

Senate Government Oversight

FINDINGS and RECOMMENDATIONS

1) Banning secret settlements and hush money payments

FINDING: Secret settlements were made throughout state government, including these departments:

- Iowa Veterans Home
- Iowa Department of Natural Resources
- Iowa Department of Administrative Services
- Iowa Department of Public Health
- Iowa Department of Human Services
- Iowa Department of Education

FINDING: Former DAS attorney Ryan Lamb testified that he discussed putting confidentiality language into settlement agreements with Branstad's legal counsel, Brenna Findley.

FINDING: Hush money was given and offered to former state employees.

- Carol Frank and Dean Ibsen, former DAS employees, testified that they were offered hush money in exchange for a confidentiality clause in their settlement agreements with the State of Iowa.

FINDING: Governor Branstad and Department of Administrative Services did not provide Iowans accurate information regarding secret settlements, hush money and their costs to Iowa taxpayers.

- Governor Branstad's internal investigation team -- comprised of the director of DOM, legal counsel and chief of staff -- released 24 cases totaling \$500,000 on March 18, 2014. The State Auditor's report revealed 42 confidential settlements, totaling nearly \$700,000.
- Former DAS legal counsel testified that he notified Branstad's Chief of Staff and DAS Director that there might be documentation indicating a payment was negotiated in a settlement agreement. This notification occurred prior to the DAS Director's testimony before Oversight and the Governor's news conference denying Ms. Frank's testimony.

FINDING: Funds used for settlement agreements were not disclosed to legislators or the state agencies that paid into those funds for their specific purposes.

- DAS used other state agency funds to pay for settlement agreements that were intended for other uses, such as construction management costs, energy efficiency programs and general operations.
- A Department of Administrative Services document shows the state used at least six separate accounts to pay more than \$500,000 in employee settlements since 2011.

RECOMMENDATION: Ban the use of secret settlements and hush money in all branches of government.

RECOMMENDATION: Eliminate slush funds and the ability of departments and agencies to have a blank checkbook for settlement payments.

RECOMMENDATION: Create appropriate transparency mechanisms and oversight on state employee settlements.

2) Expanding protections for whistleblowers

FINDING: Public employees who have blown the whistle on unjust practices in state government do not have adequate protections.

- The committee received testimony from current and former state employees who were exposed to retaliation through demotion, job reclassification and removal after reporting inappropriate activity in the workplace.

RECOMMENDATION: Expanding protections for those who blow the whistle on wrongful activities in state government.

3) Outlawing cronyism in hiring state employees

FINDING: Iowa has hired at least 990 employees since January 2007 without advertising their jobs on a statewide public notification system, thereby allowing state managers to hire their friends instead of the most qualified candidates.

RECOMMENDATION: Require all job openings in state government to be openly advertised.

RECOMMENDATION: Create appropriate transparency mechanisms and oversight on newly created state positions.

4) Reforming use of the state “do-not-hire” database

FINDING: The state utilized a “do-not hire list” without consistent procedures or criteria for due process.

- Three former employees filed a lawsuit April 28, 2014, claiming the state created “blacklists,” despite multiple warnings by administrative law judges against the practice. They are seeking class-action status that, if granted, could cost the state millions of dollars in settlements.

RECOMMENDATION: Reform the state’s “do-not-hire/blacklist/database” to ensure due process.

5) Preventing no-bid contracts on state jobs

FINDING: An architecture firm was hired outside of normal procurement guidelines for work related to the Iowa Veterans Home.

- A three paragraph request for proposal was released with a five-day window for response. The RFP did not name the project. The recipient of the contract received millions of dollars’ worth of work from the state of Iowa.

RECOMMENDATION: Require all state entities to follow formal competitive bidding procedures for construction projects above \$100,000, including preliminary architectural and engineering services.

RECOMMENDATION: Require architectural and engineering services adhere to the same level of bidding and procurement requirements as any other construction service.

6) Increased accountability in state infrastructure projects

FINDING: The Iowa Veterans Home (IVH) master plan was approved by Iowa Legislature and the federal government to draw down federal money.

FINDING: The Iowa Veterans Home unilaterally redesigned and repurposed construction funding that resulted in the state of Iowa losing federal funds and jeopardizing Iowa's federal match for future projects.

FINDING: Executive Order 79 eliminated Iowa's Vertical Infrastructure Advisory Committee, which provided transparent, knowledgeable and nonpartisan recommendation for infrastructure spending.

FINDING: The state has lost internal oversight on millions of tax payer dollars of state construction projects.

RECOMMENDATION: Require all major infrastructure changes to be approved by the Legislative committee that originally appropriated the money.

RECOMMENDATION: Reinstate the Vertical Infrastructure Advisory Committee.

RECOMMENDATION: Review the state construction cost benefit analysis by the Legislative Service Agency and act on its **RECOMMENDATIONS**.

7) Take political influence out of the judicial process

FINDING: The U.S. Department of Labor (DOL) had to intervene when Iowa Workforce Development Director tried to reclassify a merit judicial position to an at-will position. The DOL noted this violated established legal principles that say judges must be insulated from political influence.

FINDING: The Iowa Workforce Development Director, a political appointee, is currently the direct supervisor of the unemployment appeals Administrative Law Judges.

FINDING: The former Public Employment Relations Board chair testified that Governor Branstad's office pressured the Board to hire an unnamed administrative law judge.

RECOMMENDATION: Review existing Iowa law regarding the adjudicative process to ensure Iowans receive a fair and impartial hearing.

RECOMMENDATION: Prohibit all political appointees and/or at-will employees from supervising or evaluating administrative law judges to preserve their integrity and independence in decision making.

8) Restore integrity to Iowa's unemployment trust fund

FINDING: Iowa's Workforce Development's call-in system for unemployment claims failed during the week of March 8, 2014.

FINDING: Iowa Workforce Development (IWD) did not have accurate information about which Iowans should or should not receive unemployment payments for that week.

FINDING: The Director of IWD made the decision to issue payments to all those who made claims the previous week.

FINDING: A memo was sent to IWD fraud investigators from their manager threatening repercussions if they questioned or disclosed the payment decision. .

FINDING: IWD did not provide an accurate accounting of the costs and magnitude of the unemployment system failure for the week of March 8, 2014.

FINDING: The Department manually entered 21,706 claims into the system for a total costs of more than \$7.6 million. The Department has not yet provided the Senate Oversight Committee with the total amount of charge backs to Iowa employers for the system failure on March 8, 2014.

FINDING: IWD did not provide adequate staffing for IWD fraud investigators for over four years, which resulted in not fulfilling work requirements.

FINDING: Regions of the state of Iowa were without unemployment fraud investigators for nearly four years.

FINDING: Fraud investigation cases dropped without adequate investigator staffing levels between 2010 and 2014.

RECOMMENDATION: Iowa Workforce Development and the Unemployment Trust Fund must have honest, transparent leadership.

RECOMMENDATION: Iowa Workforce Development needs to work with the Legislature to develop a plan to update or replace their call-in system for unemployment.

9) Restore Confidence in Government Operations

FINDING: Department of Administrative Services controls several areas of governmental operations, including general accounting, purchasing and procurement, construction management and human resources hiring, firing, and workplace investigations.

FINDING: The Oversight Committee heard testimony that DAS has become ineffective at conducting confidential workplace investigations.

FINDING: The Oversight Committee received testimony that Governor Branstad's office received founded workplace violence investigation reports and he failed to respond.

RECOMMENDATION: The Legislature should be notified when the Governor receives reports of founded workplace violence reports in state agencies.

RECOMMENDATION: The Legislature should reexamine the duties of DAS to reign in its ability to control and hide unacceptable government practices from the legislature and Iowa taxpayers.