

Proposed Staff and Committee Member Amendments to Draft Annual Report

Amendment 1 (Staff)

Staff Updates to the Draft GOAC Annual Report prepared subsequent to the October 5 & 6, 2017 meeting:

Revision to - Performance Reports

A subcommittee of members was formed to help provide an improved framework for the development of departmental performance measures. The subcommittee has suggested that Standing Committees of the Legislature play a more active role in examining the performance of various departments and to provide direction to the departments on their key performance objectives. The subcommittee has asked Legislative Research Council to coordinate with departments to provide performance management reports to the various Standing Committees of the Legislature.

New section - 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 Commissioner thanked the Legislative members of the advisory group for their efforts in getting the Center up and running. 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 three 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 FY2017, the Center collected \$3.3 million for State agencies and established payment plans for \$7.7 million (total financial impact of collection activities of \$11 million). Of the \$3.3 million remitted to State agencies, \$618,267 was deposited into the general fund with the remaining monies distributed to various agency funds. The Committee expressed concerns with the penalties placed upon individuals owing money to the State and used as an example the loss of an individual's driver's license. The Committee asked the Commissioner to strengthen procedures to ensure an individual's driver's license is reactivated as quickly as possible after the individual has established a payment plan or has paid the outstanding debt.

New section - The Building South Dakota Funds (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 eighteen grants during the fiscal year totaling \$1,049,145. The projected number of jobs created was 117.

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 ten grants during the fiscal year totaling \$2.6 million. The projected number of jobs created was 562.

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 seven grants during the fiscal year totaling \$13.3 million. The projected number of jobs created was 280.5.

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 two JGP grants awarded during the fiscal year totaling \$129,801. The projected number of jobs created was 24.

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 FY2017, 13 new homes will be built, 105 homes and seven rental units will be rehabbed and 39 future homeowners will be provided with down payment assistance. To date, the SDHDA Board of Commissioners has awarded \$10.2 million that will benefit 1,606 families.

Addition to - Operations of the State owned rail line

The Committee heard public testimony from a former owner of the Dakota Southern Railway Company (DSRC) about operational concerns with the current owner of the DSRC. DSRC leases State owned rail lines. The Committee plans to invite the current owner of the DSRC to a future Committee meeting.

New section - School District enrollment used in the calculation of State Aid

The Tri-Valley School Superintendent answered various Committee questions regarding concerns over the fall enrollment process. The topic came to the attention of the Committee after a letter was sent by the Tri-Valley School Superintendent to parents of homeschool students, requesting their children attend school on the day fall enrollment is taken. The last

Friday in September is the date used for determining enrollment for the purpose of computing State Aid to the school district. The Superintendent explained that his goal was to provide each homeschool student that attended school on the last Friday in September, a new laptop and a license for Edgenuity software. He believed this was a win-win offer in that the homeschool student would receive valuable tools to improve their learning opportunities while also increasing school revenue. He explained that he should have communicated earlier to the parents so they had more time to make a decision. The Committee expressed concerns that school districts may be gaming the State Aid formula to increase their share of State funding and may propose future legislation to discourage this type of behavior.

Delete reference to SDCL 2-7-6 – Legislative Research Council discussed the statutory authority of the Committee

Amendment 2 (Senator Nelson)

Revision to – Board of Regents

The Executive Director indicated they have at least 11 illegal aliens currently enrolled.

The Executive Director acknowledged that the Board of Regents was not in compliance with SDCL 13-53-1.1.

Amendment 3 (Senator Peters)

Addition to – Table of Contents and adding Appendix A to back of report

Appendix A – Performance indicators of the Agencies Reviewed by GOAC

Addition to – Department of Game, Fish and Parks discuss the discontinued access to non-meandering waters in South Dakota

At the Executive Board's April 18, 2017 meeting a Committee of 15 Legislators was appointed to study the regulation of access to and use of non-meandered waters on public and private property. The Committee met four times, heard public testimony, and drafted legislation. A Special Session of the Legislature was held on June 12, 2017 and the "Open Waters Compromise" law was passed and signed by the Governor.

Revision to – Audit Division

The Committee asked to be provided the results of a survey being conducted by the South Dakota Retailers Association and plans to revisit this topic in the future. To read: relating to audits conducted by the Department of Revenue.

Addition to – School District enrollment used in the calculation of State Aid

The Committee plans to review other school district fall enrollment counts.

Amendment 4 (Representative Wismer)

Addition to – Conflicts of Interest

The Committee expressed concern that not all conflicts of interest were being disclosed, citing as an example the former head of the South Dakota Developmental Center (SDDC) who took a position as an employee of a contractor to the State after her resignation from the SDDC.

Amendment 5 (Senator Nelson)

Addition to – Operations of State owned rail line

As an expansion of a review that began in 2016, by which the Committee examined why State owned track west of Mitchell had been allowed to deteriorate, additional scrutiny has been applied to operation of the State owned rail system. Primary among this is how payment is made by rail operators for use of State owned track, and public safety. The Secretary of the Department of Transportation (DOT) appeared before the Committee and answered numerous questions about the operation of these rail lines. The Secretary explained that management and oversight of State owned rail lines are performed by the South Dakota State Railroad Board. The State owns 406 miles of active rail lines and 124 miles of inactive lines.

The State has six different leases on the active lines, all but one with regional rail authorities. Lease rates are generally set at 1.5% of combined gross freight revenue and rail car storage revenue as reported by operators of the lines, with two thirds (1.0%) of that going to the State and the remaining one third (0.5%) going to the appropriate rail authorities. The funds so generated have been used to enhance rail service throughout the State. In a 2015 report the Department of Legislative Audit recommended that the revenue figures reported by operators be verified for accuracy. The Committee questioned the DOT's process to ensure that proper payments are being remitted to the State. The Secretary explained operators send in supporting documentation and the DOT reviews the documentation. He added that the DOT is continuing to develop procedures in this area.

Regarding one operator of State owned track, Dakota Southern Railway Company (DSRC), the Committee was informed that the Federal Railroad Administration has issued multiple citations against DSRC for violations of hazardous material handling regulations, and also citations against DSRC for operating trains with crews not properly certified. The Committee heard public testimony from a former owner of DSRC, who pointed out that DSRC is in violation of terms of its lease. The Committee is concerned about how the DOT ensures ongoing contract compliance, and plans to continue to monitor the Department's efforts in this area. The Committee plans to invite the Secretary of Transportation, the Chairman of the State Railroad Board and the current owner of DSRC to a future meeting. The Committee is also considering asking Legislative Audit to review revenue figures reported by operators of State owned rail lines.