



# Legislative Research Council

SouthDakota

## MINUTES

### GOVERNMENT OPERATIONS AND AUDIT COMMITTEE

Representative Dan Dryden, Chair  
Senator Larry Tidemann, Vice Chair

Fifth Meeting  
2015 Interim  
October 30, 2015

Room 412  
State Capitol Building  
Pierre, South Dakota

The fifth meeting of the 2015 Interim Government Operations and Audit Committee (Committee) was called to order by Chair Dryden at 9:00 a.m., October 30, 2015, in LRC Room 412, State Capitol Building, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Representatives Bartling, Cronin, Dryden, Hunhoff, and Hunt were all present. Senators Heineman, Novstrup, Tidemann, and Senator Sutton arrived at 9:10 a.m. Senator Peters was excused.

Staff members present were Mr. Martin Guindon, Auditor General; Mr. Bob Christianson and Mr. Tim Flannery, State Government Audit Managers for the Department of Legislative Audit (DLA).

*NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. The bulleted items below each agenda item are documents sent out by the Committee.*

#### Approval of Minutes and Agenda

Representative Bartling moved the minutes, seconded by Representative Cronin, the minutes of the September 22, 2015 meeting be approved ([Minutes 9-22-2015 Meeting Doc.1](#)). Motion prevailed unanimously on a voice vote.

#### Item 1 – Oversight Council to provide the annual report called in for the Public Safety Improvement Act

- [Letter to Oversight Council Doc.2](#)

Jim Seward, General Counsel, Office of the Governor was present to report to the Committee on the implementation of the Public Safety Improvement Act. Mr. Seward reminded the Committee that four years ago the women's prison was near capacity and we would soon be looking at building another prison. In 2012 the Criminal Justice Reform Workgroup was created and the following year the Public Safety Improvement Act (PSIA) was passed. Mr. Seward explained that as part of the PSIA an Oversight Council was created. He added that the Oversight Council is to produce an annual report and the fiscal year (FY) 2014 annual report is close to being completed. Mr. Seward stated that the report will be placed on the PSIA website when it is completed.

Mr. Seward provided the Committee an overview of the annual report. He explained that overall the prison population has declined and has exceeded projections of the PSIA. The parole success rate has increased from 37% of offenders in FY2012 to 60% in FY2014 and 65% in FY2015. He added that this is important because in 2012 one fourth of the prison population was repeat customers. He reviewed the goals of the PSIA: 1) to improve public safety, 2) hold offenders more accountable, and 3) reduce corrections spending. He stated the State's Drug Court capacity has expanded 500% since 2011. That means more people are

on community supervision and not sitting in prison, working in their communities and home with their families. He stated that the female prison population has decreased 16%.

Mr. Seward stated that one of the goals was to reduce the Department of Correction's (DOC) spending. He stated that from 1997 to 2009 the DOC had an annual growth rate of 8.7%. He added that the last three years has resulted in an annual budget increase of 2.5%. He stated that the Unified Judicial System (UJS) has also experienced a one third reduction in the annual budget increase over the last three years, from 6.7% to 4.5%. Mr. Seward explained that costs have also been avoided in that a new women's prison, costing \$36 million, is no longer needed.

Mr. Seward stated that another goal was to bring agent caseloads down in parole. To accomplish this, earned discharge credits were instituted. Mr. Seward explained that nearly 2000 years of supervision has been taken off the books because of perfect compliance by parolees. This approach has helped to reduce caseloads for agents.

Mr. Seward explained that there has been improvement made in the number of nonviolent offenders going into the system. He explained that presumptive probation was one of the most significant reforms associated with the PSIA. This reform was designed to hold offenders accountable in the community for low level felonies, such as drug and driving under the influence felonies. Mr. Seward provided the Committee information on the "Hope probation" program and added that this program is expanding throughout the State. He concluded that the Legislature appropriated \$1 million to the County Reinvestment Fund and \$800,000 of the appropriation has been given to the Counties. Mr. Seward anticipated the final 2014 report will be completed in November 2015 and posted on the PSIA website.

Senator Tidemann asked where the decrease in prison population occurred. Mr. Seward stated that the decrease was mainly at the Minimum Units.

## **Item 2 – Attorney General's Office to provide an overview of Other Funds**

- [Letter to Attorney General Doc. 3](#)

Bryan Gortmaker, Director of the Division of Criminal Investigation was present to report on the following Other Funds:

- Law Enforcement Officers Training Fund (LEOT) – Company 3010 ([LEOT Fund Doc. 4](#))
- 911 Telecommunicator Training Fund – Company 3010 ([911 Training Fund Doc. 5](#))

Director Gortmaker went through a power point presentation to help illustrate key points in his presentation (see DCI Other Funds.pptx). He explained that the LEOT fund pays for the operation of the Law Enforcement Academy, law enforcement training, judicial training, and to pay expenses of the Law Enforcement Officers Standards Commission. Director Gortmaker stated that in addition, funds are used for highway safety law enforcement training, the operation of a statewide drug enforcement unit, state law enforcement equipment, the State Forensic Laboratory, the training of prosecutors, and Unified Judicial System personnel. He concluded with an overview of the 911 Telecommunicator Training Fund. He stated that all monies in this fund are continuously appropriated for the purposes of training and certifying 911 telecommunicators.

## **Item 3 – Unified Judicial System to provide an overview of the Court Automation Fund**

- [Letter to UJS Doc. 6](#)
- [Court Automation Fund Doc.7](#)

Mr. Greg Sattizahn, State Court Administrator for the Unified Judicial System (UJS), provided a brief overview of the Court Automation Fund (CAF) and where the court system was heading in regards to their technology needs (see handout [CAF Update Doc.19](#)). He stated that the CAF primarily consists of two sources of revenue: 1) court automation surcharges assessed on civil and criminal case filings, and

2) record search fees. Mr. Sattizahn's handout provided 2014 and 2015 CAF revenue by source and projected revenue through 2021. Mr. Sattizahn explained that there has been a reduction in 2015 revenue received from lower level violations, such as traffic tickets. He added that there has been a significant increase in felony filings for the same period.

Mr. Sattizahn moved on to describe the expenditures from the CAF. He stated that for FY2016 there are 32.5 full-time-equivalent (FTE) employees paid from the CAF, consisting of:

- Computer Programmers
- Project, Maintenance, Network, and Training Managers
- Business Analysts and Operation Specialists
- Specialists for Computer Support, Help Desk, Video Networking, and Security
- Computer Assisted Court Recorders

He added that the CAF pays for travel costs associated with providing statewide information technology (IT) support to 63 courthouses throughout the State. Travel expenses are also incurred to support various committee meetings for:

- Special Studies: Elder Abuse Task Force
- Computer Application Development
- Advisory and Planning Committees for Clerks
- Court Reporter Committee
- UJS Technology Committee
- Safety Teams

Mr. Sattizahn explained that the Odyssey case management system, in use by UJS, was developed by Tyler Technologies and \$1,232,411 in maintenance fees were paid in FY2015 for this system and other programs. He added that the CAF also paid the Bureau of Information and Telecommunications \$631,470 in FY2015 for the use of their infrastructure. He identified other miscellaneous CAF expenditures for:

- Premiums for the South Dakota Public Entity Pool for Liability insurance
- Matching funds for Court Improvement/Security grants to counties
- Space rent of IT staff
- Central services billings from state agencies
- Capital assets for the Supreme Court, Law Library, State Court Administrator's Offices, Circuit Courts, Clerk of Courts, and Court Services Offices

Mr. Sattizahn explained that the CAF has one-time outstanding obligations totaling \$1,792,249. These obligations relate to the rural attorney program, law library restoration, a required transfer to the LEOT fund, courthouse security grants, Odyssey licensing fee, and an Odyssey retainage amount.

Mr. Sattizahn concluded by providing the Committee with a summary of the improvements made as a result of the implementation of the Odyssey system. He also briefly discussed additional Odyssey projects planned and the anticipated implementation dates for the completion of those projects.

Senator Heineman stated that the CAF was created in 1990 to improve court processes; what steps are being taken to ensure costs fit the original intent of the legislation. Mr. Sattizahn stated that things have been paid out of the CAF that don't strictly relate to court automation. He described that during the years of budget cuts the UJS attempted to keep courthouses open and some costs were paid by the CAF. Mr. Sattizahn referred to the enabling legislation that discusses what the CAF can be used for: 1) court automation, and 2) the administration of justice. He stated that the administration of justice has been the basis for some of the expenditures from the CAF.

#### **Item 4 – School and Public Lands to provide an overview of the Human Services Fund**

- [Letter to SPL Doc. 8](#)
- [Human Services Fund Doc. 9](#)

Commissioner Ryan Brunner, School and Public Lands, provided an overview of the Human Services Fund (HSF). Commissioner Brunner explained the HSF is a trust fund and the money in the fund is the result of land sales. He added that interest and income earned by this fund is paid annually to the Human Services Center (HSC). Commissioner Brunner referred the Committee to the handout he provided to explain the history of the HSF and the reasons that this fund is accounted for separately (see [SPL Handout Doc. 20](#)). He stated that land was gifted by the federal government for the HSC Campus in the act of June 16, 1880 to the Dakota Territory and included in the enabling act section 14 as a grant to the State of South Dakota. The HSF was created to account for HSC land sale proceeds of \$420,174.92 that occurred in 1992. He stated that the 2011 Legislature passed House Bill 1232 that authorized five land sales totaling \$2,598,089.13. Commissioner Brunner added that the September 15, 2015 HSF balance was \$3,103,269.15. At the Committee's request Commissioner Brunner provided additional information on all of the other trust fund balances on page two of his handout. He stated that these funds are invested by the South Dakota Investment Council and the September 2015 cost value equals \$232,581,904.

#### **Item 5 – Board of Massage Therapists to provide an overview of Company 6503**

- [Letter to Board of Massage Therapy Doc. 10](#)
- [Massage Therapy Other Fund Doc. 11](#)

Jennifer Stalley, Executive Director of the Board of Massage Therapy appeared before the Committee. Director Stalley provided an overview of the Board of Massage Therapy (Board). She stated the Board was created in 2005 and issued its first licenses in 2006 (479 licenses issued in 2006). Since 2006 the Board has issued an average of 809 licenses per year. Director Stalley stated that licensees are required to meet minimum educational requirements, pass a national examination, and carry at least \$250,000 in malpractice insurance to receive a license. She added that licensees are required to renew their licenses annually and every two years show that they have received eight hours of continuing education. Director Stalley stated that the renewal fee was reduced by the Legislature in 2013 from \$60 to \$45. The 2013 Legislature also set a uniform expiration date of September 30<sup>th</sup> of each year for all licensees.

Director Stalley described the primary uses of the funds collected in Company 6503 are to ensure application compliance and on-going licensee compliance, as well as receive and investigate complaints. She stated that the Board has made significant changes in an attempt to be more responsive to the licensees. Director Stalley stated they have implemented a searchable database. This includes an on-line licensing system which allows documents to be saved and filed electronically. She described how communication between the Board and licensees has greatly improved with the new system. The Board can now send electronic e-mails to licensees and keep them better informed on a day-to-day basis. The new system allows license and renewal payments to be paid with credit and debit cards on-line. Director Stalley stated the Board has compiled all adopted policies over the last ten years into one document which is available on the website. In addition, a frequently asked questions document is also available on the website. She stated that a newsletter is also sent out to licensees twice per year with information from the Board.

Director Stalley commented on the Board's work with law enforcement to prevent individuals from practicing massage therapy without a license. She stated that changes to the law in 2013 limited the Board's inspection authority. She stated the Board cannot inspect a licensed practice without a complaint and the Board has no authority to inspect an unlicensed practice. She added that the Board does not have law enforcement powers, however, does have regulatory authority to determine that licensees are qualified to practice in South Dakota.

Director Stalley stated that the Board appointed a practice act workgroup to help determine what policies are working and which ones are not working. The workgroup has developed proposed legislation for the 2016 session which has been given to the Department of Health for review and submission as an agency bill. The Board has also appointed a long-term financial sustainability workgroup. The workgroup looked at how best to balance the goals of the Board with the anticipated future revenue available to the Board.

Senator Sutton asked what Director Stalley would say to people that don't believe a Board of Massage Therapy is needed. Director Stalley stated there is an exchange of money for the relaxation services provided by massage therapists and that people want to know the legitimacy of who is providing these services. She also added that there is overwhelming support for the licensing process from massage therapists.

Representative Hunhoff asked Director Stalley to further explain the Board's enforcement process for unlicensed therapists. Director Stalley stated that if a complaint is received that a person may be practicing massage therapy without a license, the Board will send a letter to this person informing them that a complaint has been received by the Board. The local State's Attorney will also be informed of this complaint. She added that it is ultimately up to the local State's Attorney to file criminal charges.

#### **Item 6 – Department of Environment and Natural Resources to provide an overview of the Petroleum Release Compensation Fund – Company 3036**

- [Letter to DENR Doc. 12](#)
- [Petroleum Release Compensation Fund Doc. 13](#)

Secretary Steve Pirner, Department of Environment and Natural Resources (DENR), provided the Committee an overview of the Petroleum Release Compensation Fund (PRCF) and referred to a handout containing the history of the PRCF (see [PRCF Handout Doc.21](#)). Secretary Pirner introduced Alan Bakeberg and Terry Florentz, from DENR, to assist in the presentation. Secretary Pirner provided an overview that explained the reasons for the creation of the PRCF and some of the changes that have occurred since the fund was created. Secretary Pirner described the 1986 DENR investigation into leaking tanks owned by the Williams Tank Farm in Sioux Falls. The investigation found the source of the leaking tanks and ultimately the Williams Brothers took responsibility for the cleanup. This incident prompted then Governor Mickelson to introduce legislation for a "Superfund." Secretary Pirner stated that in 1988 legislation was passed to create the PRCF to:

- Provide financial assistance for cleanups
- Provide \$1 million insurance coverage to tank owners

Secretary Pirner stated the federal requirements are that tank owners must have \$1 million financial assurance coverage per eligible occurrence (a single site may have more than one occurrence).

Secretary Pirner stated that in 1991 the Environmental Protection Agency (EPA) notified the state that if the PRCF dropped below \$2 million, the EPA would no longer recognize the fund as the state underground tank insurer; \$2 million minimum balance is equivalent to \$3.5 million today. He stated that the PRCF is still the insurer for over 6,000 tanks in South Dakota.

Secretary Pirner referred the Committee to page three of the [PRCF Handout Doc.21](#) for the history of the fees charged by the PRCF and the distribution of those fees. Secretary Pirner stated that the DENR started providing training, in 2010, to storage tank owners, operators, consultants, state inspectors, and other interested parties on how to properly maintain those tanks. He added that the industry has been appreciative of this training. He closed by informing the Committee of 2015 EPA rule changes that will cost both tank owners and the PRCF money in the near future.

Alan Bakeberg provided the Committee with PRCF financial information. He stated that on average the PRCF receives \$1.7 million per year from tank inspection fees. He stated that the PRCF recently recovered \$703,125 from Chevron which he characterized as a double-dip settlement. He stated that

the DENR is still in active litigation with several other oil companies and could not provide further information on this settlement.

Mr. Bakeberg explained that there are five employees of the PRCF with a personal services budget of \$454,863 in fiscal year 2016. He stated that the average cleanup payment per site is \$51,217, which is one-third the national average. He stated the total payments for cleanup since 1988 equals \$77 million. Mr. Bakeberg provided information on the abandoned tank removal program. In the last three years, the average cost per case equals \$5,500. Other states have looked at South Dakota's program as a model program. He added that since the start of this program in 2000, the state has spent approximately \$10 million. He stated that the PRCF had a cash balance of \$4.7 million as of June 30, 2015. He concluded by providing the Committee a graph of the PRCF cases since 1988 and that the PRCF staff has been reduced from fifteen to the current level of five employees.

Representative Cronin asked if the revenue would be enough to cover the 2015 EPA changes. Mr. Bakeberg said that revenues are sufficient today, however it is difficult to project what may be needed in the future and the DENR will be closely monitoring this.

Terry Florentz provided the Committee with information about the abandoned tank removal program. He described the program as a true pollution prevention program that involves tanks that have not yet begun to leak. Mr. Florentz stated that over 1 million gallons of petroleum and contaminated water have been removed. He stated that 2,341 sites have been determined to be clean, thus requiring nothing else to be done to complete a property transfer. The DENR removes 44 to 126 tanks per year. Mr. Florentz described the following locations from which tanks have been removed:

- 417 tank sites for city, county, and state government, including over 150 for public schools
- 1017 tank sites for commercial and non-profit organizations
- 883 tank sites from residential areas
- 701 tank sites from farms and ranches

Mr. Florentz concluded by describing the process steps to be eligible for the abandoned tank program and he went through examples of sites where tanks have been removed.

#### **Item 7 – Department of Social Services**

- [Letter to Social Services Doc. 14](#)

Secretary Lynne Valenti and Deputy Secretary Amy Iversen-Pollreis, Department of Social Services (DSS) were present to discuss the status of the open hospital administrator's position at the Human Services Center (HSC). Secretary Valenti stated that the HSC is the only state hospital that provides in-state psychiatric services and is a licensed specialty hospital. She added that Deputy Secretary Iversen-Pollreis has overseen the hospital since 2011 and is the current interim administrator. Secretary Valenti stated that the HSC has 304 beds, 566 employees and takes care of patients from the age of 12 to end-of-life. The hospital administrator position has been open since March 2015. She explained that the person that fills this challenging position must have the necessary experience and skills to be successful. Secretary Valenti added that they have interviewed ten candidates to date and are continuing to advertise for this position. Senator Heineman asked why the hospital administrator job is so hard to fill. Secretary Valenti said that it is hard to compete with the private sector pay scales for a hospital administrator for a facility of this size. She added that there is a limited pool of qualified applicants out there. Secretary Valenti stated that DSS plans to hire Cawley Johnson, a firm out of Georgia, to provide an on-site interim administrator and help recruit for a permanent administrator. The cost of this six month contract is anticipated to be \$380,000. Senator Tidemann asked if the salary scale has been increased and stressed the importance of filling this position. Secretary Valenti said that in consultation with the Bureau of Human Resources; the position's salary has been increased. Representative Hunhoff asked Secretary Valenti to provide the Committee with information about current staffing challenges. Secretary Valenti stated that psychiatrists are in short supply nationally. The HSC currently has two openings to fill, however the HSC has contracted with other providers to

provide additional psychiatric services. Secretary Valenti stated that there are also openings for lower level staff. The HSC recently held a job fair that was well attended and resulted in the hiring of several people.

Secretary Valenti discussed the safety of patients and employees at the HSC. She described that the needs of each patient are assessed and the appropriate unit is chosen to house the patient. She stated that there is an intensive treatment unit at the HSC. This unit is for those patients that are acting out. Representative Hunhoff asked what the strategies were for unfilled shifts at the HSC and if that impacts safety. Secretary Valenti stated that minimum staff levels are required to be maintained. If a situation arose where the HSC couldn't maintain minimum staff levels for a unit, that unit would be closed and the patients moved to another unit. She added that employees have been required to put in overtime hours to meet the needs.

#### **Item 8 – Secretary of State Agreed Upon Procedures Report**

- [Letter to Secretary of State Doc.17](#)
- [Agreed-Upon Procedures Report Doc.18](#)

Tim Flannery, Department of Legislative Audit (DLA) explained the nature of an agreed-upon procedures engagement. He stated that on occasion DLA will be contacted by elected offices and be asked to perform certain cut-off type procedures. He added that the DLA follows attestation standards in conducting agreed-upon procedures engagements. The DLA worked with Secretary of State Shantel Krebs and developed the procedures that were performed. He explained that any exception identified after the completion of the procedures is included in the report. He emphasized that this was not an audit engagement where an audit opinion is issued. Mr. Flannery then went through each procedure that was performed and whether or not exceptions were noted. Secretary of State Shantel Krebs provided the following corrective actions that have been implemented with respect to procedure numbers that contained exceptions (see [Agreed-Upon Procedures Report Doc.18](#) for procedures performed):

1. Secretary of State Krebs stated that daily reconciliations of each bank account are now being performed. In addition, her office sent letters to 672 prepaid deposit account holders and asked them if they wanted to continue their account or close their account and receive a refund of the balance. Of those contacted, 41 asked for their accounts to be closed and requested a refund of their balances, 78 accounts were turned over to unclaimed property. She concluded that her office is also working with the Bureau of Finance and Management to correct various bank reconciliation items.
2. Mr. Flannery reported that an original state flag that had previously been displayed at the Secretary of State's Office was missing. He stated the flag was subsequently located and potential criminal charges may be made and suggested that further discussion of this issue would be outside the scope of the Committee at this time. Chair Dryden instructed the Committee to move on to procedure number three.
3. Secretary of State Krebs provided an explanation of the Federal Voting Assistance Program (FVAP) and that \$668,000 was awarded to the state to assist military men and women in filing absentee ballots. As part of this program, 85 iPads were purchased. She reported that her office has sold the remaining 82 iPads to county auditors for their use in local elections. Senator Tidemann asked where the money went from the sale of the iPads. Secretary of State Krebs stated that the proceeds went back to the FVAP. Senator Sutton asked how much of the grant award remains. Secretary of State Krebs said that \$163,000 of the award remains and the award period runs through the end of 2016.
- 4.a. Secretary of State Krebs stated that an additional \$5,940 of costs were incurred to order 200 more Blue Books. She stated that these costs were in addition to the amounts reported by DLA. She added that the Blue Book is required by state statute to be printed every odd numbered year.

4.b. Secretary of State Krebs stated that 500 election history books were published, at a cost of \$125 per book. These books are not required to be published by state statute. She stated that 400 books were distributed and 100 remain in inventory. Senator Tidemann asked what the plans were for the remaining books and what her plans were for publishing these books in the future. Secretary of State Krebs stated that she continues to try and sell these books and because this publication is not required by state law she will not be printing election history books in the future.

4.c. Secretary of State Krebs stated that 450,000 documents have been pulled down and 93,000 of these documents have been reviewed with personally identifiable information redacted and the documents have been placed back up on the website. She stated that two part-time employees are working on these documents and this will have a \$14,472 impact on next year's budget.

5. There were no exceptions noted for this procedure.

6.a. Secretary of State Krebs stated that the office's accountant has requested supporting invoices from the counties. She added that from now on two individuals will review all payment requests to ensure they are for allowable costs and properly supported.

6.b. Secretary of State Krebs believed that the Campaign Finance Reporting System was being charged under the Help America Vote Act grant program (HAVA). These are not allowable costs under the HAVA program and will now be tracked and paid for with general fund dollars.

6.c. Secretary of State Krebs confirmed that the consultant hired by the previous Secretary of State to work on the FVAP grant was incorrectly paid from the HAVA grant. She stated that her office is going back to 2011 and reviewing all grant expenditures and will be preparing for a federal audit that is scheduled for 2016.

7. There were no exceptions noted for this procedure.

Secretary of State Krebs stated that her plans are to let the counties know what their HAVA balances are on a semiannual basis.

Chair Dryden then opened the meeting to public testimony relating to this agenda item. Former Secretary of State Jason Gant testified about the agreed-upon procedures report. He provided brief explanations to the exceptions noted in the agreed-upon procedures report. He stated that he was proud of the accomplishments of his administration, however recognized that mistakes were made along the way.

### **Item 9 – Department of Legislative Audit to review fiscal year 2015 separately issued audit reports and Single Audit findings**

Mr. Bob Christianson, Department of Legislative Audit addressed the Committee on the status of the separately issued audit reports for FY2015. Mr. Christianson provided the Committee a list of audits completed by the Department of Legislative Audit (DLA) and by independent public accountants through October 30, 2015 (see [Recap of Audit Reports Doc.15](#)). He reminded the Committee that the completed audit reports can be found on DLA's website. Mr. Christianson stated that the goal is to issue the FY2015 Comprehensive Annual Financial Report by January 31, 2016 and he did not believe there would be a problem achieving this goal.

Mr. Christianson provided the Committee a listing of the FY15 federal grants being audited by DLA and by independent public accountants. He stated that in accordance with the Single Audit Act at least 50% of the federal expenditures need to have audit coverage. He also described how DLA follows federal regulations in the selection of Type A and Type B grants to audit. Type A grants are those grants that expend more than \$7 million dollars and Type B grants are those grants that expend less than \$7 million dollars. Mr. Christianson explained that DLA determines which grants to audit based upon a risk

assessment process. Representative Bartling asked what factors are considered in this risk assessment process. Mr. Christianson stated that such things as the complexity of the grant, the experience of management, the type of federal compliance requirements involved are some of the factors used by DLA to score the risk associated with the grant.

Mr. Christianson concluded by going through two audit findings of the Department of Revenue (DOR), which start on page five of the [Recap of Audit Reports Doc.15](#). The first audit finding related to incomplete records and procedures for tracking financial institutions licensed by the Division of Banking. The DOR agreed with the audit finding and has implemented corrective actions. Mr. Christianson explained that the second audit finding related to inadequate internal controls to 1) ensure the accuracy of information provided by the International Fuel Tax Agreement Explore system, and 2) ensure proper reporting of the State's revenue. The DOR agreed with the audit finding and has implemented corrective actions.

Martin Guindon, Auditor General, provided the Committee with information on the audit of the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR Up) grant. Mr. Guindon stated that in 2014 the DLA determined the GEAR Up grant to be high risk, through the DLA's risk assessment process. Mr. Guindon stated that in addition to this high risk assessment, an individual came to DLA with concerns about the GEAR Up grant. For these reasons the GEAR Up grant was selected to be audited in FY2014. Those audit findings have been reviewed by the Committee and the Committee heard testimony from employees of Mid Central Educational Cooperative (MEC). Mr. Guindon stated that the GEAR Up grant was required to again be audited in FY2015, at the State level, because of the audit findings issued in the prior fiscal year. Mr. Guindon stated that a second individual contacted DLA with concerns about the GEAR Up grant. He stated that he had already decided to follow the money to MEC and its contractors and subrecipients using the authority the Legislature granted to the Auditor General under SDCL 4-11-4 and 4-11-2.1. The fire at the Westerhuis home in September 2015 changed everything. Mr. Guindon stated that DLA is currently cooperating with law enforcement investigators. Judge Anderson has granted a motion allowing DLA access to the Attorney General's investigative files for the purpose of DLA's audit of the GEAR Up grant. Mr. Guindon told the Committee that DLA will be following the money to MEC and its contractors, subrecipients, and related parties as deemed necessary for the audit of the GEAR Up grant. He explained to the Committee that it has reviewed our audit findings at the State level and our work could result in additional audit findings at the MEC level. Mr. Guindon stated that the Department of Education (DOE) has contacted us and asked us to look at other grants and contracts the DOE has with MEC and DLA will be looking at these other contracts and grants based on our assessment of risk related to those programs. He concluded that the cooperative work DLA is doing with law enforcement will help us in our risk assessment process. Senator Sutton asked what the timeline was for the completion of the audit work. Mr. Guindon stated that draft FY2015 audit findings have been given to the DOE. Our quality control process and the process we use to clear audit findings requires that we provide findings to the agency, we ask them to inform us of any misstatements or inaccuracies we might have in those findings, and we ask the agency to provide a written response to us as to whether they agree or disagree and a written corrective action plan. Mr. Guindon stated that the FY2015 Single Audit has to be done by March 31, 2016. He added that the additional work DLA does at the MEC level will be a separate process that will not necessarily be incorporated into our Single Audit of the State of South Dakota. Senator Heineman asked for clarification to the meaning of "State level findings". Mr. Guindon stated that the DOE is the primary recipient of the GEAR Up grant. DLA's audit findings relate to the DOE's administration of the GEAR Up grant as the primary recipient. The DOE subawarded funds to MEC to administer the GEAR Up grant and MEC is considered a subrecipient of the GEAR Up grant. Representative Bartling asked that DLA provide a list to the Committee of other contracts and grants between the DOE and MEC for FY2015. Senator Tidemann asked if the Auditor General's statutory authority allowed him to investigate a private corporation. Mr. Guindon stated that it does not.

**Item 10 – Review draft of the 2015 GOAC Annual Report**

- [Draft 2015 GOAC Annual Report Doc.16](#)

Mr. Tim Flannery with the Department of Legislative Audit provided a copy of the draft GOAC annual report to the Committee. Chair Dryden requested that the Committee allow the Chair to finalize the report, after today's work has been added. A motion was made by Senator Tidemann, seconded by Representative Cronin to allow the Chair to finalize the report. The motion passed on a voice vote. The final report will be presented to the Executive Board at their November 2015 meeting.

Chair Dryden asked the Committee to accept as Committee documents the handouts provided to the Committee at today's meeting. A motion was made by Representative Cronin, seconded by Senator Tidemann to accept today's handouts as Committee documents. The motion passed on a voice vote.

Representative Bartling asked if the Committee could inquire with the Executive Branch whether they have responded to the United States Department of Justice report of the EB-5 program. Chair Dryden stated that this could be addressed by the next interim Committee.

Senator Tidemann thanked Chair Dryden for his leadership during the 2015 interim period. A motion was made by Senator Tidemann to adjourn, seconded by Senator Heineman. The motion passed on a voice vote.

**This meeting is being held in a physically accessible location. Any individual needing assistance, pursuant to the Americans with Disabilities Act, should contact the Legislative Research Council (605-773-3251) in advance of the meeting to make further arrangements.**

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