

September 22, 2014

Senator Larry Tidemann, Chair
Government Operations and Audit Committee
State Capitol
500 East Capitol Avenue
Pierre, SD 57501

Dear Senator Tidemann,

I appreciate the opportunity to answer the questions provided by the Government Operations and Audit Committee. Despite the overt political nature of many of these questions – you will find that my responses are straight forward. I will not engage in speculation or respond to defamatory comments. By stating as fact that someone “stole” money absent a conviction certainly tests that legal threshold, and a state legislator title does not provide protection from such a violation.

The federal EB-5 program is about jobs and the economy. The vast majority of these projects have been successful. And, this federal program provided invaluable funding, during a deep recession, when alternative sources of financing were scarce.

In South Dakota, it has been reported, that we can attribute more than 5000 jobs and \$600 million in capital investment. As with any private sector business venture, there is economic risk. In fact, this federal program requires the investment be at risk. Fortunately, the vast majority of these projects are operating throughout South Dakota today employing thousands of South Dakotans. These projects employ real people, in real South Dakota communities.

The federal EB-5 program is almost 25 years old. Since it is a federal program, state governments are not charged with nor do they have the ability to improve or change programmatic, regulatory or oversight parameters. This is a federal program. The press has reported on concerns from U.S. Senators, notably Senator Grassley who is a supporter and friend of mine. America has seen many changes since the federal EB-5 program was enacted with bi-partisan support. For example, the illegal immigration issue has escalated beyond reason and America was hit by terrorists on 9-11. The Obama administration as well as the U.S. Congress is overdue in their review of many federal programs, including EB-5. If elected to the U.S. Senate, I would support and lead a proactive effort to review all aspects of the federal EB-5 program, with a specific emphasis on federal regulatory oversight.

Additionally, I support constructive recommendations from this committee for improved handling of the federal program within state government. Sound operational improvements can always be considered and made at the state level when appropriate. Of course, that requires a sincere effort – not grandstanding.

New Angus, LLC (formerly Northern Beef Processors) located in Aberdeen is a state of the art facility that will soon employ hundreds of South Dakotans. Cattle producers from throughout the region will have access to new markets and we'll finish more of our livestock right here in South Dakota. For those of your members who will point to other federal EB-5 projects such as the three dairies that, indeed filed bankruptcy, understand that they are operational today. The free market can be difficult – but just as the dairies that were bought out of bankruptcy, New Angus, LLC will soon be another success story for South Dakota.

The federal EB-5 program has been supported by South Dakota's entire congressional delegation. Democrats and Republicans have supported it since its inception. In fact, my democrat opponent in the U.S. Senate race worked for Tom Daschle, who supported EB-5 when the program was created.

The fact is, no one has talked about the federal EB-5 program more than I have. Eight local, state and federal law enforcement and investigatory agencies have reviewed various aspects of this case.

To suggest a "conspiracy" the democrats should have the insight or at least courage and the evidence to follow their logic through. Eight different organizations – including republican and democrat elected officials and appointees have been involved. If there is a conspiracy – all eight of those entities are either all-together conspiring or all-together negligent. It's a suggestion that goes beyond reason and lacks respect for all levels of law enforcement – and by suggesting such wild accusations – knowingly or unwittingly the democrats implicate their own party. Instead, there has been irresponsible political innuendo without evidence.

An accusation that is not on your list that I'd like to address is "Where'd the money go?" The answer is simple. It is in Brown County. A state of the art facility is nearing operational status in Aberdeen. For those who haven't taken the time to see the project – particularly those that choose to vilify it, I'd recommend a visit to New Angus, LLC.

Second, in response to the accusation that the state lost millions in tax money. This sounds easy to say and politicize. But it's impossible to prove – because it's simply not true. During the construction phase and the short time the plant operated – state and local governments collected more than what NBP received in taxpayer money. That is a fact.

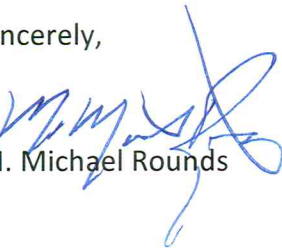
I cannot speak to the singular actions of Mr. Benda. Sadly, we will never know what he did. What we do know is that the attorney general had summoned a grand jury. The attorney general has stated that his investigation found no evidence of involvement from additional state officials. What occurred was an isolated incident with a single state employee – allegedly taking place before and after his employment with state government. The attorney general has clearly stated that I was not a target of the investigation.

It's tragic on many fronts. Mostly, it's tragic for the family that was left behind.

Finally, I have been completely cooperative, open and transparent throughout the investigative process. As I've stated, no one has talked about the federal EB-5 program more than I have. If there are legitimate questions that need to be asked – I recommend they be directed to the South Dakota Attorney General or the U.S. Attorney.

I agree, if there is information being withheld from the public – it should be released immediately. Moreover, if there are legitimate programmatic issues or concerns that need to be addressed at the state or national level, I would also support the effort.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Michael Rounds", is written over the printed name.

M. Michael Rounds

- 1. Where is the \$550,000 from the \$1M state grant that Mike Rounds' cabinet secretary Richard Benda stole from Northern Beef Packers?**

This issue was the subject of independent state and federal investigations. As I stated to the attorney general as part of his investigation, I had no knowledge of the funds that Richard Benda allegedly diverted for personal use.

- 2. Who in state government did the Northern Beef CEO talk to ahead of time to feel comfortable giving Benda a check for \$550,000 upon his delivery of the \$1,000,000 Future Funds grant?**

Based upon press reports, the alleged transaction occurred in late January 2011. I was no longer governor. Mr. Benda was no longer a state employee.

I am not aware of any discussion between anyone in state government and Northern Beef Processors concerning this transaction.

- 3. Who in the Rounds Administration approved the \$1 million Futures Fund grant for construction reimbursement to Northern Beef Processors (the check Benda ended up securing in physical form as a member of the private sector?)**

Provided - The Letter of Agreement authorizing the \$1 million grant was signed by Governor Rounds. This information was obtained by the South Dakota Department of Legislative Audit as part of their audit of the governmental funds of the Governor's Office of Economic Development.

- 4. Was Richard Benda working alone when he stole the state's money?**

Based on press reports, the attorney general has conducted an extensive investigation and concluded that there were no other state officials involved.

- 5. How is it possible that Benda stole the \$550,000 state grant money without conspiring with either state officials, Northern Beef Packing plant employees or SDRC, Inc. President Joop Bollen?**

See #4

- 6. How close did Mike Rounds work with Richard Benda and Joop Bollen on the EB-5 Program?**

The federal EB-5 program was only one of the many financing tools available for private economic development projects. Governors, including me, receive regular updates on projects utilizing Future Funds, Rural Economic Development Initiative Funds, Community Development Block Grants, bonding authority activity, Small Business Administration loans and other state and federal programs.

As governor, I received regular updates on ongoing economic development projects. While serving as governor, the state created 28,000 new jobs despite the greatest national recession since the great depression. The federal EB-5 program was a tool that, as reported, helped create more than 5000 jobs and \$600 million in capital investment in South Dakota. Yes, job creation was a focus during my time as governor, regular updates – provided by staff - were an obvious component.

There are successful federal EB-5 projects located throughout South Dakota. Many of your constituents likely have employment because of that focus on job creation in the private sector. Counties throughout both eastern and western South Dakota have jobs today – ranging from ag processing, wind energy, resorts, utility and dairies. These projects are operating and employing people today because of the federal EB-5 program.

No amount of political defamation will change that.

7. Did Mike Rounds know the intended purpose of the \$1 million grant he approved for his departing cabinet secretary Richard Benda?

The premise of the question appears incorrect and defamatory. I did not approve a \$1 million grant for Richard Benda.

As the committee knows and as has been reported publically, I approved the Future Fund grant request for reimbursement of construction infrastructure costs, up to \$1 million, by Northern Beef Processors (NBP). That requirement had been met by NBP. And, as reported, a check was issued after I left office to NBP for reimbursement for construction costs.

8. Why is Governor Dennis Daugaard pointing the finger at the Rounds administration but former Governor Rounds says the check is the Daugaard administration's fault.

The question appears incorrect on both points. As has been reported, the "check" is a product of NBP meeting their requirement set forth in the contract. The chronology or date of the check leaving state government and the manner in which it was delivered – I cannot speak to – as I was in the private sector and no longer governor.

9. How did Joop Bollen get the contract to privately manage the EB-5 visa program for the State of South Dakota. Was there a public bidding process?

- a. KELO reported Mike Rounds sliced Joop Bollen's pay in half for managing the state's EB-5 program to grant Bollen the lucrative EB-5 contract through a no bid process.

My understanding is that the contract was negotiated between the state agency and SDRC. Since the contract was less than \$50,000 *state law* did not require a bid.

10. Follow up on Keloland story: Why did Mike Rounds think it was ok to grant a no-bid contract to a state employee for the lucrative EB-5 contract?

See #9. In fact, state law governs contract matters.

11. What were the full terms of Joop Bollen's contract to manage the EB-5 program?

Provided - That contract has been made available to the public (see attached copy)

12. Who determined the terms of Joop Bollen's contract to privately manage the EB-5 program?

I did not participate in those specific transactional details. The contract was between a state agency and the contractor.

The press has reported that Mr. Benda and Mr. Bollen negotiated the contract.

13. Who wrote the contract to privatize the EB-5 program for Joop Bollen?

The contract was between a state agency and the contractor. Each state agency would normally handle those specific transactional details - not unlike the thousands of contracts state agencies engage in every year.

The press has reported that private attorneys for the parties drafted the agreement based on the terms they negotiated.

14. Who else was earning money from the state's privatization of the EB-5 program?

To my knowledge, the only financial obligation the state had is articulated in the contract.

SDRC, Inc. is a private business. State government would not necessarily have or know that information.

15. Did any beneficiaries of the EB-5 program make political contributions to elected officials, and/or their party committees, who oversaw the EB-5 program?

The “beneficiaries” of the federal EB-5 program number in the tens of thousands. As reported, 5000+ jobs, \$600 million in capital investment, local property tax payers, schools, 27 or more projects in almost as many different communities, utility users, investors, indirect jobs created, service providers, and spin-off businesses. Where, precisely, should we draw the line with “beneficiaries”?

If the questioner has a specific person in mind, political contributions are public information for both state and federal candidates.

16. How many people, who have participated in the EB-5 program, have come to South Dakota and have become contributing citizens to the State of South Dakota?

I am not aware of this information. This is a federal program – I suggest you contact the federal agency that administers the program.