



MINUTES

GOVERNMENT OPERATIONS AND AUDIT COMMITTEE

Eighth Meeting
2005 Interim
Monday, November 21, 2005

LCR 1
State Capitol
Pierre, South Dakota

The eighth meeting of the Government Operations and Audit Committee was called to order by Chair Klaudt at 8:05 a.m., November 21, 2005, in the Legislative Conference Room 1, State Capitol Building, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Jerry Apa, William Earley, Jason Gant, and John Koskan; and, Representatives Michael Buckingham, Ted Klaudt, and Deb Peters. Senator Gary Moore and Representatives Margaret Gillespie and Gerald Lange were excused.

Staff members present were Mr. Marty Guindon, Auditor General, Mr. Robert Christianson and Mr. Gary Hoscheid, State Government Audit Managers for the Department of Legislative Audit (DLA). Ms. Sue Cichos, Senior Fiscal Analyst, and Mr. Reuben Bezpaletz, Chief Analyst for Research & Legal Services represented the Legislative Research Council.

(NOTE: All referenced documents are on file with the Master Minutes.)

Approval of Minutes

Representative Buckingham moved, seconded by Senator Apa, the minutes of the October 17 & 18, 2005 meeting be approved. Motion prevailed unanimously on a voice vote.

Division of Insurance Follow-up

A handout was provided by the Division of Insurance responding to Committee questions asked at the previous meeting. **(Document #1)** Mr. Gary Viken, Secretary of the Department of Revenue and Regulation, Mr. Jack Magee, Attorney for the Department of Revenue and Regulation, Mr. Merle Scheiber, Director for the Division of Insurance, Mr. Andrew Fergel, General Council to the Division of Insurance, and Mr. Brent Wilbur, Attorney were present.

Mr. Andrew Fergel and Mr. Merle Scheiber gave the Committee an overview of the handout and answered Committee questions. The Committee requested a copy of an actual notification letter sent to insurance companies requesting information required as part of a market conduct examination and informing the company of the Examination Reimbursement Fund procedures to reimburse the costs of the examination. A handout was provided regarding an investigation conducted on United American Insurance Company. **(Document #2)**

A handout was provided detailing the number of complaints registered and comparing South Dakota against several other states. **(Document #3)**

Follow-up from Prior Meeting

Warden Bob Dooley and Mr. Tim Reisch, Secretary of the Department of Corrections, provided the Committee with the additional requested information concerning new jobs and educational opportunities for inmates at the Mike Durfee State Prison. A letter from Warden Dooley detailing the new jobs and educational opportunities was provided to the Committee **(Document #4)**.

Mr. Darin Bergquist, Director of Operations, Department of Transportation (DOT), gave the Committee an overview of DOT land acquisitions in excess of appraised value. A handout was provided to the Committee detailing the parcels of land purchased in excess of appraised value. (**Document #5**)

An overview of the Unemployment Insurance Program was provided by the Department of Labor (DOL). (**Document #6**) Ms. Pam Roberts, Secretary and Mr. Don Kattke, Director of the Unemployment Insurance Division, gave an overview to the Committee of the financial condition and status of the Unemployment Insurance Trust Fund.

Public Testimony

Ms. Cindy Foster testified to the Committee regarding concerns she has with the Farm Service Association.

Senator Apa moved, seconded by Senator Earley that Ms. Sherry Bren and Mr. Larry Long, Attorney General, appear at the next meeting concerning Cindy Foster's case. Motion prevailed unanimously on a voice vote.

Representative Buckingham moved, seconded by Representative Peters that the Committee go into executive session for the purpose of hearing confidential public testimony. Motion prevailed unanimously on a voice vote.

The chairman brought the Committee out of executive session with no formal action taken.

Draft Legislation

Handouts were provided to the Committee covering draft legislation regarding Child Protection Services. (**Document #7**) Mr. Reuben Bezpaletz gave an overview of draft legislation pertaining to the Department of Child Protection Services placement of abused and neglected children. Ms. Deb Bowman, Secretary for the Department of Social Services was present to answer Committee questions.

Mr. Reuben Bezpaletz gave an overview of draft legislation pertaining to alternative types of independent legislative ombudsman. Handouts were provided to the Committee covering draft legislation regarding the creation of an independent legislative ombudsman. (**Document #8**) Mr. James Fry, Director of the Legislative Research Council answered Committee questions concerning the placement of the ombudsman within the Legislative Research Council and issues that could present to his agency.

Senator Koskan moved to recommend Bill #925M0142 (Legislative Ombudsman) to the Executive Board. Motion failed for lack of a second.

Representative Buckingham moved, seconded by Senator Gant to ask Ms. Deb Bowman, Secretary for the Department of Social Services, to work with Legislative Research Council to create a reporting mechanism similar to juvenile monitor who would report directly to the Chair of the Government Operations and Audit Committee. Motion failed 4-3 on a roll call vote. Voting aye: Gant, Buckingham, and Klaudt. Voting nay: Apa, Early, Koskan, and Peters.

DLA provided a handout of draft legislation related to the Division of Insurance (**Document #9**). The Committee then discussed the various drafts.

Representative Peters moved, seconded by Senator Earley to approve Bill #508M0073 (Division of Insurance) as written which dealt with who received the notice of hearing and who would be notified with the results of the investigation once completed.

Senator Gant moved to amend, seconded by Representative Buckingham to strike "or" in line 24 and replace with "and" of Bill #508M0073. Motion prevailed unanimously on a voice vote.

Action was then taken on Bill 508M0073 as amended. Motion passed 6-1 on a roll call vote. Voting aye: Apa, Early, Gant, Buckingham, Peters, and Klaudt. Voting nay: Koskan.

The Committee then discussed Bill # 665M0081 (**Document #10**) relating to the period of time unsubstantiated child abuse or neglect records should be retained.

Senator Gant moved, to amend Bill #665M0081, on page 2, line 11 by inserting the word "permanently" after "shall" and on line 12-16 deleting "at the end" and on line 13, deleting "of a period of six months unless" and leaving in the word "no", deleting the word "a", and deleting the words " with reference to the same", and line 14 deleting the word "child", leaving in the words "three year", deleting the words "Moreover, upon a showing of good cause, the" and deleting lines 15 and 16.

Senator Early moved a substitute motion, seconded by Senator Koskan to approve Bill #665M0081 as drafted. Motion failed 4-3 on a roll call vote. Voting aye: Early, Koskan, Buckingham, and Klaudt. Voting nay: Apa, Gant, and Peters.

Senator Koskan moved, seconded by Senator Earley to change on line 13 and 14 the words "six-months" to "one year". Motion carried on a voice vote.

Senator Early moved, seconded by Senator Koskan to approve Bill #665M0081 as amended. Motion failed 4-3 on a roll call vote. Voting aye: Apa, Early, Koskan, and Klaudt. Voting nay: Gant, Buckingham, and Peters.

The Committee discussed Bill #557M0124 (**Document #11**) relating to notification of each of the parents by the Department of Social Services of certain determinations of child abuse or neglect.

Representative Buckingham moved, seconded by Representative Peters to approve Bill #557M0124. Motion passed 7-0 on a roll call vote.

The Committee discussed Bill #179M0006 (**Document #12**).relating to certain audits of associations of school boards.

Representative Buckingham moved, seconded by Senator Apa to approve Bill #179M0006. Motion passed 7-0 on a roll call vote.

The Committee discussed Bill #445M0074 (**Document #13**) which would prohibit an insurance producer from being the beneficiary on certain life insurance policies.

Senator Apa moved, seconded by Representative Buckingham to approve Bill #445M0074. Motion passed 7-0 on a roll call vote.

The Committee discussed Bill #481M0121 (**Document #14**) relating to prohibiting employees of the Division of Insurance from carrying firearms while performing their duties.

Representative Buckingham moved, seconded by Representative Peters to table Bill #481M0121. Motion failed on a 2-5 roll call vote. Voting aye: Buckingham, and Peters. Voting nay: Apa, Early, Koskan, Gant, and Klaudt.

Senator Apa moved, seconded by Senator Early to approve Bill #481M0121.

Motion was withdrawn with consent of the second.

Representative Buckingham moved, seconded by Representative Peters to table Bill #481M0121. Motion failed on a 3-4 roll call vote. Voting aye: Koskan, Buckingham, and Peters. Voting nay: Apa, Early, Gant, and Klaudt.

Senator Gant moved, seconded by Senator Early to amend Bill #481M0121, strike "Division of Insurance" and insert "Division of Insurance Fraud Unit". Motion carries on a voice vote.

Senator Apa moved, seconded by Senator Early to amend Bill 481M0121 by adding ", unless their assistance has been requested by another law enforcement agency" to line 5 after the word division. Motion carries on a voice vote.

Senator Apa moved, seconded by Senator Earley to pass the Bill #481M0121 as amended. Motion failed 4-3 on a roll call vote. Voting aye: Apa, Early, Gant, and Klaudt. Voting nay: Koskan, Buckingham and Peters.

The Committee discussed House Bill #1131 from the 2005 Legislative Session pertaining to limiting Division of Insurance investigations to 24 months.

Senator Gant moved, seconded by Senator Apa to approve House Bill #1131 as proposed legislation for the 2006 Legislative Session. Bill passed 6-1 on a roll call vote. Voting aye: Apa, Early, Gant, Koskan, Klaudt and Peters. Voting nay: Buckingham.

Annual Report

A draft copy of the annual Report of the Government Operations and Audit Committee -2005 to the Executive Board of the Legislative Research Council was provided to the Committee and reviewed. **(Document #15)**

Moved by Representative Buckingham, seconded by Representative Peters to give the co-chairs of the GOAC Committee the authority to approve the annual report after necessary amendments have been made by DLA to properly reflect the actions taken by the Committee during this meeting. Motion prevailed unanimously on a voice vote.

Separately Issued Audit Reports

A handout was provided by DLA **(Document #16)** which provided a listing of audit reports issued by DLA and by independent public accountants through November 18, 2005. Mr. Bob Christianson gave an overview of the various reports to the Committee.

Follow-up from Prior Meeting (continued)

The Committee was provided with an updated Encumbrance Report **(Document #17)** and a copy of the correspondence received which provided details on the Future Funds Grants **(Document #18)** that the Committee had requested.

The Committee discussed unused and inactive statutorily created funds. The Committee agreed with the concept of eliminating unused or inactive funds.

Future Meeting

The Committee discussed the need for an additional meeting prior to legislative session. No action taken.

It was moved by Senator Early and seconded by Representative Peters to adjourn the meeting. Motion prevailed on a voice vote.

The Committee adjourned the meeting at 6:22 p.m.



All Legislative Research Council committee minutes and agendas are available at the South Dakota Legislature's homepage: <http://legis.state.sd.us>. Subscribe to receive electronic notification of meeting schedules and the availability of agendas and minutes at **My LRC** (<http://legis.state.sd.us/mylrc/index.cfm>).