

# MINUTES

## Government Operations & Audit Committee



Senator Kyle Schoenfish, Chair  
Representative Randy Gross, Vice Chair

**Fifth Meeting, 2021 Interim  
Monday, November 15, 2021**

**Room 413 – State Capitol  
Pierre, South Dakota**

The fifth meeting of the 2021 Interim Government Operations and Audit Committee (Committee) was called to order by Chair Schoenfish at 8:00 a.m., November 15, 2021, in room 413, State Capitol Building, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Representatives Karr, Peterson, Otten, Gross, Duba and Senators Nesiba, Steinhauer, Hunhoff, Wheeler, and Schoenfish.

Staff members present were Russell Olson, Auditor General for the Department of Legislative Audit (DLA), and Tim Flannery, State Government Audit Manager for DLA.

*NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. The bulleted items below each agenda item are documents sent out by the Committee.*

### **Item 1 – Committee discussion of follow-up information requested from the Department of Labor and Regulation**

- [Letter to Labor Doc.1](#)

Chair Schoenfish requested public testimony prior to Committee discussion of the agenda items. There was no public testimony. The Chair asked staff if the Committee has yet to receive the agreed disposition between the South Dakota Appraiser Certification Program and Ms. Peters. Staff indicated that the Committee has not received this document at the present time.

Senator Wheeler moved the following motion, which was seconded by Representative Duba:

Motion: (1) To issue a subpoena to Secretary Marcia Hultman requiring the Secretary to produce the agreed disposition between Cassidy Peters and the Appraiser Certification Program and any other agreement between them that outlined the training plan relating to the appraiser credential application of Cassidy Peters; (2) that any document produced in response to the subpoena be kept confidential by Committee members and Committee staff; and (3) to request that the Executive Board of the Legislature Research Council ratify the issuance of this subpoena.

In accordance with SDCL 2-6-4.2, the Committee has determined:

1. The following Legislative purpose exists: GOAC is conducting an inquiry and review of the operations of the Appraiser Certification Program under SDCL 2-6-2 and is exercising its legislative authority to examine the records and the general management of the Appraiser

Certification Program under SDCL 2-6-4. This inquiry may lead to policy recommendations regarding the structure of the Appraiser Certification Program.

2. The subpoenaed documents are relevant and material to accomplish the legislative purpose because it will verify or refute testimony previously provided to the Committee on this topic; and
3. The information sought is not otherwise practically available because the Committee has previously requested a copy of the document and the Secretary has declined to provide a copy of the document to the Committee.

There was further discussion on the motion. Senator Wheeler believed it was important for the Committee to follow-up on the Committee's earlier request to verify information previously provided to the Committee. He believed the Committee had broad authority under SDCL 2-6-4 to obtain this information, without exception. Senator Hunhoff asked Senator Wheeler to explain the confidential portion of the motion. Senator Wheeler stated that the Committee would follow the same process as was followed when reviewing other confidential information, such as the juvenile reports. Senator Nesiba stated the Committee has not had any issues with confidential information in the past. Senator Hunhoff asked what the Committee plans to do with the information, after it is received. Senator Wheeler stated he did not have an answer to that question at this time and the Committee would have to find its way forward based upon the information received. The motion prevailed 8-2 on a roll call vote.

## **Item 2 – Committee discussion of follow-up information requested from Ms. Bren**

- [Letter to Ms. Bren Doc.2](#)
- [Reply from Ms. Bren Doc.2a](#)

Senator Wheeler moved the following motion, which was seconded by Representative Duba:

Motion: To issue a subpoena to Ms. Sherry Bren to require her to appear before the Committee on a date to be determined and to provide testimony regarding the Appraiser Certification Program, and to request that the Executive Board of the Legislative Research Council ratify the issuance of this subpoena.

In accordance with SDCL 2-6-4.2, the Committee has determined:

1. The following Legislative purpose exists: GOAC is conducting an inquiry and review of the operations of the Appraiser Certification Program under SDCL 2-6-2 and is exercising its legislative authority to examine the general management of the Appraiser Certification Program under SDCL 2-6-4. This inquiry may lead to policy recommendations regarding the structure of the Appraiser Certification Program.
2. The subpoenaed person is relevant and material to accomplish the legislative purpose because Ms. Bren was the previous director of the program; and
3. The information sought is not otherwise practically available because Ms. Bren, through counsel, has stated that she is willing to provide testimony but only pursuant to a valid subpoena.

There was further discussion on the motion. Senator Steinhauer asked where this inquiry was going to lead the Committee. He added that Ms. Bren has decided not to provide written answers to Committee questions. Senator Steinhauer believed the Government Accountability Board was looking into this

issue. Representative Duba stated that she attended the last meeting of the Government Accountability Board, and the Board did not name which issues they were looking into. She added that she did not know for sure if this Board was going to be looking into this issue in the future. Chair Schoenfish stated that he believed GOAC had different responsibilities than the Government Accountability Board. The motion prevailed 8-2 on a roll call vote.

Chair Schoenfish stated the motions will be taken to the Executive Board to seek their ratification and another Committee meeting date will be set after that.

A motion was made by Representative Duba to adjourn, seconded by Representative Gross. The motion passed on a voice vote.