



# House Select Committee on Investigation

Initial Staff Briefing



# Outline – Three Areas of Discussion



- Committee **Scope** of Work
- **Legal** Authorities Informing the Work
- **Duties** in Performing the Work

# Scope – Calling the Special Session



**§ 31. Convening of special sessions upon petition.** In addition to the provisions of Article IV, § 3, the Legislature may be convened in special session by the presiding officers of both houses upon the written request of two-thirds of the members of each house. The petition of request shall state the purposes of the session, and only business encompassed by those purposes may be transacted.

History: Amendment proposed by SL 1990, ch 2, approved November 6, 1990.

# Scope – The Purpose of the Special Session



## Text of the written request / proclamation:

### SPECIAL LEGISLATIVE SESSION ON IMPEACHMENT

Pursuant to and in accordance with the provisions of Article III, § 31 of the Constitution of the State of South Dakota, I hereby petition the presiding officers of both houses of the Legislature to convene a special session of the Legislature **for the purposes of investigating and evaluating whether the conduct of Jason Ravensborg, Attorney General of the State of South Dakota, surrounding the death of Joe Boever, involved impeachable offenses, pursuant to S.D. Const., Art. XVI, § 3,** and if so, to conduct further impeachment proceedings thereon and legislate on matters involving the attorney general's office.

# Legal – House Power of Impeachment - Art. XVI, § 1



## **§ 1. Power of impeachment in house--Majority required.**

The house of representatives shall have the sole power of impeachment.

The concurrence of a majority of all members elected shall be necessary to an impeachment.

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“Similar to a grand jury, the House does not rule on the ultimate merits of impeachment allegations, a function given exclusively to the Senate . . . . Rather, articles of impeachment are a type of constitutional indictment . . . .”

--Jonathan Turley, *Congress as Grand Jury*, 67 GEO. WASH. L. REV. 735, 774-75 (1999).

# Legal – Grounds for Impeachment - Article XVI, § 3



**§ 3. Officers subject to impeachment--Grounds--Removal from office--Criminal prosecution.** The Governor and other state and judicial officers, except county judges, justices of the peace and police magistrates, shall be liable to impeachment for drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under the state. The person accused whether convicted or acquitted shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

**History:** Repeal proposed by SL 1974, ch 1, rejected Nov. 5, 1974; repeal proposed by SL 1975, ch 2, as amended by SL 1976, ch 1, rejected Nov. 2, 1976.

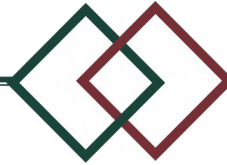
# Duties – To Investigate/Inquire – HR 7001



## Relevant portion of House Resolution 7001:

BE IT FURTHER RESOLVED, that the select committee has the authority to administer oaths, to examine all records, to summon witnesses by request or by issuing a subpoena, and to thoroughly examine all relevant and material facts associated with the above events and conduct, and to do all other things necessary to accomplish the purpose of its hearings and deliberations. The select committee may issue a subpoena for the person, documents, or both, with the written approval of the chair, and use the procedure provided in SDCL chapter 2-4 to enforce its subpoena when the subject of the subpoena refuses to comply with the command to appear and testify before the committee; and

# Duties – Enforce Subpoenas – SDCL chs. 2-4, 21-34



**2-4-14. Contempt of Legislature--Punishment.** The Senate or the House of Representatives may punish, as a contempt, by imprisonment, a breach of its privileges or the privileges of its members; but only for one or more of the following offenses:

...

(3) Refusing to be examined as a witness either before the Senate or the House of Representatives, or a committee thereof, or before any person authorized to take testimony in legislative proceedings;

...

but the term of imprisonment which the Senate or House of Representatives may impose for any contempt specified in this section shall not extend beyond the session of the Legislature.

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**2-4-15. Contempt of Legislature as misdemeanor.** Every person who is guilty of contempt of the State Legislature or either branch thereof, as contempt is defined in § 2-4-14, is guilty of a Class 2 misdemeanor.



# Duties – Establish Procedure – HR 7001



## Relevant portion of House Resolution 7001:

BE IT FURTHER RESOLVED, that the select committee shall adopt rules of procedure for its business that, where applicable, align with the provisions of Chapter 6 of the House Rules, unless the provisions plainly conflict with the nature and purpose of this committee or with applicable law; and

# Duties – Committee Resources – HR 7001



## Relevant portions of House Resolution 7001:

BE IT FURTHER RESOLVED, that the select committee shall employ a special counsel, appointed by the Speaker of the House of Representatives pursuant to § 2-5-5, to serve as legal counsel to the committee and to assist the committee in carrying out its functions expressed and implied herein; and

BE IT FURTHER RESOLVED, that the Director of the Legislative Research Council is directed to provide the resources necessary to facilitate the activities of the select committee; and

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BE IT FURTHER RESOLVED, that the select committee shall have all authority, reasonable and necessary, to carry out the functions expressed and implied herein, under the Constitution of the State of South Dakota.

# Duties – Committee Work Product – HR

7001



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Relevant portion of House Resolution 7001:

BE IT FURTHER RESOLVED, that the select committee shall provide a written committee report and recommendations to the House of Representatives on whether articles of impeachment should issue and, if so, the language of the articles of impeachment and the manner in which the House should manage its impeachment case in the Senate in this matter, should the House vote to impeach; and

# Duties – Committee Information – HR

## 7001



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Relevant portion of House Resolution 7001:

BE IT FURTHER RESOLVED, that the select committee shall redact all confidential or nonrelevant information from any information received before such information is released to the public; and

BE IT FURTHER RESOLVED, that all members of the House of Representatives shall have nonpublic access to all information gathered by the select committee; and