

**REPORT OF THE
GOVERNMENT OPERATIONS AND AUDIT COMMITTEE
2015**

COMMITTEE MEMBERS

**Representative Dan Dryden, Chair
Senator Larry Tidemann, Vice Chair**

**Representative Justin Cronin
Representative Jean Hunhoff
Representative Roger Hunt
Representative Julie Bartling**

**Senator Phyllis Heineman
Senator Deb Peters
Senator Novstrup
Senator Billie Sutton**

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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 any findings of abuse or neglect in a juvenile corrections facility;
- To review the annual report of the South Dakota 911 Coordination Board;
- To review the annual reports from each Department administering the funds received from the Building South Dakota Fund;
- To make a continuing study of the operation of the state's correctional system; and,
- 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

Department of Social Services – Division of Behavioral Health

The Committee received information about the goals and accomplishments since the Governor's 2011 workgroup, which established the long-term vision of the behavioral health system. The Committee heard about the progress that has been made in the following areas and associated mental health service outcomes:

- Community behavioral health programs
- Substance abuse services
- Halfway house services
- Evidence based services to justice involved clients
- Individualized mobile programs of assertive community treatment
- Youth transitions program

The Secretary of the Department of Social Services described the five regions in the state and that they were structured based upon the natural places where people go to seek care. She added that a goal has been to increase the access to essential services and remove barriers to treatment. The Department was satisfied with the array of services offered in all five regions of the state.

The Secretary described another goal of the Department is to better serve individuals with behavioral challenges in community nursing facilities by providing training to community nursing facilities. To accomplish this goal, the Secretary described the creation of a Human Service Center consultation team. This team has been created to provide review and consultation services to community nursing facilities that serve individuals with challenging behaviors.

The Secretary described a final goal of the Department, to create and sustain a statewide prevention system promoting behavioral health and preventing mental and substance abuse disorders through evidence based practices. To accomplish this goal, the Secretary hopes to increase the number of providers trained in the communities and the number of youth participating in prevention education activities. This topic may be revisited by the Committee at a later date.

The Building South Dakota Funds (BSD)

Governor's Office of Economic Development (GOED), provided an overview of the four programs under the GOED. Commissioner Pat Costello first explained the two primary purposes of the Economic Development Partnership Program (EDPP): 1) to help local economic development programs hire a full-time executive position, and 2) to help local economic development programs recapitalize local revolving loan funds. The EDPP awarded 24 grants during the fiscal year totaling \$2,389,454. The projected number of jobs created was 422.

Commissioner Costello 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 seven grants during the fiscal year totaling \$1.2 million. The projected number of jobs created was 241.

Commissioner Costello 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. The JGP awarded two grants during the fiscal year totaling \$36,480. The projected number of jobs created was 98.

Commissioner Costello 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 six grants during the fiscal year totaling \$6.6 million. The projected number of jobs created was 206.

The Finance Director of the Department of Education provided the Committee a report on the operations of the Workforce Education Fund (WEF). The dollars received from the BSD are first allocated to provide for the limited English proficiency (LEP) adjustment in the State-Aid to Education formula. In fiscal year 2015, there were 2,650 LEP students. The WEF provided \$1.6 million of the LEP adjustment of \$3.1 million.

Mark Lauseng, 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 Sioux Falls and Rapid City and 70% of the funds targeted for the rest of the State. The HOF awarded 15 projects during the fiscal year totaling \$2.7 million that will benefit 347 families.

Department of Public Safety

The State 911 Coordinator appeared before the Committee to present the 2015 Annual Report of the South Dakota 911 Coordination Board. The report included:

- Board membership
- Summary of Board activities
- Review of actions required by State law
- Surcharge collections report
- 911 Coordination Fund condition statement
- City/County annual financial report summary

The State 911 Coordinator also provided a map to the Committee of the Public Safety Answering Points in South Dakota. The Committee asked questions about the progress made in the implementation of the next generation 911 system and will revisit this topic in the future.

Brand Board

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

brand inspection fees, brand transfers, and renewal fees. She stated that there are currently thirteen full-time brand inspectors in South Dakota.

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 1,503,607 head of livestock were inspected in calendar year 2014, as compared to 1,574,269 inspected in calendar year 2013. She added that some of the decrease in the number of livestock inspected in 2014 is a result of producers rebuilding their herds due to the October 2013 blizzard, which killed several thousand head of livestock in western South Dakota.

The Committee requested that future annual reports include a breakdown of recovered livestock, strayed livestock, and stolen livestock.

Specific Matters Pertaining to Various State Agencies

Department of Social Services

The Secretary of the Department of Social Services (DSS) gave updates on two occasions on the status of the Medicaid Management Information System (MMIS) upgrade process. She stated that DSS would be implementing a modular approach for the remaining portions of the project; and that this approach would mean more than one vendor would work on completing the project. She explained each of four phases associated with the project and the anticipated timeline for completion of each phase. She explained phases one and two involve provider enrollment and credentialing, pharmacy point of sales, and data analytics and are expected to be completed by September 2016. She explained phases three and four involve core claims processing, data warehousing, and the web portal and the completion date for these phases is yet to be determined.

The Committee asked what impact this may have on providers and the public. The Secretary stated that the current MMIS system is still operating. The providers and the public are not impacted.

The Committee asked about the dollars that were still available from the original budget for the project. The Department Secretary stated that \$11.1 million remains from the original \$76 million budget. She added that the new go-forward costs are not yet known. DSS will explore options based on systems already in use in other states. She added that the Bureau of Information and Telecommunications will be assisting in finding technology that will work the best for South Dakota.

Bureau of Human Resources

The Committee heard testimony from the Commissioner of the Bureau of Human Resources (BHR) on steps taken to implement House Bill 1064, passed during the 2015 Legislative Session, dealing with state employees not being allowed to benefit from a

state contract. The Commissioner explained that the law applies to contracts that go into effect after July 1, 2015, even if the contract was awarded prior to July 1, 2015.

The Commissioner explained that state officers, employees, the spouses of state officers and employees, and anyone who may be living in the household of state officers or employees cannot derive a benefit from a state contract. They cannot have more than 5% ownership or interest in the entity contracting with the state, receive income or compensation from the contract, acquire profit under the contract, or serve on a board that derives benefits from the contract. There is a waiver that is allowed under certain circumstances. This would allow the state officer or employee to contract with the state government or benefit from a contract. The request has to be in writing (instructions and form can be found on the BHR website) and the relevant terms have to be provided in writing by the officer or employee who wishes to have the waiver considered. The form must be submitted to the head of the agency in which the officer or employee works for. If the head of an agency wishes to request a waiver they would submit that directly to the Governor's Office.

The Commissioner stated that BHR has done many things to prepare state employees for this law to take effect July 1, 2015. State employees received an email in May with information pertaining to the new law and there was also a follow-up email sent out. These emails detailed who the law applies to, what the law does, and how to apply for a waiver. There is a conflict of interest matrix on the BHR website that employees can use to determine if they need a waiver or not. It is intended to help the employees make this determination without needing to contact BHR. Human resource managers for each agency have been going through additional training and new employees with the state will learn about this law at orientation. Employees leaving state employment will be reminded of the one year time frame that they cannot enter into a contract with the state to which they benefit. The Committee plans to revisit this topic at a later date.

Bureau of Administration

Captive Insurance Companies

The Bureau of Administration (BOA), Bureau of Finance and Management (BFM), and legal counsel appeared before the Committee on two occasions to provide updates on the status of the newly created captive insurance companies, as called for in House Bills 1185, 1186, and 1187, 2015 Session. The Commissioner of BFM explained the makeup of the two captive insurance companies. He stated the first liability captive insurance company would be made up of two cells. The first cell would provide liability coverage for the Science and Technology Authority. The second cell would provide liability coverage for the remaining authorities (South Dakota Building Authority, South Dakota Health and Education Facilities Authority, South Dakota Housing Development Authority, South Dakota Ellsworth Development Authority, and the Educational Enhancement Funding Corporation). The second property and casualty captive insurance company would provide property and casualty loss coverage for all agencies, the Board of Regents and the South Dakota Building Authority. He stated that prior to May 1, 2015, the State of South Dakota had insurance coverage of state property

valued at \$2.5 billion. After May 1, 2015, additional state property, valued at \$1.5 billion, became fully insured through a third party carrier. The Commission explained that this coverage will continue until the captive insurance companies are up and running, at which time the policies will be cancelled and the state property, valued at \$4 billion, will be moved to the captive insurance program.

At their second appearance before the Committee, the BOA, BFM, and legal counsel reported that the captive insurance company that provides insurance coverage for the various Authorities is up and running and began providing the coverage on September 1, 2015. He added that the captive insurance company that will provide insurance coverage for State buildings is scheduled to provide this coverage on October 1, 2015. The Committee plans to revisit this topic in the future.

Obligation Recovery Center

The Bureau of Administration (BOA) and Bureau of Finance and Management (BFM) appeared before the Committee on two occasions to provide updates on the status of the Obligation Recovery Center (ORC), as called for in House Bill (HB) 1228, 2015 Session. BFM explained that Legislative leadership appointed a Legislative Advisory Group to help in the process of establishing the ORC.

To initiate the process, BOA explained that the obligation team was formed of various agencies that utilize debt collection services and meetings were held to discuss HB 1228 on how to best implement the new law. A request for proposal was prepared for a contract manager of the new ORC. The BOA explained that multiple bids were received through August 3, 2015. The obligation team reviewed all of the proposals, and made recommendations to the Legislative Advisory Group. The BOA explained that the highest ranking company will be contacted to begin contract negotiations as he hopes to have the contract in place and at least one agency using the ORC by the 2016 Legislative session. The Committee plans to revisit this topic in the future.

Department of Transportation

The Department of Transportation (DOT) and the Department of Revenue (DOR) were asked to appear before the Committee to discuss the collection and use of additional taxes and fees raised by Senate Bill 1, 2015 Session.

The Secretary of the DOR testified as to the revenue impacts of Senate Bill 1. The Secretary explained that an additional \$7.9 million in motor vehicle excise tax has been collected from April 1, 2015 to August 31, 2015. He added that the motor vehicle excise tax is collected by the respective County Treasurer Offices and is revenue to the State Highway Fund.

The Secretary of the DOR stated the increased wheel tax from \$4 to \$5 per vehicle wheel is used for the maintenance of the county roads and bridges. He explained that this is an elective option that counties can adopt by county resolution and that 53 of the 66 counties currently charge a wheel tax.

The Secretary explained that an additional \$11.9 million in motor fuel tax has been collected since April 1, 2015. He added that the motor fuel tax is dedicated to the State Highway Fund.

The Secretary of the DOT explained two components of Senate Bill 1 that have impacted the DOT. The first is the creation of the Big Fund or the Local Bridge Improvement Grant Fund. The second component is the ongoing and future construction program. He stated that the counties collect the vehicle registration fees and keep 41.75% and the remainder is sent to the DOR. DOR transfers \$7 million to the Local Bridge Improvement Grant Fund and the remainder goes to the counties based on a statutory formula. In addition to the \$7 million, the Secretary stated that the Transportation Commission has pledged \$2 million from the State Highway Fund and \$6 million from Federal funds, for a total of \$15 million per year, to the Local Bridge Improvement Grant Fund. He added that as the bridge projects, which are currently in the State Transportation Improvement Plan, are completed; the \$6 million from Federal funds will then be used for state highway projects. In approximately four years, the \$15 million designated for annual bridge projects will be funded by \$7 million from vehicle registration fees and \$8 million from the State Highway Fund.

The Secretary of the DOT explained the Legislature's Rules Review Committee has approved the administrative rules for the Local Bridge Improvement Grant program. He added that the responsibility for awarding grants is with the Transportation Commission. For counties to be eligible for a grant they must have a highway plan in place and have adopted a wheel tax. The Committee asked what the goals of the DOT were, with respect to Senate Bill 1. The Secretary stated that there were two overarching goals: 1) to improve the state highway system health index, and 2) to improve local bridges over a 10 to 20 year time period. He added that the second goal was the reason for the creation of the Local Bridge Improvement Grant Fund. The Committee may revisit this topic in the future.

Legislative Research Council

Legislative Memberships

Legislative Research Council (LRC), at the request of the Committee, prepared a report of the costs associated with Legislative memberships and dues. The intent of the report was to help the Legislature determine the cost/benefit associated with the various organizations. The Committee plans to revisit the topic in the future.

Budget Transfers

LRC, at the request of the Committee, prepared a report of the history of budget transfers in South Dakota, as well as a research of budget transfers in other states. LRC explained that prior to 1997 the Legislature had no role in the appropriation transfer process. Funds could be transferred from personal services to operating expenses, between programs, budget units, and departments. Prior to 1997, transfers of appropriated funds needed only the approval of the Bureau of Finance and

Management. During the 1997 Legislative Session the Legislature amended South Dakota Codified Law 4-8A-8 to differentiate between transfers relating to the reorganization of State government and transfers between departments that did not relate to the reorganization of State government. For the first time, transfers between departments needed the approval of the Special Committee on Appropriations. The Legislature has no role relating to transfers within agencies.

LRC reported that South Dakota's transfer laws are in step with other States. LRC was unable to find where other States allow agencies to convert federal expenditure authority to other fund expenditure authority or other fund authority to federal fund authority. In fiscal year 2015, \$17 million was converted from federal expenditure authority to other fund expenditure authority and in fiscal year 2016 this amount is \$9 million. LRC tracks budget transfers within agencies. Summary reports of budget transfers are available on LRC's website.

Juvenile Corrections

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

The Committee receives a semi-annual report from the Juvenile Corrections Monitor (JCM) as required by state law. This report details complaints received at the state owned juvenile corrections facilities. The JCM must immediately notify the Governor, Department of Corrections Secretary, and the Government Operations and Audit Committee in writing of any substantiated abuse or neglect.

The Committee requested that the Attorney General review various juvenile corrections reports to assure that no personally identifiable confidential information was contained in the reports prior to releasing the documents as public information.

The semi-annual Juvenile Correction Monitor Reports for the period July 1, 2014 through December 31, 2014, and for the period January 1, 2015 through June 30, 2015, along with the Department of Corrections semi-annual Reports on Allegations of Abuse and Neglect in Private Placement Facilities for the period July 1, 2014 through December 31, 2014, and for the period January 1, 2015 through June 30, 2015, were reviewed by the Committee. The reports contained two sections prescribed by state law. The first section contains the public information portion of the report and the second section contains the confidential information which is not open to public inspection.

The Committee reviewed the report entitled Allegations of Abuse and Neglect in Private Contracted Facilities and discussed policies and procedures with the Department of Corrections. The Committee requested and has been receiving these reports on a semi-annual basis like the Juvenile Corrections Monitor Report. Committee discussion centered on policies and procedures and corrective action taken by the Department to address any problems/issues identified.

Blue Book

The Government Operations and Audit Committee requested that the DLA update the “Blue Book” (Other Fund Information by Agency) with current June 30, 2015 trial balances for all other funds of the state. For selected funds, the Committee requested that the agencies provide information on the sources and uses of other funds and the purpose for the other funds. The Committee selected for following agencies to review further:

Attorney General’s Office

- Law Enforcement Officers Training Fund – Company 3010
- 911 Telecommunicator Training Fund – Company 3010

Unified Judicial System

- Court Automation Fund – Company 3012

School and Public Lands

- Human Services Fund – Company 5018

Department of Health

- Board of Massage Therapists – Company 6503
- Tobacco Prevention and Reduction Trust Fund – Company 3049

Department of Environment and Natural Resources

- Petroleum Release Compensation Fund – Company 3036

Department of Social Services

- Crime Victims’ Compensation Fund – Company 3079
- Prescription Drug Plan Fund – Company 3079
- Other Local Donated – Company 3079

Audit Reports

The Committee reviewed the South Dakota Single Audit Report and other separately issued audit reports for the fiscal year ended June 30, 2014.

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 and its component units 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 and independent public accountants.

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) Circular A-133, 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 eleven state organizations, containing twenty-two recommendations for corrective action. Six recommendations related to violations of federal laws and regulations; and, sixteen 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 2014 and 2013 and the implementation of fiscal year 2013 audit recommendations:

State Agency	Recommendations		
	Fiscal Year 2014	Fiscal Year 2013	FY2013 Implemented
Governor's Office of Economic Development	0	7	7
Bureau of Finance and Management	2	2	0
Department of Revenue	4	3	1
Department of Agriculture	0	6	6
Soybean Research & Promotion Council	1	2	1
South Dakota Corn Utilization Council	3	3	1
Wheat Utilization, Research and Market Development	2	0	N/A
Ellsworth Development Authority	1	0	N/A
Department of Labor Unemployment Insurance Fund	1	1	0
Board of Regents	1	1	0
University of South Dakota	0	1	1
Economic Development Finance Authority	0	1	1
Animal Industry Board	0	2	2
Department of the Military	0	1	1
Department of Health	0	10	10
Building Authority	1	0	N/A
Department of Social Services	1	0	N/A
Department of Education	4	0	N/A

N/A This agency did not have any FY2013 audit recommendations.

The Department of Revenue was asked to appear before the Committee to discuss three audit findings. The Deputy Secretary for the Department of Revenue came before the committee to discuss a corrective action plan with respect to the audit findings. The Committee requested and received additional information from the Department of

Revenue regarding the findings and no further action was deemed necessary by the Committee.

The Department of Education was asked to appear before the Committee to discuss three audit findings. The Director of Finance for the Department of Education and the Executive Director for the Mid Central Educational Cooperative came before the committee to discuss a corrective action plan for audit findings pertaining to the Federal grant entitled, Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP). This program is designed to increase the number of low-income students who are prepared to enter and succeed in postsecondary education. The Committee plans to request more information on all programs being offered to improve educational outcomes for Native American students.

The South Dakota High School Activities Association (SDHSAA) was asked to appear before the Committee to discuss four audit findings. The Assistant Executive Director for the SDHSAA came before the committee to discuss a corrective action plan with respect to each audit finding. No further action was deemed necessary by the Committee at this time.

South Dakota Associated School Board Health Insurance Program

The Committee invited the Executive Director for the Associated School Board of South Dakota in to testify as to the financial stability of the South Dakota School District Benefits Fund (Benefit Fund). The Executive Director described changes to plan provisions that have improved the financial outlook of the Benefit Fund. The Benefit Fund has entered into a three year contract with Wellmark to administer the Benefit Fund, which has saved the Benefit Fund approximately \$7 million in costs. The Executive Director stated that there have been new schools interested in joining the Benefit Fund. The Executive Director answered Committee questions and offered to meet again if the Committee desired.