



MINUTES

GOVERNMENT OPERATIONS AND AUDIT COMMITTEE

**Third Meeting
2012 Interim
June 28, 2012**

**Room 413
State Capitol
Pierre, South Dakota**

The third meeting of the 2012 Interim Government Operations and Audit Committee was called to order by Chair Haverly at 9:00 a.m., June 28, 2012, in LRC Room 413, State Capitol Building, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Jeff Haverly, Deb Peters, Jean Hunhoff, and Jim Hundstad; Representatives Charles Turbiville, Paul Dennert, Dan Dryden, and Kim Vanneman. Senator Larry Tidemann was present via phone, and Representative Lance Carson 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).

Approval of Minutes

Representative Turbiville moved, seconded by Representative Dryden, the minutes of the May 1, 2012 meeting be approved. Motion prevailed unanimously on a voice vote. (Doc.1)

Department of Agriculture – Discussion on Performance Indicators Listed in the Governor’s Budget Book (Doc’s. 2, 5 and 6)

Mr. Jon Farris, Deputy Secretary for the Department of Agriculture, Mr. Chris Petersen, Finance Officer for the Department of Agriculture, and Mr. Dusty Johnson, Chief of Staff for the Governor’s Office addressed the Committee regarding performance indicators in the Governor’s Budget Book. Mr. Farris passed out documents 5 and 6 for the Committee to review. Mr. Farris stated that the Department of Agriculture has contacted neighboring states who are tracking similar indicators, but in different form and detail. Mr. Petersen testified that the Department is attempting to glean ideas from the reports of other states. The Committee asked what the current topic of concern would be to the Department at this time. Mr. Farris testified that livestock development and expanding dairy production vital interests at this time. Mr. Dusty Johnson addressed the Committee by suggesting a collaborative approach between the Governor’s office, the Department of Agriculture, and the Legislature on how to proceed. Discussion and various suggestions followed.

Mr. Fred Schoenfeld, Chief Fiscal Analyst for the Legislative Research Council, and Mr. Aaron Olson, Fiscal Analyst for the Legislative Research Council addressed the Committee. Mr. Schoenfeld gave testimony on his view of the difference between a budget driver and a performance indicator. The Department of Agriculture does have to track some data for funding. The Comprehensive Annual Financial Report (CAFR) also requires some indicators. The Committee and the Department of Agriculture both agreed that the report needs to be

prioritized and revised to be more informative. The Committee agreed that the Department of Agriculture in its diversity is a good pilot program to get revised performance indicators for all departments. The Committee and the Department of Agriculture will continue to brainstorm to resolve the issue. This topic will be re-visited in the future.

Department of Legislative Audit – Review of State of South Dakota Single Audit Findings for FY Ended June 2011

Mr. Bob Christianson and Mr. Tim Flannery, Audit Managers for the Department of Legislative Audit addressed the Committee regarding the Single Audit for Fiscal Year 2011. Mr. Christianson and Mr. Flannery went over previous and current audit findings listed in the Single Audit. This topic will be re-visited as the Committee chooses which agencies need to testify regarding the audit findings.

Public Utilities Commission – Bonding Requirements for Grain Buyers (Doc's. 3, 7 & 8)

Mr. Chris Nelson, Chairman of the Public Utilities Commission, and Mr. Jim Mehlhaff, Director of the Warehouse Division, Public Utilities Commission testified before the Committee. Mr. Nelson handed out documents 7 and 8 and gave a background on the task force on grain buyers and grain warehouses and how it was placed within the Public Utilities Commission. Mr. Nelson also testified as to the past changes in the bonding requirements. Mr. Nelson responded to five questions (Doc. 3) posed to him by the Committee regarding comparisons with North Dakota. Mr. Nelson testified to the fact that between 2000 and 2011 South Dakota had three grain buyer insolvencies versus twelve insolvencies for the state of North Dakota for the same time frame.

- 1. Why aren't producers entitled to a secured position when they have delivered grain to a grain warehouse or grain buyer (have not yet been paid) and the warehouse or buyer becomes insolvent?**

Mr. Nelson explained that in a grain warehouse ownership stays with the producer until the commodity is sold and the title passes. When you sell to a grain buyer the title transfers as soon as the grain is dumped.

- 2. North Dakota has laws in place to protect the producer from loss (examples given):
Does South Dakota have similar laws or rules in place to protect the producer?**

Of the five North Dakota statutes listed in document 3, South Dakota has similar statutes. North Dakota does have an indemnity fund, and South Dakota does not.

- 3. If South Dakota does not have similar laws in place, would these North Dakota laws have helped our producers in the Anderson Seed insolvency?**

Yes.

4. Explain when a producer is at risk in a typical cash sale and a typical credit sale and for how long are they exposed to the risk of nonpayment.

Mr. Nelson stated that under current statute if payment is not made within 30 days of a cash grain sale it should automatically become a voluntary credit sale.

5. What law or rule changes, if any, does the Public Utilities Commission have planned?

Mr. Nelson reviewed document 7, which he explained as measures to be taken to ensure buyers comply with licensure through the Public Utilities Commission.

Mr. Ray Martinmaas, Polo, South Dakota then testified as a private individual. Mr. Martinmaas gave details of a personal incidence his farming operation was involved in and asked for the Public Utilities Commission to offer greater measures of protection for farmers in dealing with grain buyers.

Mr. Nicholas Nemecek also testified as a private individual. Mr. Nemecek handed out document 9 and reviewed his ideas listed in the document with the Committee. Mr. Nemecek was also concerned about protecting farmers from failed grain buyers.

Follow-up on Items from Prior Meetings (Doc. 4)

Mr. Tim Flannery reviewed the response from the Department of Social Services regarding a previous question about erroneous files and how to track where a claim originated. The Committee requested additional follow-up from the Department of Social Services.

Future Items for Discussion

- The State of South Dakota Comprehensive Annual Financial Report
- Department of Transportation – Audit Findings
- Department of Social Services – Audit Findings
- South Dakota Housing Development Authority – Audit Findings
- South Dakota Unemployment Insurance – Department of Labor – Audit Findings
- Public Utilities Commission – Follow Up on Court Case and North Dakota Grain Buyer Insolvencies

Representative Turbiville moved, seconded by Representative Dennert to adjourn the meeting. Motion prevailed unanimously on a voice vote.

The Committee adjourned the meeting at 3:10 p.m.



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