

MINUTES

Workforce Housing Needs in SD Interim Study Committee



Representative Roger Chase, Chair
Senator Casey Crabtree, Vice Chair

Fourth Meeting, 2021 Interim
Monday, September 13, 2021

Room 362 – State Capitol
Pierre, South Dakota

The fourth and final meeting of the Workforce Housing Needs in SD Interim Study Committee was called to order by Representative Roger Chase at 9:00 a.m. (CST) in Room 362 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering roll call: Representatives Roger Chase, Chair, Fred Deutsch, Mary Fitzgerald (via Teams), Tim Goodwin (via Teams), Jennifer Keintz, Lance Koth, John Mills, Scott Odenbach (via Teams), Lynn Schneider (via Teams), Jamie Smith (via Teams), and Mike Weisgram (via Teams); and Senators Casey Crabtree, Vice Chair, Michael Diedrich, Red Dawn Foster, Jack Kolbeck, Herman Otten, David Wheeler, and Larry Zikmund.

Representative Hugh Bartels was excused.

Staff members present included Carter Dykstra, Fiscal Analyst; L. Anita Thomas, Principal Legislative Attorney; and Kaitlyn Baucom, Administrative Specialist.

NOTE: *For the purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was webcast live. The archived webcast is available on the LRC website at sdlegislature.gov.*

Approval of Minutes

Senator Otten moved, seconded by Senator Kolbeck, to approve the agenda of the September 13, 2021, Workforce Housing Needs in SD Interim Study Committee meeting. The motion prevailed on a voice vote.

Representative Koth moved, seconded by Senator Diedrich, to approve the minutes of the August 5, 2021, Workforce Housing Needs in SD Interim Study Committee meeting. The motion prevailed on a voice vote.

Opening Remarks

Senator Crabtree thanked the committee and testifiers for their input and work. Representative Chase said the committee had traveled the state and heard testimony and information from Sioux Falls, Rapid City, and Pierre, and now was the time to consider how the committee wanted to move forward into the 2022 Legislative Session.

Homes for South Dakota

Julie Johnson, Member, said Homes for South Dakota is a coalition of several nonprofits that serves as a unified voice for housing in South Dakota. She presented to the committee several recommendations to help the industry and all types of communities ([Document 1](#)) and their Strategic Housing Investment Plan (SHIP) ([Document 2](#)). She said Homes are Possible Inc. also supported their recommendations.

Representative Koth asked if there were plans to incorporate planning districts in the process. He said smaller communities have a desire to develop lots for residential development but do not necessarily have the time or talents to look at infrastructure needs. Ms. Johnson said she has worked with planning districts before, and they should be eligible applicants that could help provide capacity in areas that do not have nonprofit housing groups.

Representative Deutsch asked what the financial investment would be for the state. Ms. Johnson responded giving a specific number would get in the way of credibility.

Senator Zikmund asked about technical education and whether there was support for 7-12 grade programs. Ms. Johnson responded that they supported that as a solution, and workforce is an important part of the supply chain. She said 7-12 grade programs could possibly build components for Governor's Houses as a learning opportunity.

Senator Wheeler asked for more detail on what changes could be made to the tax deed process. Ms. Johnson responded it was an intricate area of the law, and while there might not be time to completely update the whole area of code, ideally, the time to get a tax deed could be expedited.

Senator Otten asked if they were talking about tax deeds for residential properties. Ms. Johnson responded that she believed that area of the code did not just apply to residential properties, but the intention was to free up available assets in communities.

Representative Chase added there was a bill regarding tax deeds in 2017 killed in the Senate because of concerns over agriculture, so legislation for tax deeds would likely need to be tied to residential.

South Dakota Native Homeownership Coalition

Lakota Vogel, Executive Committee Member, said the South Dakota Native Homeownership Coalition (SDNHC) was started in 2013 and its mission was to increase homeownership opportunities for South Dakota's native people and build communities. She said the SDNHC was a diverse group of about 75 stakeholders, including members from federal and tribal state agencies, tribally designated housing entities, nonprofits, residential construction professionals, and lenders and Community Development Financial Institutions (CDFIs). She said 9% of South Dakota citizens reside in Indian reservations, and SDNHC estimated a need for 2,300 affordable housing units and 400 homeownership units in native communities.

She provided seven recommendations from SDNHC, which included capital infusion to CDFIs, designating housing funds and the legislative authority to manage them to the South Dakota Housing Development Authority (SDHDA), and expanding and enhancing the Housing Opportunity Fund (HOF) by including a tribal set aside, including a match waiver for projects on tribal land, and increasing income limits. SDNHC's recommendations also included growing the residential real estate industry, ramping up the Governor's House program, offering funding for subsidies to offset high construction and development costs and funding flexibility to allow for gap financing, and dedicating new funding with higher income limits for down-payment assistance.

She shared that SDNHC also sponsored a construction internship program. She said to incentivize companies to sponsor and train interns, SDNHC covered the cost to pay and cover worker's compensation for interns and provided them with tools. She said SDNHC had provided internships to 105 interns, and 42% of those interns had received full-time employment offers.

Senator Crabtree asked what enhancements and allocations of money should be made to the HOF. Ms. Vogel responded SDNHC did not have a concrete number. She said at the CDFI Four Bands Community Fund, where she was Executive Director, they used HOF funds to offer down payment assistance and defer on cost, and there was demand for at least 25 mortgages a year. Ms. Vogel added there was a much greater need than that across the

state. She also mentioned it is difficult for those at 50% average median income and earning 30,000 dollars to afford a mortgage, and giving SDHDA the ability to increase income limits would help make mortgages more affordable. She said for now the burden of developing infrastructure in rural and tribal communities was on families, and it would be better for that burden to be covered at the state, local, or federal level.

Representative Chase asked if TIFS were utilized on Indian reservations. Ms. Vogel responded she did not have that expertise. Senator Crabtree responded he did not believe TIFs were utilized due to property tax on reservations.

Transformation Consulting Agency

Tamara Grove, Senior Consultant, talked about the Grove Project and utilizing tiny homes as one solution to the shortage of affordable housing ([Document 3](#)). She shared their goal is disruptive intervention. Ms. Grove stressed tiny homes are not modular homes or small homes but a unique classification. She said obstacles for tiny houses include zoning, negative perceptions, and the adoption of International Residential Code (IRC) Appendix Q, which provides building codes for tiny houses on a foundation of 400 square feet or less.

Ms. Grove said the Grove Project's tiny homes could be built off or on the grid, have small carbon footprints, are 3D cement-printed slab on grade, have sustainable production, and are generally faster and cheaper to produce. She shared the intention was to have tiny home pocket communities built around common areas where residents could get to know their neighbors. Ms. Grove added some pocket communities could also have classrooms and counselors for those in recovery.

Representative Chase asked what the lot size is for a 400 square foot home. Ms. Grove responded it could be 600 square feet, or as much as 1000 square feet depending on the design and the parking pad.

Senator Mills asked if research had been done on tiny homes in colder climates. Ms. Grove responded there were already 3D printed homes in colder climates than South Dakota, and tiny homes were energy efficient because they could be heated and cooled by a small unit.

Senator Otten asked how they approach land zoning requirements. Ms. Grove responded they try to get community buy-in by sharing areas that are doing it successfully and working on passing Appendix Q.

Representative Chase asked if she could explain more about how 3D cement printing worked. Ms. Grove responded that there is a machine with an arm that slowly goes around and lays out a blueprint. She said the equipment regulates the process, and their projects require three or four people to watch the machinery and put in forms for windows and electrical boxes while it is moving. She said they typically buy the cement from a hardware store and hire members of the community for internal things like wiring.

Representative Deutsch asked if there were parallels to the retirement communities in Arizona made up of small houses. Ms. Grove responded they did not draw direct parallels, but they did consider what could be done for the elderly and disabled. She said tiny homes provide single floor living, and they considered utilizing smart technology to assist with aging in place.

Senator Zikmund asked about public safety, if emergency response is figured into the planning, and what the plans were to connect city water and sewer. Ms. Grove responded that in current plans, the architect made sure fire trucks could have easy access. She said Sioux Falls was willing to assist with hookups, but the biggest issues were zoning or the cost of infrastructure in areas utilities needed to be built out.

Representative Keintz asked if tiny homeownership would resemble detached condominium ownership. Ms. Grove agreed individuals would be responsible for their homes, and an association would help maintain common areas.

Representative Chase asked if restrictive covenants and HOA fees would be attached to the development. Ms. Grove responded there would be covenants and that they would make some requests, such as not making the tiny homes into Airbnbs.

Public Testimony

Tim Doherty, Registered Lobbyist with the Home Builders Association, presented three bill drafts from the South Dakota Homebuilder's Association regarding local building codes, ([Document 4](#)), contractor's excise tax ([Document 5](#)), and the discretionary formula, providing for a 10-year discretionary formula for certain types of housing projects ([Document 6](#)). He said these bill drafts were meant as starting points for recommendations.

Senator Diedrich asked what types of housing were referenced in the discretionary formula bill draft. Mr. Doherty responded that it referenced single family residential and multifamily housing projects.

Representative Keintz asked about the contractor's excise tax proposal and how people in rural areas building homes and working as their own general contractors would fit in. Mr. Doherty responded their draft was designed for builders of spec homes, and it probably would not apply. Senator Otten said if individuals are acting as a general contractor building their own home, they are currently exempt from paying excise tax as long as they live in it for five years.

Representative Weisgram asked the average savings to a consumer regarding the exemption for the contractor's excise tax. Mr. Doherty said that assuming SDHDA established a purchase price limit of 300,000 dollars, and the contractor's excise tax is 2%, that would be 6,000 dollars going back to the homeowner under the proposed draft. He said he had seen other proposals to provide refunds, but this draft ensures the home buyer gets the benefit because it is taken off the purchase price at closing.

Senator Crabtree asked if Mr. Doherty had looked at tying something, where if the municipality chose to refund the sales tax, the refund of the contractor's excise tax was automatically triggered. He said while the refund would be 6,000 dollars on the SDHDA price limit, he said first-time homebuyers are really looking at closer to 4,000 dollars, and he asked if they had considered ways to increase that. Mr. Doherty said he had not thought about that, but it was an interesting idea he could work with him to draft.

Representative Mills asked about the bill draft on building codes and the main difference between the International Building Code (IBC) and the International Residential Code (IRC). Mr. Doherty said the IBC exempts residential housing projects and does not apply to single family homes or townhomes less than three stories. He said communities adopt IRC to apply to those projects, but no existing statute authorizes communities to do so.

Representative Mills asked if the intent of the bill was to make official what communities were already doing. Mr. Doherty said the first purpose of the bill was to address that current statute does not allow communities to adopt IRC, but they were also trying to ensure that when a community does adopt IRC, there is a period of time before the code is published that the community can look at the code and determine whether or not they want to adopt all of or just certain provisions. Mr. Doherty said South Dakota routinely adopts those codes every three years, but there are states in the nation that have not adopted the 2021, 2018, or even 2015 code. He said they are proposing a period of time before those codes are adopted locally where communities can evaluate the cost impact of the changes they are adopting.

Representative Chase asked if the legislature had acted prematurely adopting the 2021 version during session and should have given more time to builders to review codes before they were adopted. Mr. Doherty shared that the South Dakota Electrical Commission adopted the International Electrical Code right after it was published, but some

other states took more time and decided not to adopt certain provisions. He said South Dakota adopted those provisions, but homebuilders came back and asked them to reconsider, and with more time the process could be improved.

Committee Discussion

Representative Chase asked each member of the committee for ideas and solutions to present to the Executive Board to consider for legislation.

Senator Crabtree said he is working on two bill drafts. He said the first regards the property tax discretionary formula and would give county commissioners or the governing body of a municipality the option of extending it, possibly as long as 10 years, to do what is best for their community or county. He shared the second bill draft regards TIFs and providing a financing mechanism for those at 0%. He said the funds could be administered by GOED or SDHDA and the 0% financing rate would reduce what is taken out of the general fund. He said following the precedent of Building SD, funds could be split so that 30% went to Sioux Falls and Rapid City, and 70% went to all communities outside of those two cities.

Representative Koth asked if a development corporation in a small community could subsidize a TIF and finance it on their own regardless of a credit. Senator Crabtree said cities like Spearfish are self-financing, and he did not think it would be limited based off the size of a community.

Representative Deutsch said he would like to see the committee follow up on Ms. Grove's presentation on tiny homes, and look at other states to see how South Dakota might implement some of her recommendations.

Representative Chase said he did not believe there was currently any statutes pertaining to tiny homes, and they would need to write brand new legislation.

Senator Diedrich said the discretionary formula is a good tool to stimulate economic and housing development. He said to keep in mind that by using the discretionary formula to incentivize developers, the state aid to education formula would be impacted. He stated it would be important to update the state aid to education formula to not hold schools responsible for waived property taxes, and there was precedence of that with TIFs.

Senator Diedrich said he would like to relook at SB155 from last year for funding housing trust funds. He said it could be a long-term dedicated revenue source for strategic housing needs SDHDA could house that allows for local control and less restrictions. He added the HOF could have a more efficient and transparent process for those applying, have local housing trust fund organizations and foundations be eligible recipients, and be given more dollars, possibly with a leverage match.

Senator Diedrich said the committee should also discuss whether TIFs could cover construction costs. He said TIF project sizes could also be smaller and more flexible if infrastructure project costs could be eligible for grants or other funding. He said Infrastructure Improvement Plan grants are available to local development corporations, cities, and counties to construct or reconstruct public infrastructure, and those grants could be extended to private developers to apply to housing development projects.

Representative Koth said he is concerned about just utilizing loans and encouraged using qualifications on funds to encourage municipalities and others to utilize tools like the discretionary formula that already exist first. He said smaller communities who want to do the right thing, but do not necessarily have the time or the talent, need to be taught or encouraged to pursue things in ways that will work.

Representative Chase agreed there should be qualifications and stipulations to go through a planning district, qualified contractor, or entity aware of how things work to make sure projects stand on their own.

Senator Crabtree said there was a grant regarding industrial park infrastructure that had structure they might be able to look at as a template for drafting legislation.

Representative Mills said retirement-aged people are sometimes hesitant to move away from schools because of what will happen to their property taxes, and he said a solution could be giving local governments the authority to recognize zones, and as an incentive to move out of those zones, those who build a new home within the same school district could keep the same rate for property taxes as the home they left. He said he spoke with a local equalization director who thought it would be workable by utilizing GIS tags. He also stressed the importance of local governments and local control and utilizing preexisting tools like infrastructure design.

Representative Mills said he is working on a bill draft with the South Dakota Multi-Family Housing Association to address renters being taxed at a higher rate than homeowners. He said it could be an opt-in program, and landlords who opt-in would lower the amount of rent on a pro rata basis to their savings. He specified landlords could only increase the rent every two years according to the CPI index, and there could be follow-up with tenants to see they got the promised reduction in rent. He said after three years the marketplace would be reset, and almost everyone would opt-in.

Representative Smith said he did not know if all landlords would pass savings on to tenants in a competitive rate market. He said it may be useful to provide a new tax category for rentals.

Representative Chase pointed out the current categories are owner-occupied, agricultural, and commercial, and multi-family housing currently falls under commercial.

Senator Crabtree said if they did add a multi-family classification, they could look at Iowa as an example. He said they phased in the multi-family classification over ten years, so the shift was not felt in other classifications.

Senator Wheeler said he is working with Senator Crabtree and Ms. Lorraine Polak, Executive Director of SDHDA, to adjust the HOF's eligibility requirements to include associated infrastructure costs for single and multi-family housing, and expand geographic eligibility to use the HOF in TIF districts established for affordable housing purposes. He said the changes would free up the HOF to get money where it is needed.

Senator Otten said there is good rationale behind the Homebuilder's Association's proposals and changing the discretionary formula. He agreed it would be better to wait to implement building codes and do cost impact studies before adopting new code so local adjustments could be made. He said doing more with technical programs in high schools and helping them get funds is also important.

Senator Otten said the Building South Dakota fund the legislature passed in 2014 that originally created the HOF worked, but in 2018 Senate Bill 81 effectively gutted most of the program besides the HOF. He said it would make a great blueprint for legislation and funding going forward, and it is important to learn from that fund that continuous appropriations are important. He stated the committee needs to look forward to the future and continue funding those programs for several years.

Representative Keintz said one solution is to incentivize infill housing. She said new construction infill is beneficial even on scattered sites because of economy of scale, and infills solve the problem of providing infrastructure. She said one thing to keep in mind in building new housing is factoring in resale value down the road, and she shared as a real estate agent it can be difficult to sell one and two-bedroom houses. She said it is also important to make sure rural communities are not overlooked in policies.

Senator Zikmund said it is important to fund and invest in skill-level technical vocational programs for 7-12 grade and colleges. He said in the past South Dakota had vocational teacher education programs known nation-wide, yet most were dropped when the legislature took away three million dollars from educational programs in high schools. He shared the Associated General Contractors of South Dakota and the South Dakota Homebuilders Association are advancing programs in schools but need help. He said vocational schools could also take credits from high schools and accept them into their programs.

Representative Schneider said there are many solutions with merit, but some, such as changing TIF financing from five to ten years, did not require much upfront money. He said it would be a good idea to prioritize two or three ideas and be prepared to find significant amounts of money to support those ideas.

Senator Kolbeck said he agreed the committee should try to concentrate on three or four projects that would best benefit people in the workforce. He said the committee could look at the South Dakota State Penitentiary to build more Governor's Houses.

Representative Weisgram said he liked Senator Crabtree's 0% financing on TIFs with a 5-year structure. He added manufactured home development is a private industry solution to help create housing quickly, and the committee could look at how to remove some obstacles for those developments in legislation.

Representative Goodwin said they should expand the Governor's Houses program and look at tasking other jails or inmates to contribute to the program and create more homes if given the necessary financing. He said he agreed with Representative Weisgram on making manufactured homes in the state, and incentives such as TIFs could be offered to encourage plants to be built in South Dakota.

Representative Smith said he agreed with Senator Otten that Build SD was a program that did work, but the funding had not been there. He said the committee needs to make sure they follow up and get the rest of the legislature behind their ideas to make sure they are seen through. He said if more components for Governor's Houses need to be built, they could consider the women's prison in Pierre.

Representative Fitzgerald said she agreed with Mr. Doherty on the property tax discretionary formula and Representative Mills on renters' tax. She said she supports building more manufactured homes and Governor's Houses, and she agreed with 0% financing on TIFs if distributed equally throughout the state.

Representative Odenbach said there are two main factors keeping housing out of reach, growth of government regulations at the city level coupled with high demand. He said additional government regulations, zoning, tapping fees, FEMA costs, platting, and sky-high property taxes have cost impacts and burden developers. He stressed it is important to support infrastructure and make it affordable.

Representative Odenbach said he supports changing the discretionary formula, lowering property taxes by going back ten years, changing commercial taxes for apartments, improving TIFS to go to 0% and target infrastructure, and making zoning changes to allow small homes and pocket neighborhoods. He said he is against expanding the Governor's House program, and believes there are other options besides using inmate labor to build homes below market price.

Representative Chase said educating towns, communities, counties, and municipalities to recognize current opportunities, work through planning districts, and use available funds is important for them to invest in themselves. He said many need to work with their developers to understand how the HOF, taxation, and the discretionary formula work and can benefit them.

Representative Chase said manufactured homes are one of the quickest ways to create housing, and one solution is finding ways to entice more financing through commercial lenders. He said discussions could be had with the Bankers Association about putting a guaranteed fund together, so lenders can borrow and lend and have a guaranteed program if someone defaults. He added a \$250 dollar origination fee could help replenish that fund.

Representative Chase said it is also important to focus on workforce, providing technical education, getting more units built, and an important aspect to address those is 7-12 grade education. He suggested young people in school could help build component parts for Governor's Houses to learn concepts. He said he did not want the perception for Governor's Houses to be there was free education being offered through the penal system.

Representative Chase said the main focus should be on infrastructure development, the promotion of technical education, the promotion of manufactured housing, educating communities to know what tools are available, funding the HOF, 0% TIFs, and the discretionary formula. He said the best way to funnel money was through SDHDA.

Committee Adjournment

Senator Wheeler moved, seconded by Senator Kolbeck, that the Workforce Housing Needs in SD Interim Study Committee meeting be adjourned. The motion prevailed on a voice vote.

The committee adjourned at 2:23 p.m.