<b>Fleet and Travel:</b>				
Gross Cost per Mile	\$ 0.397	\$ 0.427	\$ 0.430	\$ 0.430
Total Miles Driven	38,898,000	37,677,337	38,400,000	38,400,000

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

**Appendix**  
**Access to Mental Health Services**  
**Interim Committee - 1**

675B0186

HOUSE BILL NO. \_\_\_\_\_

Introduced by: \_\_\_\_\_

1 FOR AN ACT ENTITLED, An Act to provide for a statewide resource information system.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That the code be amended by adding a NEW SECTION to read:

4 The Department of Social Services shall cooperate with and support each county in the  
5 development and maintenance of a statewide centralized resource information system  
6 accessible to any resident of this state. The resource information system shall provide  
7 information for and referrals to resources for a person in a crisis or disaster; resources for social  
8 services, human services, legal assistance, financial assistance, or for other related needs; and  
9 assistance for mental health, physical health, or substance abuse.



# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

**Appendix**  
**Access to Mental Health Services**  
**Interim Committee - 2**

576B0190

SENATE CONCURRENT RESOLUTION NO. \_\_\_\_\_

Introduced by: \_\_\_\_\_

1 A CONCURRENT RESOLUTION, To provide for legislative task forces to study, report, and  
2 develop and consider recommendations and proposed legislation regarding sustainable  
3 improvements to the continuum of mental health services available in the state.

4 WHEREAS, mental health issues in the State of South Dakota constitute a public health  
5 crisis; and

6 WHEREAS, communities, families, and individuals face a broad spectrum of mental health  
7 challenges on a daily basis; and

8 WHEREAS, South Dakota is faced with a high rate of suicide; and

9 WHEREAS, productive, long-term solutions are needed to address mental health access; and

10 WHEREAS, regionally focused solutions are the pathway to provide mental health access  
11 for all citizens; and

12 WHEREAS, separate task forces should be established to study, review, and identify each  
13 of the following:

14 (1) Redefine acute mental health hospitalizations in the areas of short, intermediate, and  
15 long-term placement, with emphasis on keeping individuals needing placement in  
16 community whenever possible;



- 1       (2)    Reduce the overall use of acute mental health hospitalizations by developing and  
2            supporting existing alternatives where appropriate, create community-based short-  
3            stay alternatives, and develop day treatment options;
- 4       (3)    Leverage telehealth and telemedicine to the full appropriate extent, with focus on the  
5            areas of acute assessment and crisis supports, along with mental health assessments  
6            and counseling;
- 7       (4)    Redefine Human Service Center nursing home admission criteria and build mental  
8            health nursing home capacity for persons with organic brain damage; and
- 9       (5)    Increase the capacity for transitional housing and residential services in communities  
10           to keep individuals closer to home, and develop caregiver supports; and

11       WHEREAS, the task forces should consist of subgroups to study each recommended area,  
12   as appointed by the Legislature, and task force subgroups should meet at least three times per  
13   year; and

14       WHEREAS, the task forces should make recommendations in a report to the Legislature no  
15   later than December 31, 2019, which should address changes necessary within state and county  
16   programs and any other areas deemed necessary:

17       NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Ninety-Fourth Legislature  
18   of the State of South Dakota, the House of Representatives concurring therein, that the  
19   Executive Board of the Legislative Research Council is hereby directed to establish task forces  
20   on the status of mental health care in order to further the objectives described in this resolution.

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

**Appendix**  
**Ag Land Assessment Task Force - 1**

741B0048

SENATE BILL NO. \_\_\_\_\_

Introduced by: Senator Cammack and Representative McCleerey at the request of the  
Agricultural Land Assessment Implementation and Oversight Advisory Task  
Force

1 FOR AN ACT ENTITLED, An Act to provide for the assessment of certain agricultural land  
2 as noncropland.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-6 be amended by adding a NEW SECTION to read:

5 Notwithstanding the provisions § 10-6-33.32, if any agricultural land has been seeded to  
6 grass for at least ten years and is used for animal grazing or left unharvested, or is native  
7 grassland, the director of equalization shall categorize the land as noncropland for the purposes  
8 of determining the agricultural income value of the land pursuant to §§ 10-6-33.28 to  
9 10-6-33.33, inclusive. If the land meets this criteria and has not been categorized as  
10 noncropland, the owner may request the director of equalization before August first to  
11 specifically categorize the land as noncropland. If the director of equalization determines that  
12 the land meets the criteria provided by this section, the director of equalization shall assess the  
13 land as noncropland. An aggrieved person may appeal the decision of the director pursuant to  
14 chapter 1-26D. The director shall act upon the owner's request within thirty days of the date of



1 the request.

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

Appendix  
Ag Land Assessment Task Force - 2

444B0051

SENATE BILL NO. \_\_\_\_\_

Introduced by: Senators Cammack and Kennedy and Representative McCleerey at the request of the Agricultural Land Assessment Implementation and Oversight Advisory Task Force

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the classification of  
2 agricultural land for property tax purposes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-6-33.7 be amended to read:

5 10-6-33.7. Agricultural land in each county shall be divided into the eight classes defined  
6 by the United States Department of Agriculture's soil conservation service as published in its  
7 soil survey for each county. ~~The county director of equalization shall, based on the agricultural~~  
8 ~~lands soil survey classification, determine a value for each soil type.~~ South Dakota State  
9 University shall provide each county with data and information for soil classification.

10 Section 2. That § 10-6-33.30 be repealed.

11 ~~10-6-33.30. The economics department of South Dakota State University shall submit~~  
12 ~~recommendations to the Agricultural Land Assessment Implementation and Oversight Advisory~~  
13 ~~Task Force by November 1, 2008, regarding factors to use for the percentage of annual earning~~  
14 ~~capacity to be used to determine the agricultural income value of the land pursuant to § 10-6-~~





~~33.28 and other provisions used to assess agricultural land that will provide the least amount of shift between cropland and noncropland on a statewide basis. Thereafter, the economics department shall submit such recommendations, if any, to the task force by September first of each year.~~

Section 3. That § 10-6-33.2 be repealed.

~~10-6-33.2. The capacity of agricultural land to produce agricultural products shall be based on average yields under natural conditions for land producing crops or plants and on the average acres per animal unit for grazing land. The average shall affect each operating unit and shall be based on the ten-year period immediately preceding the tax year in issue. In determining the capacity to produce, the county director of equalization and the county board of equalization shall consider yields, the extent to which the land is able to be tilled or is nontillable based upon soil type, terrain, topographical, and surface conditions, and animal unit carrying capacity, as determined by the natural resources conservation service, farm credit services of America, farm service agency, the extension service, and private lending agencies dealing with land production capacities.~~

Section 4. That § 10-6-33.32 be repealed.

~~10-6-33.32. Agricultural land shall be divided by the director of equalization into categories, including cropland and noncropland. Each category shall be divided into classes based on soil classification standards developed by the United States Department of Agriculture Natural Resources Conservation Service.~~

Section 5. That § 10-6-33.37 be repealed.

~~10-6-33.37. Notwithstanding the provisions of §§ 10-6-33.28 to 10-6-33.33, inclusive, the director of equalization may equalize the assessed valuation of all cropland if the total assessed valuation of all cropland and total assessed valuation of all noncropland is equal to the total~~

~~assessed valuation of agricultural land as determined by the application of the provisions of this chapter. Notwithstanding the provisions of §§ 10-6-33.28 to 10-6-33.33, inclusive, the director of equalization may equalize the assessed valuation of all noncropland if the total assessed valuation of all cropland and total assessed valuation of all noncropland is equal to the total assessed valuation of agricultural land as determined by the application of the provisions of this chapter.~~

Section 6. That § 10-6-77 be repealed.

~~10-6-77. For the taxes payable in 2014, 2015, 2016, 2017, 2018, and 2019, the total taxable value of cropland within any county may not increase or decrease more than:~~

~~(1) Fifteen percent in any year, if the county is less than thirty percent from its full agricultural income value;~~

~~(2) Twenty percent in any year, if the county is thirty percent or more but less than fifty percent from its full agricultural income value; and~~

~~(3) Twenty-five percent in any year, if the county is fifty percent or more from its full agricultural income value.~~

~~For the taxes payable in 2014, 2015, 2016, 2017, 2018, and 2019, the total taxable value of noncropland within any county may not increase or decrease more than:~~

~~(1) Fifteen percent in any year, if the county is less than thirty percent from its full agricultural income value;~~

~~(2) Twenty percent in any year, if the county is thirty percent or more but less than fifty percent from its full agricultural income value; and~~

~~(3) Twenty-five percent in any year, if the county is fifty percent or more from its full agricultural income value.~~

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

**Appendix**  
**Extraordinary Cost Fund for**  
**Special Education Study Committee - 1**

596B0063

SENATE BILL NO. \_\_\_\_\_

Introduced by: \_\_\_\_\_

1 FOR AN ACT ENTITLED, An Act to add a legislator to the Extraordinary Cost Oversight  
2 Board, to establish the board in statute, and to repeal the administrative rules creating the  
3 board.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 13-37 be amended by adding a NEW SECTION to read:

6 There is hereby established an Extraordinary Cost Oversight Board within the Department  
7 of Education. The board shall review all school district requests for extraordinary cost funds as  
8 provided in § 13-37-40. The board shall meet at least once a year and recommend to the  
9 secretary of education those school districts that should be approved for extraordinary cost fund  
10 expenditures and those school districts that should not be approved for extraordinary cost fund  
11 expenditures. The secretary has the final authority to approve or deny extraordinary cost fund  
12 expenditures.

13 Section 2. That chapter 13-37 be amended by adding a NEW SECTION to read:

14 The oversight board established in section 1 of this Act shall consist of seven members. The  
15 membership shall include one member of the Legislature appointed by the Executive Board of  
16 the Legislative Research Council, and six members appointed by the secretary of education. The



members appointed by the secretary shall include representatives from each of the following:

- (1) The Department of Education;
- (2) A school district with a fall enrollment of 600 or more;
- (3) A school district with a fall enrollment of more than 200, but less than 600; and
- (4) A school district with a fall enrollment of 200 or less.

The secretary shall use a staggered appointment schedule when appointing members, and no member may serve on the board for more than five years. The secretary shall also appoint alternate board members to serve in place of any board member representing a school district who may have a conflict of interest. An alternate shall serve the same term as the equivalent board appointee.

Section 3. That § 13-37-46 be amended to read:

13-37-46. The secretary of the Department of Education shall promulgate and review rules which further define special education processes regarding student identification; and the placement committee process, ~~and create an extraordinary cost oversight board.~~ Any appeal of a local district's determination relating to special education or special education and related services shall be referred to the secretary of the Department of Education. The hearing shall be conducted by the secretary in accordance with the contested case provisions of chapter 1-26. The secretary of the Department of Education shall report to the Legislature in January 1996, on the progress of the department in exercising the above rule-making authority with a final set of rules delivered to the Governor and Legislature by November 1, 1995. In addition, the secretary shall prepare a model for the statewide implementation of §§ 13-37-35.1 to 13-37-46, inclusive, including a report of cost allocation figures of §§ 13-37-35.1 to 13-37-46, inclusive, to be delivered to the Governor and Legislature by November 1, 1995.

Section 4. That ARSD 24:05:33.01:01 be repealed.

~~24:05:33.01:01. Extraordinary Cost Oversight Board. The department shall establish an Extraordinary Cost Oversight Board to review all school district requests for extraordinary cost funds. The board shall meet a minimum of once a year and shall recommend to the secretary those districts which should be approved for extraordinary cost fund expenditures, as well as those districts which should not be approved for such expenditures.~~

~~— The secretary has final authority to approve or deny extraordinary cost fund expenditures.~~

Section 5. That ARSD 24:05:33.01:02 be repealed.

~~24:05:33.01:02. Terms of board members. The secretary shall appoint seven members to the Extraordinary Cost Oversight Board. Appointment to the board is limited to a maximum of five years. The secretary shall use a staggered appointment schedule when appointing members.~~

Section 6. That ARSD 24:05:33.01:03 be repealed.

~~24:05:33.01:03. Composition of board. The membership of the Extraordinary Cost Oversight Board shall include representatives from each of the following groups:~~

~~— (1) Department of Education;~~

~~— (2) School districts with an average daily membership of 2,000 or greater;~~

~~— (3) School districts with an average daily membership of 360 to 2,000;~~

~~— (4) School districts with an average daily membership of less than 360.~~

Section 7. That ARSD 24:05:33.01:04 be repealed.

~~24:05:33.01:04. Board alternates. The secretary shall appoint alternates for the board members as follows to serve in place of a board member who may have a conflict of interest:~~

~~— (1) School districts with an average daily membership of 2,000 or greater;~~

~~— (2) School districts with an average daily membership of 360 to 2,000;~~

~~— (3) School districts with an average daily membership of less than 360.~~

~~— Alternates shall serve the same term as the equivalent board appointee.~~

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

Appendix  
Extraordinary Cost Fund for  
Special Education Study Committee - 2

866B0062

HOUSE BILL NO. \_\_\_\_\_

Introduced by: \_\_\_\_\_

1 FOR AN ACT ENTITLED, An Act to revise the timing of the recalculation of the allocations  
2 for the disability levels in the state aid to special education formula.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-37-35.2 be amended to read:

5 13-37-35.2. In fiscal year ~~2004~~ 2020 and every ~~three~~ two years thereafter, the Department  
6 of Education shall recalculate the amounts of the allocations for the disability levels defined in  
7 § 13-37-35.1. The recalculation shall be based on statewide average expenditures as reported  
8 to the Department of Education in school district annual reports by disability for the previous  
9 three school fiscal years.



# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

Appendix  
Extraordinary Cost Fund for  
Special Education Study Committee - 3

884B0064

HOUSE BILL NO. \_\_\_\_\_

Introduced by: \_\_\_\_\_

1 FOR AN ACT ENTITLED, An Act to adjust for inflation the amount of the special education  
2 appropriation that may be set aside for extraordinary expenses.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-37-40 be amended to read:

5 13-37-40. Subject to the limitation in § 13-37-42, the secretary of the Department of  
6 Education shall, for school fiscal year ~~2014 and each year thereafter~~ 2020, set aside ~~four~~ five  
7 million dollars of the state aid to districts for special education appropriation for extraordinary  
8 expenses incurred in providing special education programs or services to one or more children  
9 with disabilities, ~~with expenditures to be made as~~ For school fiscal year 2021 and for each  
10 school fiscal year thereafter, the amount set aside shall equal the amount set aside in the  
11 previous school fiscal year increased by the index factor as defined in subdivision 13-37-  
12 35.1(6). Any expenditures of the funds set aside shall be recommended by an oversight board  
13 and approved by the secretary of the Department of Education. Any funds not expended or  
14 obligated pursuant to this section ~~shall not be~~ are not subject to reversion pursuant to § 4-8-19.  
15 ~~The~~ For school fiscal year 2020, the total amount set aside for extraordinary expenses ~~each~~  
16 ~~fiscal year~~ plus the total amount not reverted from previous fiscal years may not exceed ~~five~~ six



1 million five hundred thousand dollars. For school fiscal year 2021 and for each school fiscal  
2 year thereafter, the total amount set aside for extraordinary expenses plus the total amount not  
3 reverted from previous school fiscal years may not exceed the maximum amount allowed in the  
4 previous school fiscal year increased by the index factor.

5 ~~—The amount appropriated for extraordinary expenses shall be recalculated at the same time~~  
6 ~~as the amount of the allocations for disability levels as provided in § 13-37-35.2.~~



# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

Appendix  
Extraordinary Cost Fund for  
Special Education Study Committee - 4

866B0068

HOUSE BILL NO. \_\_\_\_\_

Introduced by: \_\_\_\_\_

1 FOR AN ACT ENTITLED, An Act to create the Special Education Task Force.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 2-6 be amended by adding a NEW SECTION to read:

4 There is hereby created the Special Education Task Force. The purpose of the task force is  
5 to examine the rising numbers of students in South Dakota schools who are being identified as  
6 in need of special education or special education and related services, to examine the increasing  
7 costs of the services these students require, and to develop recommendations to address the  
8 situation.

9 Section 2. That chapter 2-6 be amended by adding a NEW SECTION to read:

10 The task force created in section 1 of this Act shall consist of the following twelve members:

11 (1) The Executive Board of the Legislative Research Council shall appoint the following:

12 (a) Three legislators including, if possible, the chair or vice-chair of the Senate  
13 standing committee on education and the chair or vice-chair of the House  
14 standing committee on education and one member of the minority party who  
15 serves on either the Senate or House standing committee on education; and

16 (b) A person who is an advocate for persons with disabilities;



(2) The secretary of education shall appoint the following:

(a) Three school district superintendents; one representing a school district located east of the Missouri River, one representing a school district located west of the Missouri River, and one representing a school district with a fall enrollment of four hundred or fewer;

(b) One current member of a local school board;

(c) One special education teacher with at least five years experience in teaching special education who is currently employed in a school district other than a school district represented by a superintendent or school board member appointed to serve on the task force pursuant to this section; and

(d) One person representing the Department of Education; and

(3) The Governor shall appoint two persons.

Section 3. That chapter 2-6 be amended by adding a NEW SECTION to read:

The task force shall be under the supervision of the Executive Board of the Legislative Research Council and shall report to the board on the task force's activities from time to time. The task force shall be funded and staffed as an interim legislative committee.

Section 4. That chapter 2-6 be amended by adding a NEW SECTION to read:

The task force shall conclude its work and report its findings and recommendations to the Legislature and to the Governor no later than December 31, 2020.

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

Appendix  
Extraordinary Cost Fund for  
Special Education Study Committee - 5

956B0065

HOUSE CONCURRENT RESOLUTION NO. \_\_\_\_\_

Introduced by: \_\_\_\_\_

1 A CONCURRENT RESOLUTION, Urging Congress to increase federal funding for special  
2 education.

3 WHEREAS, Congress, in 1975, passed the Individuals with Disabilities Education Act  
4 (IDEA) mandating that all children with disabilities be provided a free appropriate public  
5 education in the least restrictive environment; and

6 WHEREAS, at the same time, Congress promised the states that the federal government  
7 would provide forty percent of the average per pupil expenditure to help offset the cost of  
8 educating eligible students; and

9 WHEREAS, in the nearly forty-four years since the law was passed and the promise was  
10 made, Congress has never in any of those years provided the level of funding promised; in fact,  
11 the past several decades have seen few significant increases and, more important, a decline in  
12 funding as a percentage of the average per pupil expenditure, which peaked at eighteen percent  
13 in 2004; and

14 WHEREAS, this persistent underfunding has contributed to poor outcomes for some  
15 students and has left states and school districts burdened to find the fiscal resources needed to  
16 meet their obligations under IDEA, especially at times like these when the relative costs of



1 serving children in special education are escalating; and

2 WHEREAS, coalitions comprised of education organizations and concerned parents have  
3 worked tirelessly for years to secure increased appropriations for IDEA; their efforts have been  
4 supported by the introduction of IDEA full funding bills in almost every session of Congress,  
5 and support for increased funding has been largely bipartisan, but despite all of that, significant  
6 increases in funding remain elusive:

7 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Ninety-  
8 Fourth Legislature of the State of South Dakota, the Senate concurring therein, that the United  
9 States Congress be urged to begin to honor the promise made in 1975 by working toward  
10 funding forty percent of the average per pupil expenditure for students eligible for special  
11 education; and

12 BE IT FURTHER RESOLVED, that the secretary of state transmit copies of this resolution  
13 to the speaker and clerk of the United States House of Representatives, to the president pro  
14 tempore and secretary of the United States Senate, and to the members of the South Dakota  
15 Congressional delegation.