



# Legislative Research Council

## RULES REVIEW COMMITTEE MINUTES

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**Two Hundred Forty-second Meeting  
Monday  
October 6, 2003**

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

The two hundred forty-second meeting of the Rules Review Committee was called to order by Vice-Chair Representative Jean Hunhoff at 9:00 a.m., October 6, 2003, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Eric Bogue (appearing telephonically), and H. Paul Dennert; and Representatives Richard Engels, Jean Hunhoff, and Orville Smidt. Excused was Senator Royal "Mac" McCracken.

Staff members present included Doug Decker, Code Counsel, and Kris Schneider, Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council. For the purpose of continuity, these minutes are not necessarily in chronological order.

### **Approval of Minutes**

*Senator Dennert moved, seconded by Representative Engels, that the minutes of the September 8, 2003, meeting be approved. Motion prevailed unanimously on a roll call vote, with 5 ayes, 1 excused. Members voting aye: Bogue, Dennert, Engels, Hunhoff, and Smidt. Excused: McCracken.*

### **Rules Reviewed**

**Department of Agriculture: State Brand Board** - Increase the ownership inspection fee by ten cents.

**Ms. Julie Kongslien** stated that since the last Rules Review meeting, representatives of Legislative Audit, the South Dakota Stockgrowers Association (SDSGA), and the State Brand Board had met, reconciled the numbers, and had provided same to the committee members. She stated that the information provided supports the increase in the ownership inspection fee.

### **Public Testimony**

**Mr. Ken Knuppe**, Buffalo Gap, representing the SDSGA, testified in support of the fee increase. He stated that all parties involved are in agreement with the numbers and because of a smaller calf crop, fewer cattle will be sold thus fewer cattle will be inspected. The SDSGA estimates a 15% loss for this fiscal year (May 2003 - April 2004).

**Mr. Frank Driscoll**, Rapid City, legal counsel for the SDSGA, testified in support of the fee increase. He reviewed the material mailed to the Rules Review Committee dated September 30, 2003 (**Document #1** and **Document #2**). He stated that the Brand Board is justified in requesting the ten cent fee increase and it is necessary to get through this unusual financial crisis. He stated that the SDSGA is allowed to make a profit from their contract with the Brand Board. He also commented on a 1974 South Dakota Supreme Court decision, *State vs. Smith*, 216 N.W. 2d 149, which supported the Brand Board's rule-making authority (**Document #3**). According to the contract, the SDSGA makes payment to the Brand Board for three cents per head not to exceed \$36,000 annually. For the years 1998-2002, the SDSGA had a 3.5% annual average growth in cash and investments.

**Mr. Jeff Main**, Belle Fourche, certified public accountant, testified on behalf of the SDSGA in support of the fee increase. He reviewed the Partial Forecast Presentation dated September 23, 2003 (**Document #2**). He stated that the fee increase is needed prior to November 1 or the SDSGA will miss out on the majority of the inspections for the current fiscal year. Since March 2003, the inspection volumes have declined by 15.32%, compared to the five year annual average. Based on the forecast and an estimated expense of 72.6¢ per head, the SDSGA will have a loss of \$171,597 without the ten cent rate increase; or a loss of \$78,554 with the increase. He testified that at September 1, 2003, the SDSGA has an unobligated Cash and Investments balance of \$172,411.

**Secretary Larry Gabriel**, Department of Agriculture, testified against the proposed rule. He distributed a handout listing various statutes regarding brand inspections (**Document #4**). He stated that the profit for seventeen out of the past nineteen years should be sufficient to cover the projected loss. He stated that the statutes need to address the criteria used to set the inspection fees among other things.

*Senator Bogue moved, seconded by Senator Dennert, to approve the rules proposed by the Department of Agriculture: State Brand Board. Motion prevailed on a roll call vote, with 5 ayes, 1 excused. Members voting aye: Bogue, Dennert, Engels, Hunhoff, and Smidt. Excused: McCracken.*

**Department of Revenue and Regulation: South Dakota Lottery Commission** - Amend source notes to reflect statutory authority and to allow the Lottery to use the prize reserve account for special prize.

**Mr. Clint Harris** reviewed the proposed rules.

*Representative Smidt moved, seconded by Representative Engels, to approve the rules proposed by the Department of Revenue and Regulation: South Dakota Lottery Commission.*

*Motion prevailed unanimously on a roll call vote, with 5 ayes, 1 excused. Members voting aye: Bogue, Dennert, Engels, Hunhoff, and Smidt. Excused: McCracken.*

**Department of Revenue and Regulation: South Dakota Risk Pool Board** - Adopt rules for the Risk Pool pertaining to eligibility, outline the appeals process, specify the process of payment of agent commissions, specify the process of payment for premiums, clarify plan provisions, and address other risk pool requirements.

**Ms. Deborah Bowman**, chair of the Risk Pool Governing Board, informed the committee that the Governing Board and the Advisory Panel to the Risk Pool Governing Board have agreed to meet jointly.

**Mr. Randy Moses** reviewed the proposed rules. He reported that to date, 318 individuals are enrolled in the risk pool, thirteen applicants have been refused, and there has been one appeal.

*Representative Engels moved, seconded by Representative Smidt, to approve the rules proposed by the Department of Revenue and Regulation: South Dakota Risk Pool Board. Motion prevailed unanimously on a roll call vote, with 5 ayes, 1 excused. Members voting aye: Bogue, Dennert, Engels, Hunhoff, and Smidt. Excused: McCracken.*

**Department of Education: South Dakota Board of Education** - Amend a rule regarding the type of renewal hours a teacher completes for certificate renewal.

**Ms. Melody Schopp** explained the proposed rule. She stated that effective October 1, 2005, at least three of the six hours required for certificate renewal will be college transcribed hours. She stated that at the December meeting, the board would be looking at a companion rule that will grandfather in hours taken prior to this rule taking effect.

### **Public Testimony**

**Ms. Janet Wilson**, Pierre, representing the South Dakota Education Association, testified in support of the rule change as long as the companion rule is also adopted.

*Senator Dennert moved, seconded by Representative Smidt, to approve the rule proposed by the Department of Education: South Dakota Board of Education. Motion prevailed unanimously on a roll call vote, with 5 ayes, 1 excused. Members voting aye: Bogue, Dennert, Engels, Hunhoff, and Smidt. Excused: McCracken.*

**Department of Education: Professional Teachers Practices and Standards Commission** - Amend rules to require that the commission hold its meetings annually.

**Ms. Lisa Lomheim** reviewed the need for the proposed rules and distributed a handout (**Document #5**).

*Representative Smidt moved, seconded by Senator Dennert, to approve the rules proposed by the Department of Education: Professional Teachers Practices and Standards Commission. Motion prevailed unanimously on a roll call vote, with 5 ayes, 1 excused. Members voting aye: Bogue, Dennert, Engels, Hunhoff, and Smidt. Excused: McCracken.*

**Department of Revenue and Regulation** - Amend rules to change the names of the Department of Commerce and Regulation, Secretary of Commerce and Regulation, Department of Revenue, and Secretary of Revenue to the Department of Revenue and Regulation and Secretary of Revenue and Regulation.

**Mr. Jack Magee** reviewed the proposed rules stating that these were being made due to the Executive Reorganization Order No. 2003-01.

*Representative Smidt moved, seconded by Representative Engels, to approve the rules proposed by the Department of Revenue and Regulation. Motion prevailed unanimously on a roll call vote, with 5 ayes, 1 excused. Members voting aye: Bogue, Dennert, Engels, Hunhoff, and Smidt. Excused: McCracken.*

### **Committee Discussion**

*Senator Dennert moved, seconded by Representative Engels, that the committee set the final meeting of the interim Rules Review Committee for January 12, 2004, in Room 413 of the State Capitol. Motion prevailed unanimously on a roll call vote, with 5 ayes, 1 excused. Members voting aye: Bogue, Dennert, Engels, Hunhoff, and Smidt. Excused: McCracken.*

The next Rules Review Committee meeting is scheduled for Friday, November 14, 2003.

*Representative Smidt moved, seconded by Representative Engels, that the committee adjourn. Motion prevailed unanimously on a voice vote.*

The committee adjourned at 11:36 a.m.



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