



Third Meeting  
2005 Interim  
October 13, 2005

Room 412  
State Capitol Building  
Pierre, South Dakota

The third meeting of the Department of Agriculture Agency Review for the 2005 interim was called to order by Chair Representative Justin Davis at 8:45 a.m. (CT), October 13, 2005, in Room 412 of the State Capitol in Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senator Clarence Kooistra; and Representatives Thomas Brunner, Justin Davis, Cooper Garnos, Gerald Lange, Ryan Olson, David Sigdestad, Larry Tidemann, and Mike Vehle.

Staff members present included Aaron Olson, Fiscal Analyst; and Reta Rodman, Legislative Secretary.

(NOTE: For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the Master Minutes.)

### Approval of Minutes

REPRESENTATIVE THOMAS BRUNNER MOVED, SECONDED BY REPRESENTATIVE LARRY TIDEMANN, THAT THE MINUTES OF JULY 13, 2005, MEETING BE AMENDED. ON PAGE 7 OF THE JULY 13, 2005, MINUTES, INSERT: "ELECTRONIC" BETWEEN "FOR" AND "ANIMAL" IN PARAGRAPH 3. ON PAGE 12 OF THE JULY 13, 2005, MINUTES INSERT AFTER PARAGRAPH 3: "REPRESENTATIVE TIDEMANN ASKED MR. GABRIEL WHAT HE WOULD DO IF THE LEGISLATURE APPROPRIATED AN ADDITIONAL \$1,000,000 TO THE DEPARTMENT OF AGRICULTURE IN THE NEXT FISCAL YEAR AND WHAT THE ADDITIONAL DOLLARS WOULD BE USED FOR. SECRETARY GABRIEL SAID THAT THE CHALLENGE IN PRODUCTION AGRICULTURE IS IN THE AREA OF MARKETING PRODUCTS AND GETTING READY FOR THE FEDERAL GOVERNMENTS DECISION TO REDUCE SUBSIDIES THAT ARE BASED ON THE PRODUCTION OF COMMODITIES. MR. GABRIEL WOULD TRY TO LEVERAGE THE \$1,000,000 TO GAIN ADDITIONAL MONEY FOR A LONG TERM BENEFIT FOR SOUTH DAKOTA PRODUCERS." MOTION TO AMEND PREVAILED UNANIMOUSLY ON A VOICE VOTE.

REPRESENTATIVE LARRY TIDEMANN MOVED, SECONDED BY REPRESENTATIVE MIKE VEHLE, TO APPROVE THE MINUTES OF THE JULY 13, 2005, MEETING AS AMENDED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

## Opening Remarks

**Representative Justin Davis**, Chair, welcomed the members to the meeting and stated that the meeting would progress steadily to insure the completion of its task.

**Senator Clarence Kooistra**, Vice Chair, stated that he did not want this interim committee to merely rubber stamp such programs that are under the Department of Agriculture. He said that it is a serious responsibility to question if there is a need for some of these programs. Senator Kooistra stated that the question the members must ask themselves is who benefits from certain programs within an agency. He advised that he would be proposing some legislation in the afternoon. He stated that he has serious concerns regarding the mediation and counseling program. Senator Kooistra also emphasized that the Legislature is waiting for the committee to give some direction on the state fair.

## Seed Certification Board

**Mr. Kevin Fridley**, South Dakota Department of Agriculture, stated that it is very important to continue with the Seed Certification Board. He advised that there are only 3 certified potato producers in the state of South Dakota, and the nursery producers are also very few in numbers. Mr. Fridley introduced **Mr. Neil Foster** from the South Dakota State University. Mr. Foster stated that he would like to see the Seed Certification Board continue, and to have the authority to function with two members from the Department of Agriculture, two members from the college of agriculture, and one member from crop improvement. He would also like to see the board have leeway on the selection of the meeting dates. Mr. Foster stated that the horticulture program deals with the normal functions of that industry. The potato certification would be best handled by contracting with North Dakota because they have an excellent program with experts in that field. **Representative Larry Tidemann** clarified Mr. Foster's view by stating that with the new composition of the board, it can still handle any certification that would be needed by the potato and horticulture industry, and legislation will be proposed during the 2006 legislation session. Mr. Foster answered affirmatively.

**Representative Mike Vehle** asked the question of how the Seed Certification Board membership is structured at the present time. Mr. Foster said that there are five members, including one member from crop improvement, one member from Horticulture Society, one member from the potato industry, one member from the Department of Agriculture, and one member from the college of agriculture. **Representative Justin Davis** questioned if the board is set by statute or by rule. Mr. Foster responded by stating that the board is set by statute.

## Office of Agricultural Policy

**Mr. George Williams**, Deputy Secretary of Agriculture, distributed a handout entitled "Office of agricultural policy created-Responsibilities" (**Document #1**). Mr. Williams stated that the responsibility of the Office of Agricultural Policy is to research and develop factual information on issues that affect the State of South Dakota and its agricultural industry. He said this office within the Department of Agriculture develops briefing documents, policy statements, and

informational documents for the Secretary of Agriculture and the Governor. He also stated that there are 15 varieties of subjects, including:

1. Federal legislative or regulatory issues;
2. United States Department of Agriculture programs and policies;
3. International trade and trade relations;
4. Wetlands issues;
5. Forestry and timber cutting issues;
6. Endangered species issues;
7. Railroad issues;
8. Landowner rights issues;
9. Animal depredation issues;
10. Weed and pest control issues;
11. Wilderness designation and development areas;
12. Food quality, quantity, and protection issues;
13. Environmental management issues;
14. Wildland fire policy issues; and
15. Any other issue or problem designated by the secretary or the Governor.

Mr. Williams informed the committee that the Office of Agricultural Policy has created a web page that provides unbiased information to individuals through various links. He said that originally there was a director for the Office of Agricultural Policy. Mr. Williams stated that the Department of Agriculture felt that they had the flexibility to determine if a director should be hired to replace the director that left the department. The decision was then made to have the Secretary of Agriculture include this office under his department functions. Mr. Williams stated that Department of Agriculture had not received any complaints from anyone on their decision to not replace the director position in of Office of Agricultural Policy and instead have a grants writer.

The grants coordinator's duties include aiding in planning and writing grants, and helping to identify grants. This individual provides a monthly report and puts together a bulletin board of the number of grants available. Mr. Williams stated that at the present time the grants coordinator is also working with fire protection and safety grants to assist landowners.

**Representative Ryan Olson** asked Mr. Williams if he and the Secretary of Agriculture assumed the work previously performed by the Director of the Office of Agricultural Policy, and do they feel over-burdened. His response was that they do share the responsibility of that office, but they also pass work down to the program specialist and assistant. Mr. Williams stated that they do not feel over-burdened as their staff plays a large role in the effectiveness of the Office of Agricultural Policy.

**Representative Gerald Lange** asked when the department talks about grants to help market specialty crops, what crops are they talking about. Mr. Williams responded by stating that the non-program crops are flax, lentils, etc. Representative Lange stated that he is not familiar with the specialty crops and suggested helping farmers convert to organic farming. **Mr. Jon Farris**, Agricultural Development, stated that opportunities do exist, and they are there to help those producers. He said that the organic producers do not really want help from the

Agricultural Department. In order for the Department of Agricultural to help producers, they have to ask for help, and the department staff is always open to work with more producers. Mr. Williams stated that it is hard to determine which markets are best but will assist the producer whichever way they want to go. He said that dairy goats in general are becoming a huge and growing sector.

Representative Garnos asked that, in terms of the South Dakota Agricultural Department being the #1 industry in South Dakota, does the department need more help in what and where they market and research South Dakota products. He also questioned if we can do more for South Dakota not only marketing to foreign countries but also state-to-state, and do we need more money and personnel within the Department of Agricultural. Mr. Williams agreed that marketing is their highest priority to review. The SD Certified Beef Program is an example of how they can provide the mechanics for this program and make a value out of it. In the foreign markets area they are looking at Japan to open their doors for our beef. Mr. Williams said the their focus is looking ahead and where South Dakota is going to be tomorrow and what tools the producers are going to use. Mr. Farris said that an opportunity to market food companies by their attendance at food shows internationally would be a benefit.

Representative Tidemann asked Mr. Farris about the container shipments and what can be done to move this forward legislatively. He responded by stating the department is looking at those issues, and the biggest challenge is the traffic, and they will not redirect through South Dakota on a grand scale since we do not have the traffic.

With questions concerning the crisis of what people are doing to market the earth and its natural resources, Mr. Williams stated water is a scarce resource and a very precious commodity, and conservation is a high priority with the department. He also stated that reviewing priorities for the farm bill and within the circle that was outlined as highest priorities, conservation has been #1 with water being the most limited resource, and we must take care of it. When asked how many grants are written and the amount of those grants, Mr. Williams said that he did not have any numbers to give the committee but could get back to them if they wanted that information.

### **Reevaluating Performance Indicators**

**Mr. Larry Gabriel**, Secretary of the Department of Agriculture, deferred to questions and comments by the committee members in regard to possible changes and what the committee wants to do. Representative Tidemann described looking at the budget book and performance indicators, and asked whether it is indicating the department should do more or less inspections. Secretary Gabriel responded by stating that there is confusion with some of our federal partners, and their theory is that when you do so many audits you find so many wrong doings. He said he believes that South Dakota has a much higher compliance rate compared to other states.

Representative Vehle questioned if the department has ranges for their performance indicators and what they do when the indicators get above or below the range. Secretary Gabriel stated that the department looks at the trend lines, and if it has been functioning and it

goes higher, then the department needs to find out the reason why. The division directors look at the trend lines all the time.

### **Update on the 2005 South Dakota State Fair**

**Mr. Larry Gabriel**, Secretary of the Department of Agriculture, informed the committee that the State Fair did not do well this year with the performance far below from the fiscal standpoint. Statistically, he said, that figures were up 34% in 2003 and the same number up in the year 2002. He reported that it takes \$850,000 to maintain the fairgrounds and the office personnel; therefore, it becomes a \$2 million venture. At the time of the October meeting he said they are unable to give the committee an exact printout or record of where the State Fair stands but very serious decisions need to be made. He stated that an amendment may need to be made to the law that states that the department cannot loan or transfer more than \$500,000 to the State Fair from other divisions within the Department of Agriculture. Secretary Gabriel stated that they will be looking for budget cuts for the State Fair and will go back to the Legislature to ask for funds to cover the shortfall.

Secretary Gabriel stated that perhaps he had set too high of standards by stating that the state fair must generate as much cash as they spent on a year to year basis. He has come to the conclusion that this attitude is impossible, and doesn't think it is realistic to assume the fair can sustain itself on a cash flow basis. In reviewing statistics from other states, he found that most states put one to two million dollars into their state fairs.

Senator Kooistra asked the secretary what is the ballpark figure that the Department of Agriculture will be asking the Legislature for on the short fall this year. He responded by saying that the figure today is somewhere between \$250,000 and \$300,000. However, that figure could change depending on some decisions that are going to be made between now and the 2006 Legislature session.

Representative Garnos asked if the states that have a one or two million dollar budget get by on a cash flow basis, and Secretary Gabriel responded that they did not. When questioned about the vendors that participate in the fair, Secretary Gabriel reported that they had 70 new vendors, which increased 16 percent over last year.

**Ms. Susan Hayward**, South Dakota State Fair Manager, distributed a document entitled "South Dakota State Fair – Did know . . . South Dakota's Premier Agricultural Event" (**Document #2**).

A committee discussion, including Secretary Gabriel and Ms. Hayward, produced the following options that could help the South Dakota State Fair to become a viable event:

- Expand the number of sponsors hosting special days;
- Include private sponsorship;
- Change to a five day fair which will decrease payroll at least 25 percent;
- Increase non-fair activities;
- Increase local vendors in South Dakota to participate in "Made in SD" day;

- Review gate admission and grandstand ticket prices to see if South Dakota is in line with other states;
- Increase advertising to include out of state and overseas;
- Check to see if there is a possibility of having no school during the State Fair;
- Possibility of any grants from the federal government and rural development.

Secretary Gabriel reiterated that the three year plan was at his request, and his goal was to get a viable cash flow during those three years. The Legislature came up with the line in the budget that appropriates \$260,000 from general funds. However, he stated that he was not aware of the number that impacts our payroll the greatest and that was a workers compensation claim many years ago. He also said that since South Dakota is self-insured somebody in state government is going to pay that claim if the State Fair no longer exists. Secretary Gabriel stated that the claim is \$140,000 and is figured into the workers compensation rates.

In response to a question posed by Representative Olson, Secretary Gabriel stated that the state fair account within the Department of Agriculture receives a transfer from a reserve account. Assuming the federal government pays the Department of Agriculture timely, there will not be an impact on the Department of Agriculture.

Representative Tidemann asked how the \$100,000 which is appropriated to 4-H is spent. Secretary Gabriel and Ms. Hayward told the committee that the bulk of the money goes to the judges and entertainment which includes the performing arts group.

Representative Vehle questioned what it would cost to get the buildings and grounds back in order, and Secretary Gabriel responded by stating that should the state fair no longer exist the ground would revert back to the railroad. Ms. Hayward said that the fair board has discussed having a company sponsor a building, and they will be checking into that possibility when reviewing the state fair options.

### **Corn Utilization Council Presentation**

**Mr. Brian Walt**, President of the Corn Utilization Council, informed the committee members that the council was formed in 1988 and funded by the 1 penny per bushel of voluntary check-off. He stated the Board of Directors consists of 15 farmers who serve for a three year term with a limit of two terms. The mission is "Whatever we can do to better the lives of corn producers". Mr. Walt stated that their revenue from the check-off is \$2.5 million. He said that the revenue is spent on research, marketing, and research education. Under market development, he said that the council spent \$640,000 for value added development projects which includes 11 ethanol plants, and South Dakota leads all of the states that are farmer owned. He stated that livestock development is their #1 customer, and the next large research will be biotechnology.

Representative Tidemann emphasized that the check off is voluntary, and he also stated that South Dakota State University (SDSU) is very appreciative of the project where the Corn Council gives \$330,000 to the university for grants.

Lunch Break at 12:20 p.m. and reconvened at 1:30 p.m.

### **Agency Presentation of FY 2007 Budget Request**

**Mr. Larry Gabriel**, Secretary of the Department of Agriculture, stated that the budget for 2007 is in the process of being reviewed by the Bureau of Finance and Management and the Governor. Representative Tidemann stated that at the last meeting an issue was brought forth about funding for the conservation grants program, and he questioned if a change was needed in that budget area. Secretary Gabriel responded affirmatively, that is an area that needs to be resolved. He also said the conservation grant program money is going to decrease, and there is a need to address the formula. Secretary Gabriel described the process where conservation districts apply to the Department of Agriculture on a cost share basis which includes a stated formula. He stated that a point system should be created to allow the department to more fairly compare projects with more benefit to society.

An area in which to review, stated Secretary Gabriel, is the South Dakota Certified Beef Program. He said at some point in time, a decision will have to be made on how and who should manage that program, or in a year's time it will dominate the Department of Agriculture.

### **Discuss Draft Legislation**

**Mr. Tom Magedanz**, Principal Research Analyst, Legislative Research Council, distributed a copy of the clean-up draft bill for the Department of Agriculture (**Document #3**). He explained that this document was not intended to make any policy changes but form and style changes only. Mr. Magedanz also explained that this procedure is done routinely with every bill that is drafted in the office.

**SENATOR KOOISTRA MOVED, SECONDED BY REPRESENTATIVE OLSON THAT THE CLEAN-UP DRAFT BE ADOPTED WITH LRC AMENDMENTS INTO THE FINAL REPORT. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

Senator Kooistra questioned why the clean-up draft had to go to the Executive Board before being submitted to the Legislature. Reuben Bezpaletz informed the committee that technically the Executive Board has the final stamp on anything that is decided by an interim committee; therefore, it becomes their duty to allow or disallow any bills that will be presented to the Legislature.

Senator Kooistra brought two bills before the committee for their approval. He stated that his first bill (**Document #4**) is an act to limit the appropriation and certain transfers and expenditures of funds for the state fair. He also said the total amount of funds appropriated to the state fair from the general fund may not exceed five hundred thousand dollars annually. At this time he welcomed discussion from the committee and remarks from Secretary Gabriel. There was no discussion among the committee members; however, Secretary Gabriel stated that the bill does nothing because it doesn't appropriate the \$500,000 and Section 1 and Section 2 is redundant. Senator Kooistra responded by stating that those were two good points, but he felt that the bill would appease many of the people, and that was the intent of

the bill. Secretary Gabriel replied that he doesn't think this bill will address the problem, and goes on record as opposing it.

**Representative Tidemann** said that there is a bigger picture to take into consideration, and by passing this bill they are only painting a smaller box for the Department of Agriculture and the committee should use a no vote. **Representative Vehle** stated that he has concerns with setting a limit per year. **Representative Brunner** concurred with the statements above, and he stated that there are situations that change year by year, and he also opposes the bill.

**SENATOR KOOISTRA MOVED, SECONDED BY REPRESENTATIVE LANGE TO LIMIT THE APPROPRIATIONS AND CERTAIN TRANSFERS AND EXPENDITURES OF FUNDS FOR THE STATE FAIR. MOTION FAILED ON A ROLL CALL VOTE WITH 2 VOTING AYE AND 7 VOTING NAY. Those voting AYE: Kooistra and Lange. Those voting NAY: Brunner, Davis, Garnos, Olson, Sigdestad, Tidemann, and Vehle.**

Senator Kooistra presented to the committee his second drafted bill (**Document #5**) which is an act to repeal the farm mediation program.

Senator Kooistra stated that he felt by repealing this program that it is the proper thing to do. He said that when the numbers show that the program has not been used much recently, and when do we say enough is enough. He stated that the bankers wish the program would just go away. Secretary Gabriel said that he would not disagree with Kooistra, and if the bankers do not like the program then the Department of Agriculture should not have the program. He then would support the bill. However, Secretary Gabriel stated that caution should be used before endorsing this legislation as not all South Dakota producers are members of an organization, therefore, not everyone will support this bill. Mr. Jon Farris responded that the bankers who have been through this process are gone, and when faced with another agriculture crisis, this program is very helpful to producers. He stated that the purpose of this program is not about the bankers, but is to benefit the small farmers and ranchers.

Mr. Jon Farris responded to a question from Representative Olson questioning what does the mediation person do when the mediation program is not being utilized, and he stated that the individual is working on the computer programs and utilizing her expertise with the South Dakota Certified Beef Program. He stated that if this program is cut another FTE will be necessary and 100 percent charge to the state will occur rather than the 20 percent that it is now. At the present time 80 percent is paid by the federal government and 20 percent is paid by the state.

Representative Brunner stated that the merits of the program are obvious when you think about the nature of agriculture, and he would oppose this piece of legislation. Representative Vehle asked Mr. Farris how the producers feel about this program. Mr. Farris replied that the individuals who have experienced the need for this program are grateful and appreciative that such a program exists. Secretary Gabriel stated that just because the Department of Agriculture administers the program we should not fight the Legislature if organizations, producers, and bankers oppose the program. Senator Kooistra asked the question, "When do we start down-sizing government?"

**SENATOR KOOISTRA MOVED, SECONDED BY REPRESENTATIVE LANGE TO SUPPORT AN ACT TO REPEAL THE FARM MEDIATION PROGRAM. MOTION FAILED ON A ROLL CALL VOTE WITH 2 VOTING AYE AND 7 VOTING NAY. Those voting AYE: Kooistra and Lange. Those voting NAY: Brunner, Davis, Garnos, Olson, Sigdestad, Tidemann, and Vehle.**

### **Department of Agriculture Legislation**

Secretary Gabriel visited with the committee on possible draft legislation to be presented at the 2006 Legislative Session including the possibility of promulgating some rules to change what was promulgated years ago with regards to the Branding Board, update that allows for a representative from the promotion board to act as one of the three non-voting members, and doing away with a reference to creameries. He stated that the above would be introduced as agency bills, and they are very insignificant legislation.

The Department of Agriculture is also working on several areas of language to allow them to interact with federal agencies concerning land. Secretary Gabriel stated that questions arise regarding paying bills out of a fire fund, and then getting reimbursed from federal agencies. He said that the Department of Agriculture wants to make sure the Legislature gives them the authority to use their resources to help our friends in other states.

Deputy Secretary stated that when South Dakota has a large fire neighboring states respond. **Joe Lowe**, Coordinator, Wildland Fire Suppression, informed the committee that the agency that orders the resource pays for the expenses. He stated that the entire expense is paid which includes mileage, gas, overtime, and any expense from port to port.

### **Committee Discussion and Wrap-Up**

Representative Olson responded to questions and information regarding the Office of Ag Policy. He said that possibly we should see somewhat of an expansion of the Ag Policy division. He also stated that possibly staff is being stretched too much and expansion of FTE's is needed along with an increase in the budget to include advertising.

In dealing with creeping jenny, Secretary Gabriel said that management can be very effective in the control and not the elimination since cattle will eat the weed. He stated that salt seeder is a very invasive weed which has the potential to dry up some of our water, with Canadian thistle, and leafy spurge being the three primary focuses for the department. A discussion between the members of the committee and the Department of Agriculture developed regarding when wheat is blended with other wheat that doesn't have creeping jenny. There is a problem with people buying our crop when we don't have that weed on the noxious weed list. There was also a discussion about the effect of using sealed containers.

Senator Kooistra asked Secretary Gabriel if there was anything else that he expected from the committee or the Legislature. He replied that they would need some funding assistance for the State Fair at the start of session, and the department would have those numbers prior to January 10<sup>th</sup>.

**Representative Cooper Garnos** said he would like something put together on the numbers of people who attend the fair and what effect the state fair has on the economy of South Dakota. Secretary Gabriel replied that they could try to put that information together.

**REPRESENTATIVE TIDEMANN MOVED, SECONDED BY REPRESENTATIVE VEHLE THAT THE COMMITTEE RECOMMENDS TO THE EXECUTIVE BOARD THAT THE DEPARTMENT OF AGRICULTURE BE CONTINUED; HAVING FOUND THE DEPARTMENT MET THE BURDEN OF ESTABLISHING SUFFICIENT PUBLIC NEED IS PRESENT TO JUSTIFY ITS CONTINUED EXISTENCE. MOTION PREVAILED UNANIMOUSLY BY VOICE VOTE.**

### **Adjourn**

**REPRESENTATIVE LANGE MOVED, SECONDED BY REPRESENTATIVE OLSON THAT THE DEPARTMENT OF AGRICULTURE AGENCY REVIEW COMMITTEE ADJOURN. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

The Department of Agriculture Agency Review Committee adjourned at 4:15 p.m.



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