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SD Legislature's Inquiry Into GOED Appears To Be Near End

BY BOB MERCER

State Capitol Bureau

PIERRE — The Legislature's investigatory committee looking into South Dakota's involvement in the federal EB-5 immigrant investor program has wrapped up most of its work unless a federal investigation would generate new questions in the future, the panel's chairman said Tuesday.

Sen. Larry Tidemann, R-Brookings, said he was surprised by the candor Tuesday from state Attorney General Marty Jackley testifying about preparations last October to arrest former state official Richard Benda, only to find Benda dead days later from a shotgun blast.

Jackley previously had closely guarded much of the information from his probe that looked at Benda's activities while secretary of tourism and state development from 2006 through early 2011 in the Rounds administration.

But Jackley, who was appointed to his position in 2009 by then-Gov. Mike Rounds, said Tuesday he felt OK making the disclosures now without a court order or a legislative subpoena because he was providing the information at the legislative panel's request.

Rounds is the Republican candidate for U.S. Senate in the November general election. Benda's Oct. 20 death was ruled a suicide.

Jackley revealed to members of the Government Operations and Audit Committee on Tuesday that his office drafted a criminal complaint and an arrest warrant before Benda died and also had scheduled a grand jury for Oct. 28.

Jackley had maintained for months that he couldn't speak about matters involving a

grand jury in the Benda case, if there was one, without a judge's permission.

But after his testimony Tuesday, Jackley returned to his previous position and said in a written statement, "Additional disclosures would require a court order."

Jackley spent about 20 minutes speaking to the GOAC members Tuesday and they then went into a closed-door session with Jackley to talk about the committee's powers to compel witnesses to testify.

The Legislature approved a resolution last winter requesting GOAC hold hearings related to the Governor's Office of Economic Development. The resolution specifically referred to the committee's power to summon witnesses and issue subpoenas.

No subpoenas have been issued. Jackley voluntarily met with the committee after private discussions with Tidemann during past weeks.

"I think the committee has done its due diligence of that resolution," Tidemann said. "We've used the avenues before us."

Tidemann said after the meeting the committee has fulfilled its responsibilities by hearing from state officials about adding safeguards and making reforms, and going through reports from state and private accountants who reviewed the office's finances and practices.

He said an unfinished piece is conflict of interest legislation that would be offered to lawmakers to consider in the 2015 session.

The committee also is requested by the resolution to submit a report of its findings before Dec. 1, 2014, to the Legislature. Tidemann said the final report would probably need to wait until after the 2015 session.

Wisner Runs Aground Trying For Subpoena In Legislative Inquiry

BY BOB MERCER

State Capitol Bureau



Wisner

PIERRE — Rep. Susan Wisner, as the only Democrat on a legislative committee dominated by Republicans, didn't get anywhere Tuesday trying to dig into state government's previous Republican administration.

That the accountant from Britton is also the Democratic nominee for governor didn't help her either.

Nor was it a bonus that she opposed the committee going into closed session to talk with state Attorney General Marty Jackley, a Republican, about whether to subpoena witnesses involved in the EB-5 immigrant investor visa program.

She was the only committee member to vote no.

After the closed session, Wisner asked the Government Operations and Audit Committee to issue a sub-

poena for Joop Bollen, president of SDRC Inc. The Aberdeen business held a state contract from 2009 through last fall to run

the EB-5 program for state government.

But the committee's only other Democratic member, Sen. Larry Lucas, didn't go to the meeting. So Wisner didn't have an ally at the committee table.

No one seconded her motion regarding Bollen.

The panel's chairman, Sen. Larry Tidemann, R-Brookings, therefore declared it dead without needing to take a recorded vote.

Wisner later criticized the committee for not seeking more information. "Our program, our employees and our scandal," she said.

Rep. Justin Cronin, R-Gettysburg, was participating by telephone. He interrupted Wisner's speech.

"I think this is outside the scope of what we're talking about at this time," Cronin said.

Tidemann defended the committee. Wisner paused but didn't stop.

"I will not be bullied," she said.

Tidemann called her out of order.

Wisner, outnumbered 6-1 by Republicans in the room or on the phone, kept talking.

She said the committee was acting like the sheriff who won't bring in the witness.

Later her campaign office issued a news release and she went on a Sioux Falls radio talk show.

She faces Republican Gov. Dennis Daugaard and independent Michael Myers in the November general election.

Benda

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One of the increased amounts was for \$550,000. Benda and SDRC's president, Joop Bollen of Aberdeen, had become professionally close in the preceding few years.

Bollen created SDRC in 2008. Benda and Bollen negotiated a contract in 2009 putting SDRC in charge of the EB-5 immigrant-investor visa program for South Dakota.

SDRC created pools of loans made by EB-5 investors at \$500,000 or more per person for projects such as Northern Beef.

The second count in the criminal complaint covered three instances of Benda allegedly submitting vouchers for double payments of airline tickets. Those amounts totaled more than \$5,000.

Benda left state government in January 2011 when he wasn't retained in the new Daugaard administration. From there he went to SDRC.

Benda's duties with SDRC ended after Northern Beef opened in 2012 and closed in 2013 because of financial problems.

He next temporarily worked for a Sioux Falls developer and was starting a new job at Heartland Consumers Power District in Madison as a community developer.

Jackley's preparations in early October for arresting Benda quickly became irrelevant.

Benda's body was discovered on Tuesday, Oct. 22, in a shelterbelt on a farm near Lake Andes. Benda hadn't reported for work duties the previous day.

Benda used a stick to trigger a shotgun blast into his abdomen, according to the state death certificate issued in the case.

Benda died from the wound on Sunday, Oct. 20, according to the death certificate, two days before he was found.

The coroner and the attorney general determined the death was an act of suicide.

The investigation by Jackley's office into Benda's activities at the Department of Tourism and State Development began at the request of the governor's legal counsel in a letter dated April 8, 2013.

A federal grand jury had issued a subpoena to state government on March 18, 2013, seeking information on eight items.

The only item publicly disclosed by the governor's lawyer in the letter to Jackley dealt with Benda's travel records.

The full federal subpoena was provided to Jackley but hasn't been made available to the public.

During the investigation, neither Jackley nor members of his staff spoke directly with Benda, according to Jackley.

Jackley re-confirmed Tuesday that he did speak with attorney Michael Butler who represented Benda.

The attorney general revealed that Bollen of SDRC was interviewed as part of the investigation.

Jackley privately presented his investigation's findings last September to the governor and other state officials.

After that, the EB-5 management contract with SDRC was terminated and an independent accountant was hired in early October to look at the state grant programs.

The arrest warrant prepared by Jackley's office laid out two charges of aggravated theft by deception and aggravated theft by threat.

One of the allegations in the criminal complaint was that Benda threatened to withhold the \$1 million grant from Northern Beef unless \$550,000 was put into the SDRC escrow account.

The two aggravated theft charges would have been Class 3 felonies punishable by up to 15 years imprisonment apiece.

Jackley said he authorized the draft criminal complaint and arrest warrant without a specific date. "It is unsigned because we weren't to that stage yet," he said.

Senate Confirms McDonald As Veterans Affairs Secretary

BY MATTHEW DALY

Associated Press

WASHINGTON — The Senate on Tuesday unanimously confirmed former Procter & Gamble CEO Robert McDonald as the new Veterans Affairs secretary, with a mission to overhaul an agency beleaguered by long veterans' waits for health care and VA workers falsifying records to cover up delays.

McDonald, 61, of Cincinnati, will replace Acting VA Secretary Sloan Gibson, who took over in May after Eric Shinseki resigned.

McDonald has pledged to transform the VA and promised that "systematic failures" must be addressed. He said improving patient access to health care is a top priority, along with restoring transparency, accountability and integrity to the VA.

The 97-0 Senate vote to confirm McDonald comes as Congress appears poised to approve a \$17 billion compromise bill to refurbish the VA and improve veterans' health care. The bill is intended help veterans avoid long waits for health care, hire more doctors and nurses to treat them, and make it easier to fire

senior executives at the agency.

Senate Majority Leader Harry Reid, D-Nev., said it was important that Congress act on the reform bill as quickly as possible to give McDonald and his team "the resources they need to ensure American veterans are getting the care we've promised them."

Senate Republican leader Mitch McConnell of Kentucky said McDonald "has a tough job ahead of him," but said that if he "is willing to work in a collaborative and open manner with Congress," Republicans will help McDonald fix the VA.

President Barack Obama applauded McDonald's confirmation.

"As a veteran himself and a proud member of a military family, Bob is deeply committed to serving our veterans and their families," Obama said in a statement. "And as an executive with decades of private-sector experience, he is uniquely equipped to lead the Department of Veterans Affairs, and to help change the way the VA does business."

House and Senate negotiators have approved the VA overhaul bill, which is co-sponsored by Rep. Jeff

Miller, R-Fla., and Sen. Bernie Sanders, I-Vt. Miller chairs the House Veterans Affairs Committee, while Sanders chairs the Senate panel. A vote by the 28-member conference committee late Monday sent the bill to the full House and Senate, where approval was expected later this week.

The measure includes \$10 billion in emergency spending to help veterans who can't get prompt appointments with VA doctors to obtain outside care; \$5 billion to hire directors, nurses and other medical staff; and about \$1.5 billion to lease 27 new clinics across the country.

Miller and Sanders say the bill will require about \$12 billion in new spending after accounting for about \$5 billion in unspecified spending cuts from the VA's budget.

Despite the steep cost, Miller said he is confident he can sell the bill to fellow Republicans, including tea party members.

"Taking care of our veterans is not an inexpensive proposition, and our members understand that," he said. "The VA has caused this problem and one of the ways that we can help solve it is to give veterans a

choice, a choice to stay in the system or a choice to go out of the system" to get government-paid health care from a private doctor.

Rep. Tim Huelskamp, R-Kan., a tea party favorite and a member of the House veterans panel, said "throwing money at the VA won't solve their problem," adding that "a fundamental change in culture and real leadership from the president on down is the only way to provide the quality, timely care our veterans deserve."

Sen. Patty Murray, D-Wash., said McDonald is faced with "a truly monumental task" as he takes over an agency that provides health care to nearly 9 million enrolled veterans and disability compensation to nearly 4 million veterans.

Even if Congress passes the compromise reform bill, the VA faces a host of other serious challenges, including a high suicide rate among veterans and treatment for thousands of veterans coping with sexual assaults, said Murray, a former Veterans Affairs chairwoman.

The VA also faces "an uphill battle" as it works to eliminate veterans' homelessness and a lengthy

backlog for disability claims, Murray said. "Mr. McDonald will have to grapple with these, and many more issues, all on day one," she said.

McDonald said at a confirmation hearing last week that he intends to act quickly "to deliver the needed reforms our veterans deserve."

His plans include laying out a veterans-centered vision for the department and improving communication within the vast agency, which includes more than 300,000 employees in all 50 states and the District of Columbia. McDonald also said he will host frequent video conferences with employees and travel to field offices around the country.

A former Army Ranger, McDonald said taking care of veterans is personal for him. His father served in the Army Air Corps after World War II, and his wife's father was shot down over Europe and survived harsh treatment as a prisoner of war. Another relative was exposed to Agent Orange in Vietnam and receives care from the VA, McDonald said.

Sen. Thad Cochran, R-Miss., initially voted against McDonald, then changed his vote to a yes.

Events

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Point A to Point A (making a full circle), so you wouldn't need (officials) waiting at a finish line. And the crowd would get to see the paddlers do their thing," he said. "People up and down the river could cheer them on, and the spectators could see the boaters go up and back instead of lose sight of them. We could even have a master of ceremonies or an announcer along the riverbank."

Bies foresees the race being run on Saturday afternoon, following the morning's river clean-up and

complementing the afternoon river expo going on at the same time as the paddle race.

"We could say, 'Come to clean (the river), stay to race,'" he said. "Our race wouldn't be super-competitive. You could have the race start at 2 p.m. It could last about 1 1/2 hours, ending just in time if the expo ends around 4:30 or 5 p.m."

Bies, a Vermillion resident, pointed to the growth of other kayak and canoe events on the Missouri River. He noted the success of last month's initial Fort to Field 50 Paddle Battle, where boaters traveled 50 miles of river from Fort Randall Dam at Pickstown to Springfield. "Fort to Field" saw 110 registrants, with 101 people

racing 93 crafts. The entrants came from eight states and the Netherlands. More than 50 volunteers came from several states and South Korea.

Of the 101 entrants, only 16 individuals — eight men and eight women — didn't finish the event.

The event raised about \$6,000, and costs stand at \$4,500 with some bills still pending. Bies hopes to have a final donation of the proceeds to the Izaak Walton League of America (IWLA) for river stewardship programs compiled by Aug. 15, less than one month after the event was held.

The date for the next Fort to Field has been set for July 11, 2015.

At Tuesday's planning

meeting, organizers said they were pleased with this year's Missouri River Events.

They plan to stay with 20 presentations for the school festival, with Mary Robb of the City of Yankton saying she had received positive remarks.

"(Teacher) Marcia Olnes of Sacred Heart School sent us letters from her students," Robb said. "Of the letters I have read so far, everyone has loved it or at least liked it. I haven't found anything negative."

Paul Lepisto with the IWLA noted this year's smaller attendance may have actually benefited the school festival in one way.

"I wonder if the slightly smaller group sizes changed the dynamics (for the presentations)," he asked.

The river clean-up again went well, showing the continued debris in the river despite years of clean-up efforts, organizers said.

This year, a group of Virginia Tech students were studying the least tern and piping plover during the week and stayed for the Saturday river clean-up. The Virginia Tech group contributed three boats and about two dozen students for the clean-up effort.

At Tuesday's meeting, MRE organizers talked about encouraging Mount Marty College and University of South Dakota faculty and students to give a presentation on river sustainability as part of the clean-up day.

Other clean-up efforts are planned for Clay County

Park near Vermillion and near Niobrara State Park in the Verdel, Neb., area.

This year's Clean Boat event resulted in 250 contacts with boaters from six states, including Montana, Lepisto reported. He noted with disappointment that invasive species, thought to be eradicated downstream, had reappeared in one area.

"The threat isn't coming, the threat is here," he said. "With invasive species, it takes one person to do the wrong thing, and then all the rest of it goes for naught."

You can follow Randy Dockendorf on Twitter at twitter.com/RDockendorf. Discuss this story at www.yankton.net.