

EXHIBIT P

Transcript of December 14, 2021
GOAC Hearing

1 GOVERNMENT OPERATIONS & AUDIT COMMITTEE
2 TRANSCRIPT
3 December 14, 2021
4

5 CS: Chair Schoenfish

6 VC: Vice Chair Gross

7 SN: Senator Nesiba

8 SS: Senator Steinhauer

9 SH: Senator Hunhoff

10 SW: Senator Wheeler

11 RD: Representative Duba

12 RK: Representative Karr

13 RP: Representative Peterson

14 RO: Representative Otten

15
16 BR: Sherry Bren

17 TR: Tim Rensch (Sherry Bren's Attorney)

18 AH: Alan Hanks

19 BG: Brian Gatzke

20 MO: Megan Olson

21 CC: Chase Christenson

22 CR: Craig Steinley

23 LD: LRC Staff

24
25
26
27 CS: Good morning, welcome to Government Operations and Audit.
28 As a reminder for those in the room please silence your cell
29 phones. Secretary will call the roll.
30

31 Secretary: Senator Nesiba?

32
33 SN: Here.

34
35 Senator Steinhauer?

36
37 SS: Here.

38
39 Secretary: Senator Hunhoff?

40
41 SH: Here.

42
43 Secretary: Senator Wheeler?

44
45 SW: Here.

46
47 Secretary: Representative Duba?

1 RD: Here.

2

3 Secretary: Representative Karr?

4

5 RK: Here.

6

7 Secretary: Representative Peterson?

8

9 RP: Here.

10

11 Secretary: Representative Otten?

12

13 RO: Here.

14

15 Secretary: Representative Gross?

16

17 VC: Here.

18

19 Secretary: Senator Schoenfish?

20

21 CS: Here.

22

23 Secretary: You have a quorum.

24

25 CS: Um, just a note on the minutes aren't quite ready, ready
26 from the last meeting so we'll get those approved at the next
27 meeting. Just a reminder anyone testifying please sign your
28 name on the sign in sheet, so the secretary has the correct
29 spelling. First item on the agenda this morning is testimony
30 from Ms. Sherry Bren, regarding the South Dakota Appraiser
31 Certification program. Welcome to the committee and you're
32 welcome to give an opening presentation or testimony if you
33 would like.

34

35 TW: No, we'll just answer questions.

36

37 CS: Okay, questions from the committee, Senator Wheeler.

38

39 SW: Thank you. Ms. Bren thank you for coming today and we
40 appreciate your willingness to testify. I want to start with
41 just some basic questions about the Appraiser Certification
42 Program and a shortage of appraisers we have in South Dakota.
43 So based upon your many years of experience with the program,
44 what would you say is the cause or the main cause for the
45 appraiser shortage we have in South Dakota?

46

47 BR: Mr. Chair, thank you Senator Wheeler. I think there are
48 a number of things that have occurred over the years that
49 have attributed to the shortage of appraisers. Not only in

1 South Dakota but across the nation. I did put together kind
2 of an outline of some of the things that have occurred but
3 just to make it brief, I would say that one factor is the
4 appraiser qualifications board that sets the criteria for
5 education experience and testing in some years has gone to
6 the extreme and caused an issue for entry level appraisers to
7 get credentialed across the nation and also I think one of
8 the biggest factors, back in 2009 after the mortgage melt
9 down and the 2008/2009 and ten FHA through congressional act
10 was not longer allowed to use the state licensed appraisers
11 which really, I think, impacted the small communities in
12 South Dakota as well as across the nation. State licensed
13 appraisers could no long do the FHA appraisals and since that
14 time the population of state licensed appraisers has dwindled
15 significantly. Between that years of 2011 and 2010 seven
16 thousand state licensed appraisers disappeared off of the
17 credentialed roaster with there appraisal subcommittee and
18 the number of appraisers in all categories has dwindled
19 significantly over the past years.

20
21 SW: Follow-up.

22
23 CS: Go ahead.

24
25 SW: Thank you. You mentioned the Appraiser Qualifications
26 Board, is that a federal board?

27
28 BR: Mr. Chair, yes the Appraiser Qualifications Board was
29 given the authority by congress in 1989, through the Title 11
30 Financial Institutions Reform Recovery and Enforcement Act of
31 1989 to set the criteria for rural property appraisers in the
32 area of education, experience and testing and for example, in
33 a, let's see if I can get to this pretty quickly, in 2010
34 the, or 2008, excuse me, in 2008 the AQB adopted requirements
35 for a college level education for the certified residential
36 and certified general credentials. And that, that impacted a
37 lot of the individuals wanting to move up to the state
38 license level because they a, you know they required an
39 associate degree for the certified residential and a
40 bachelor's degree for the certified general level and so if
41 you did not have those degrees then you couldn't move up and
42 that was compounded by the fact that FHA had barred state
43 licensed appraisers from doing appraisals for them so that
44 was one thing. But then in 2015 the AQB went even further and
45 required a bachelor's degree for the certified general and
46 certified residential levels and 30 semester college level
47 semester hours for the state licensed level. And on both of
48 those actions on behalf of the Appraiser Certification
49 Program I publicly opposed those actions and finally in 2018,

1 and I'm not saying that I was the only reason they changed
2 but along with other regulators and stake holders they did
3 change the criteria back to what it was in 2008 so that was
4 an improvement. I would like to note on the FHA not being
5 able to use the state licensed appraiser, I did work with
6 Senator Thune's staff person over a period of years and the
7 last I knew they were going to introduce legislation that
8 would allow state licensed appraiser's to do FHA appraisals,
9 but I did tell the staff member, you know, because I reviewed
10 the legislation with him and stuff but, I told, you know
11 after all of this time it's probably too late. You know we're
12 not going to repopulate that state license level again, so I
13 think it was a good move if it happened. I left my position
14 so I'm not sure what the status of that is, but it was a good
15 move, but maybe a little bit too late. And I did work with
16 the a, I was part of the South Dakota and North Dakota
17 delegation that would meet with the South Dakota
18 Congressional Delegation for several years trying to seek
19 their, their assistance and maybe making some changes on the
20 federal level because you know, all of our requirements are,
21 most all of them, are federally required. There really wasn't
22 a lot of action available to them at that time either so.

23
24 SW: A few more follow-ups?

25
26 CS: Okay.

27
28 SW: Thank you, the, we've heard testimony about the
29 requirements of supervised hours that appraisers must meet to
30 get their different levels of qualification, how much is that
31 creating a bottle neck where the appraiser who, someone who
32 wants to become an appraiser has to go through people who are
33 already in the program, people who are already in business to
34 get their credential? Let me put it another way, do we have
35 enough people in South Dakota who are willing to do that, who
36 are willing to be trainers, so we have enough appraisers in
37 South Dakota.

38
39 BR: Mr. Chair, I can answer that question very clearly there
40 are not enough certified appraisers that are willing to
41 supervise entry level, you know seekers of a credential and
42 that is not just a problem isolated to South Dakota, that is
43 a problem across the nation, and I have been at national
44 conferences where it has been publicly stated that the
45 supervisor training model that we have today is broken and
46 changes need to be made. And there is some movement to do
47 just exactly that. Number one, the Appraiser Qualifications
48 Board has written Criteria For a Practical Applications of
49 Real Estate Appraisal that is another option for entry level

1 appraisers for gaining their experience and my passion is the
2 Experience Training Program that South Dakota was provided a
3 grant by the Appraisal's subcommittee on a federal regulator
4 to stand up to provide experienced training for the entry
5 level appraisers. So I see this as a kind of a light at the
6 end of the tunnel moving towards, you know, experience that
7 doesn't require a certified appraiser to commit to
8 supervising a trainee.

9
10 SW: Thank you, one more than I'll let another legislator
11 have at her.

12
13 CS: One more and then.

14
15 SW: Yeah. Thank you, so, what changes can we make on a state
16 level that would help us in the time between now and when the
17 fed's actually get around to making changes in the federal
18 requirements?

19
20 BR: Mr. Chair, I believe that the steps that South Dakota
21 can take is to make sure that the Experienced Training
22 Program, the grant has been given to South Dakota, and I do
23 have kind of a lengthy overview of that Experience Training
24 Program if the committee is interested in that but to me that
25 is the future because it takes away that supervisor training
26 model. It doesn't take it away but it adds it as an option
27 for students to take the Experience Training Program and come
28 out and be credentialed appraiser ready to go to work.

29
30 SW: Thank you.

31
32 CS: Representative Gross.

33
34 RG: Thank you Mr. Chair. Again, I appreciate you taking time
35 to be with us and visit a little bit. You mentioned a minute
36 ago if I could follow-up that you had an either an outline or
37 timeline you referred to of some things that had occurred, is
38 that something you'd care to share with the committee or
39 could share? I don't mean verbally now by any means but is
40 that something you'd share the written copy with us at some
41 point?

42
43 BR: Mr. Chair, yes, I would be more than happy, it's a
44 little bit rough, because I have just, you know some of it I,
45 um, you know I didn't review it really carefully, I just
46 wanted to have the dates and the occurrences in order. But I
47 would happy to share that with you.

48

1 RG: Mr. Chair, If I may, thank you. I think the committee
2 would appreciate receiving that and recognize that it is a
3 little rough, that's fine, that's life. We all have strengths
4 and weaknesses in different areas, and we appreciate you
5 taking time to put that down in writing that we can take a
6 little bit more time to look at later on. Following up on
7 some of the questions that were asked earlier if I may. Give
8 me a little bit of timeline, when did you start in your roll
9 with State government and your involvement with the certified
10 appraisers, or you were involved even before, if I read, I
11 assume, but can you give us a little bit of timeline of your
12 employment with the State?

13

14 ~~BR: Mr. Chair, yes, um, I started working for the State of~~
15 ~~South Dakota in 1970. I held several positions, but I think~~
16 ~~the committee is most interested in when I started with the~~
17 ~~Appraiser Certification Program? That would have been in~~
18 ~~1991. During that legislative session a bill was passed to~~
19 ~~set up the certification of appraisers based on the mandate~~
20 ~~on the federal level by Title 11 of the Financial~~
21 ~~Institutions of Reform, Recovery, and Enforcement Act that~~
22 ~~was passed in 1989 and so I was brought on board to the~~
23 ~~Department of Commerce to work this program and specifically~~
24 ~~started with, we had the statute in place but now we needed~~
25 ~~to write the rules and start taking applications for~~
26 ~~appraisers to become credentialed in the State of South~~
27 ~~Dakota. So my career with the Appraiser Certification Program~~
28 ~~started in 1991.~~

29

30 RG: Thank you, may I continue?

31

32 CS: Yes.

33

34 RG: You mentioned writing the rules, am I correct in my
35 assumption that even those rules within the State all have to
36 follow or be within the parameters of the Federal
37 Legislation?

38

39 BR: Mr. Chair, that is correct. State's have to comply with
40 the minimum requirements of Title 11 and they may be more
41 stringent but they can not go below the requirements
42 established on the federal level.

43

44 RG: If I may? Given what you just said, do you believe South
45 Dakota's requirements are more stringent or basically
46 comparable to all other states?

47

48 BR: Mr. Chair, I'm not sure if I can answer that question on
49 behalf of other states. I believe that our rules do comply

1 with the minimum requirements and every state that I know of
2 has their own particular way of doing business and their
3 processes, they all have to comply, but every state is
4 different and so I personally, I can give an opinion?

5
6 TR: Sure.

7
8 BR: That a, I don't believe that South Dakota is more
9 stringent than other states, but we do have some requirements
10 that may go some what beyond the minimum.

11
12 RG: Thank you, along that same line then, I'm under the
13 impression that as you said, each state is a little
14 different, in some states is the appraisal certification or
15 licensing process managed by somebody outside of state
16 government? Does the industry have people that manage that in
17 some states versus a state government? Again, if that's
18 outside the scope of your familiarity, that's fine to say so.

19
20 BR: Mr. Chair, Representative Gross, could you, could you
21 pose that again to me?

22
23 RG: Sure, I apologize for the confusing.

24
25 BR: That's okay.

26
27 RG: South Dakota, you are in a role of in essence managing
28 the process on behalf of the State. My impression is, all
29 states are not set up the same way and some states that
30 process is managed by an arm of the appraisal industry or
31 some other organization, and is my impression correct?

32
33 BR: Mr. Chair, Representative Gross, if I understand your
34 question, states do things differently. I'm not aware of an
35 outside entity that is in control of the appraiser regulatory
36 agencies. I know that some state's have boards or commissions
37 that are the, you know, administer the programs but I'm not
38 aware of an outside private entity that is in charge or
39 administers the program. But that's just my knowledge, I'm
40 not sure.

41
42 RG: Sure.

43
44 BR: If there is such a thing.

45
46 RG: That's fine. May I continue? I understand you work
47 closely with the professional appraisers, I get the acronym
48 confused, Appraisers Association of South Dakota, can you
49 tell me about your working relationship with them? When did

1 that start and end, what types of activities were you
2 involved in communication or otherwise with the Professional
3 Appraisers of South Dakota?

4
5 BR: Mr. Chair, Thank you. I will describe that for you, the
6 Professional Appraisers Association of South Dakota and there
7 is another association, The South Dakota Chapter of the
8 American Society of Farm Managers and Rural Appraisers. They
9 are the two most active professional appraisers'
10 organizations in the state. As stake holders and the work of
11 the Appraiser Certification Program, I was in contact with
12 the officers of both groups frequently to understand issues
13 that impact both the appraisers and users of appraisal
14 services. Both associations have had regular representation
15 on the Appraiser Certification Program s since it's
16 inception. I was often invited to the board of directors and
17 membership meetings of the two organizations during the year
18 either virtually or in person to provide updates from the
19 ACP, Appraiser Certification Program, and the Advisory
20 Council. I was also invited, and I frequently attended the
21 joint annual meeting of the organizations in January of each
22 year. It was a convenient way for me to address both of the
23 governing bodies and answer their questions since I was often
24 on each of the board of directors meeting agenda during the
25 annual event. As the Legislature was also in session at this
26 time in mid-January, I usually fielded questions about
27 pending legislation when applicable and from time to time I
28 attended portions of some of the in person and virtual
29 classroom education offerings for both of these
30 organizations. And I would attend those also to answer
31 questions from attendees during breaks, kind of gave a
32 personal touch. Often times your only known by your voice on
33 the telephone and when you're able to attend functions where
34 appraisers are in attendance it, I considered it public
35 relations and these acts they also gave me the opportunity to
36 audit the quality of the educational offerings in accordance
37 with the administrative rules.

38
39 RG: Thank you. You mentioned Advisory Council, can you tell
40 me a little bit about it, what was its origins and you've
41 alluded to the roll can you expand on that a little bit
42 please?

43
44 BR: Mr. Chair, yes, thank you for that question. When the
45 program began in 1991, and I think actually a little bit
46 prior to this, Jeff Stingly (sp) was the Secretary of the
47 Department of Commerce where this originated. He had asked
48 members of the profession and stake holders to advise him,
49 you know, in trying to stand up this, you know, very unique

1 Federal program in a state agency to advise him in the
2 administration and operation and in, when I came on board in
3 1991, we retained that Advisory Council. It's informal, there
4 was no statutory authority for it, it was just a, you know,
5 there was representation from the director of the real estate
6 commission, the director of the banking division, appraiser
7 members certified licensed, and we also had and still have a
8 liaison recommended by the South Dakota Bankers Association,
9 staff appraiser and I think I've covered it all, but we've
10 continued to maintain that Advisory Council over the years
11 for a, to advise the secretary and make recommendations on
12 the administration and operation of the program.

13
14 RG: Thank you, within that, who determines which individuals
15 actually served on that counsel then, was it yourself in most
16 cases or you asked the industry to nominate people and in
17 essence you gave them your blessing as, being an artificial
18 member of that counsel?

19
20 BR: Mr. Chair, the, well there are standing positions and
21 that would be the real estate commission and the banking
22 division but for the appraiser positions we would seek
23 nominations when a vacancy would come up and take nominations
24 from the industry and then I would submit the nominations to
25 the Secretary of the Department for the final decision of
26 appointment.

27
28 RG: If I may follow-up? So that even though it wasn't in
29 code or law there was a standardized process?

30
31 BR: Mr. Chair, yes, and that evolved over the years. We
32 tried to stay in line with like the boards and commissions,
33 all of their requirements, you know such as term limits and
34 appointments and things like that. We tried to stay in line
35 with those requirements. Even though it was not, you know
36 it's an informal Advisory Council, we tried to follow formal
37 procedures.

38
39 RG: One more?

40
41 CS: Alright.

42
43 RG: Since your retirement or leaving state employment, have
44 you had any involvement with the Appraisers Association and
45 if so what might that be?

46
47 BR: Yes I have. I've attended the Professional Appraisers
48 Association of South Dakota Annual Strategic Planning Session

1 and a resent board of directors meeting as a volunteer
2 resource.

3
4 RG: Thank you. I'll pass it on to somebody else then.

5
6 CS: Alright, Representative Duba.

7
8 RD: Thank you Mr. Chair. Ms. Bren, thank you so much for
9 coming today we appreciate your attendance. I want to talk
10 about process, but I want to talk about, we've heard a lot
11 about um, some roadblocks, you've talked about some of the
12 things that we're trying to do in particular the EPT program
13 and the grant, so I'd like to kind of take us back and try
14 and understand. I'm a new person who wants to be an
15 appraiser, can you talk me through a process flow if I'm
16 struggling and maybe lets, we don't need to talk to that
17 first level because we know that we have State requirements
18 that are unique and there are only four other states that do
19 that. But I'd like to talk about maybe the next level up or
20 the next level up, how does it work if I'm completing my
21 education and I'm being mentored and I'm not able to pass
22 the, that national examine. Can you talk me through that
23 process, and I can ask questions from there?

24
25 BR: Mr. Chair, Representative Duba, I'm not sure I clearly
26 understand the question, but I think that what you're asking
27 is if I'm an entry level appraiser and I do have a mentor.

28
29 RD: Uh huh.

30
31 BR: And I think, there may be some confusion about the
32 examination.

33
34 RD: Possibly.

35
36 BR: And so I want to ask, are you speaking towards an
37 examination or are you looking for answers to the upgrade
38 process?

39
40 RD: Could be either, but that's a really good question on
41 your part. If I am seeking to upgrade from a lower level and
42 I have to require, I am required to take certain education,
43 I'm required I believe to submit two appraisals for review or
44 scoring, and I am required also to take a national examine.
45 Are there instances in any of those cases where I could, I
46 don't want to use the word derail, but I'm not having success
47 completing those requirements, how, where do I turn for help
48 so that I can achieve that next level goal?

1 BR: Mr. Chair, I think I understand your question and I do
2 have some details regarding the upgrade process.

3
4 RD: Wonderful.

5
6 BR: And if I may, I'll just go through those.

7
8 RD: Go.

9
10 BR: And, but I'm going to start with, you know the beginning
11 and it will include, if my appraisal reports have been
12 determined to comply with USPAP, you know, I'll go through
13 that and then I'll describe to you what happens if, if that
14 isn't the case.

15
16 RD: Thank you, appreciate that.

17
18 BR: Thank you. The upgrade process begins when the ACP
19 receives an application from an applicant desiring to upgrade
20 his or her current credential to a hire credential level. For
21 example, State Register to State Licensed, State Certified
22 Residential or State Certified General. You can move from one
23 to either one of those. Or you could be state licensed and
24 going to Certified Residential or Certified General or you
25 could be State Certified Residential desiring to upgrade to
26 Certified General Appraiser credential and each case is
27 handled by the ACP Executive Director according to the
28 following procedures: First, the Executive Director verifies
29 the applicant has met all of the education requirements,
30 verify the applicant meets the experience requirement by
31 requesting an appraisal reports at random from the appraisal
32 experience log for the experience audit. That's a federal
33 requirement and then request appraisals and the corresponding
34 work files for review to verify that the appraisal reports
35 comply with uniformed standards of Professional Appraisal
36 Practice. The Executive Director and staff then prepares the
37 upgrade case file for review, redacting all of the applicants
38 identifying information and then the file or case file is
39 submitted to the, anonymously, to a reviewer that is on
40 contact with the department to determine if the appraisals
41 and reports comply with USPAP uniformed standards. The
42 reviewer completes the appraisal compliants review report for
43 each appraisal report submitted to the ACP, the reviewer
44 determines weather or not the appraisals reviewed comply with
45 USPAP. If the appraisal's meet the requirements of USPAP the
46 upgrade is issued upon verification of successful completion
47 of the National Uniform Appraiser Examination for the desired
48 credential. In the case of appraisal's review do not comply
49 with USPAP, this is a second opportunity for review of

1 appraisals, reviewer completes the review, the, Appraisal
2 Compliance Review Report for each appraisal, submit it to the
3 ACP and the reviewer determines weather or not the appraisals
4 review comply with USPAP. If not, the decided deficiencies
5 which warrant denial at the upgrade, application are
6 specified by the reviewer. At that point, according to the
7 procedure if the deficiencies rise to the level of denial of
8 the applicant application, the applicant is provided the
9 review report with cited deficiencies along with the review
10 report, the applicant receives a letter explaining that the
11 deficiencies cited by the reviewer rised to the level of
12 denial of the upgrade. The letter further explains that the
13 ACP would prefer to refrain from denying the application if
14 the applicant desires to entre into an agreed disposition
15 with labor appearing offering the applicant a second
16 opportunity to submit USPAP compliant appraisals for review.
17 At that point, excuse me, the terms and conditions under the
18 agreed disposition include, administrative penalty fee to
19 partial cover the costs for second review, complete corrected
20 re-write of the submitted appraisals for a second review by
21 the reviewer. The agreed disposition may include prescribed
22 education to specify, to specifically address the deficiency
23 cited. The staff confers with the reviewed to determine if
24 education would be beneficial and if so area of study. The
25 agreed disposition provides notice to the applicant that the
26 agreed disposition is available for a public inspection and
27 the agreed disposition provides notice to the applicant that
28 if the corrected rewritten appraisals do not comply with
29 USPAP the application may be denied. The applicant is advised
30 of their right to an administrative hearing before an
31 administrative law judge in the event the applicant does not
32 agree with the cited deficiencies. If a hearing is requested
33 by the applicant, the Executive Director contacts program
34 legal counsel to proceed with hearing request to the Office
35 of Hearing Examiners. The agreed disposition, oh excuse me,
36 upon receipt of the agreed disposition and waiver signed by
37 the applicant, the Executive Director signs the agreed
38 disposition to fully execute it, placing the original
39 document in the licensees file and providing the applicant
40 with a copy of the fully executed agreed disposition. The
41 Executive Director consistently contacts the applicant to
42 encourage an informal meeting with the reviewer once the
43 agreed disposition is executed. The meeting is to give the
44 applicant the opportunity to meet with the reviewer to go
45 over the cited deficiencies, to answer any questions the
46 applicant may have and to seek advise for how to successfully
47 correct and re-write the appraisals to cure the deficiencies.
48 Additionally, the reviewer is available after the meeting to
49 help the applicant with any questions, problems and to offer

1 assistance during the correcting and rewriting process. And I
2 would like to note here that this has been very successful in
3 the upgrade process. Many of the applicants have expressed
4 how beneficial and helpful this informal meeting is for them.
5 And then the next step is the applicant submits the corrected
6 rewritten appraisals for review and if the appraisals meet
7 the requirements of USPAP the upgrade is issued. In the case
8 of the rewritten and corrected appraisals reviewed, still do
9 not comply with USPAP, then the application is, the Executive
10 Director pursuant to recognized upgrade procedures, sent a
11 letter to the applicant transmitting proposed findings of
12 fact, conclusions of law and order to deny the upgrade
13 application. This is after the second opportunity for a
14 review. The applicant is advised that the action may be
15 contested and that an administrative hearing will be set upon
16 request within 30 days from receipt of the proposed order to
17 deny the upgrade application. If the applicant requests a
18 hearing, the ACP attorney is advised to notify the Office of
19 Hearing Examiners to schedule a hearing. If the applicant
20 does not want a hearing or 30 days pass, the Executive
21 Director prepares findings of facts, conclusion of law and
22 order to deny the applicants application for upgrade for the
23 department secretaries' consideration and signature. The
24 department secretary is the final decision maker in all
25 action. The order signed by the Department Secretary sent to
26 the applicant, and he or she again has 30 days from that date
27 to request a hearing. And I would like to note that the
28 applicant may again at any time apply for upgrade. There's no
29 mandatory waiting period. The experience and education
30 required for the upgrade will be recognized by the department
31 when the applicant submits another upgrade application.

32
33 Representative Duba.

34
35 RD: Thank you. Very good summary, thank you very much. One
36 of the first things that I heard you say, I mean I took notes
37 cause I'm sure many of my colleagues did, is you indicated
38 that this disposition document is a public open record? Is
39 that correct?

40
41 BR: That is my understanding Representative Duba, it states
42 in the agreed disposition that in accordance with SDCL 1-26-2
43 I believe, that it is open for public inspection and that's
44 my understanding that is written into the order.

45
46 RD: K.

47
48 BR: Of the agreed disposition, excuse me.

1 RD: So, at any given time this becomes part of that
2 appraisers file. If I were a bank examiner I wo, no, if I
3 were a banker and I was going to contract with an appraiser,
4 could I ask to see their file and any records that would be
5 in that file at any given time?

6
7 BR: Mr. Chair, sorry, that is my understanding or was my
8 understanding yes.

9
10 RD: When you were the Executive Director?

11
12 BR: Yes.

13
14 RD: Has.

15
16 BR: If requested it would be provided.

17
18 RD: Did that happen when you were Executive Director, did
19 you have instances where individuals had, where there were
20 cases where people asked to see an appraiser's file or any
21 records that would be in that file?

22
23 BR: Mr. Chair, in my time as Executive Director we, it was
24 common practice for banks, users of appraisal services and
25 others to request disciplinary action records and those would
26 be provided. However, I am not aware of any instance that an
27 agreed disposition for an upgrade has been requested. And
28 it's not considered disciplinary action, in the true sense of
29 the word.

30
31 RD: Mr. Chair, so in this process that you talked through
32 with us, you talked about preparing or that the applicant
33 receives a letter of denial but through that process they
34 have the, they can do one of two things. They can proceed
35 forward with a disposition working with the Executive
36 Director or they can stop that process at any time. So they
37 have the ability to do both, but there is a letter of denial
38 that is sent to the applicant informing them why they're
39 currently not eligible for the upgrade, is that true?

40
41 BR: Mr. Chair, if I understand your question Representative
42 Duba, in the, when we do the initial review.

43
44 RD: Yes.

45
46 BR: And if the reports do not comply with the uniformed
47 standards then there is a letter that, I believe it basically
48 says that the department would rather not deny your
49 application but would rather enter into agreed disposition.

1 And then attached to that would be the agreed disposition
2 document with the Appraisal Compliance Review Report
3 included. The applicant may agree to entering into that
4 agreed disposition or contest that action through
5 administrative hearing.

6

7 RD: Okay. Who prepares that disposition document? Was that
8 the, when you were in that position was that the job of the
9 Executive Director?

10

11 BR: Mr. Chair, yes it was.

12

13 RD: So, we've learned about disposition documents today in
14 this process. Is there such a document as a stipulation
15 document?

16

17 BR: Mr. Chair, during my tenure as the Executive Director up
18 until midsummer last year or end of summer I'm unaware of the
19 stipulation agreement which would be not withing the
20 recognized upgrade procedures that I'm aware of.

21

22 RD: So, the stipulation document that this, that this
23 committee received was not normal practice that was an
24 exception to what you've described as a normal process to
25 help someone become certified, is that a correct statement?

26

27 BR: Mr. Chair, yes, I had not, I've not had any experience
28 with a stipulation agreement that would basically not be
29 within the recognized upgrade procedures and would offer a
30 third opportunity for a review. I've not experienced that
31 prior to.

32

33 DB: Thank you.

34

35 BR: Summer last year.

36

37 DB: In your, in your experience as the Executive Director,
38 let's take the last four years, we received testimony in,
39 from the Secretary of the Department of Labor, that there
40 were no denials issued in the years 2018, 19, 20 and 21, are
41 you, and again, knowing that the secretary of the Department
42 of Labor makes the final decision for denial, is that a true
43 statement that there were no denials in that four year period
44 when you were still serving as the direct, or the Executive
45 Director.

46

47 BR: Mr. Chair, according to the information compiled by me
48 for the Governor's meeting on July 27th, 2020, there was one

1 denial executed by Hultman during the period of May 2019 thru
2 June 2020.

3
4 DB: Okay. Thank you. I will have additional questions, but I
5 want to give other members of the committee the opportunity
6 to ask questions as well. Thank you, Mr. Chair.

7
8 CS: Questions from the committee, Senator Nesiba?

9
10 SN: Yeah, thank you, Mr. Chair and Ms. Bren. You just said
11 about the stipulation, the, a third opportunity for review,
12 I'm just curious about that, I'm not understanding what you,
13 what you meant by that when you said there was a third
14 opportunity for review in the stipulation. Can you just
15 explain that?

16
17 BR: Mr. Chair, it's my understanding that when you apply for
18 an upgrade initially, then the, there is a review of
19 appraisals by the Appraisal Certification Program reviewer,
20 and if that review shows that the reports do not comply with
21 USPAP, through the agreed disposition you're given an
22 opportunity to correct and re-write those appraisals and
23 submit them for review. At that point if they come back and
24 they still do not comply with uniformed standards then the
25 proposed order is issued. So if there is a stipulation
26 agreement after that proposed denial or that, if you're at
27 that stage and the recognized upgrade procedures then you are
28 getting a, you know, another opportunity, a third opportunity
29 to, according to that stipulation agreement, to correct and
30 re-write the appraisals.

31
32 SN: Mr. Chair, a follow-up?

33
34 CS: Yea.

35
36 SN: Yea, thank you. So, in this case, if someone was denied
37 you'd have an agreed disposition and then if that was not
38 satisfied, you'd have a second agreed disposition and then if
39 that was not satisfied then you'd go to a stipulation?

40
41 BR: Mr. Chair, may I, Senator Nesiba, I'm not sure I
42 understand that. If you, if you submit initially and have
43 reports reviewed and they do not comply, then you're offered
44 the opportunity for an agreed disposition so, and a second
45 review of corrected rewritten reports. If those still do not
46 comply then according to the recognized upgrade procedures,
47 then a proposed order to, you know, proposed findings of
48 facts, conclusion of law and order are provided to the
49 applicant.

1
2 SN: And would those basic facts apply to the case of Kassidy
3 Peters?
4
5 BR: Mr. Chair, I'm not sure I understand.
6
7 SN: What's a, um, let me rephrase the question, I don't know
8 if we want to get into just a specific application but um,
9 give me, would you say it's a typical case maybe?
10
11 BR: Mr. Chair, do you mean what would be a typical case?
12
13 SN: Well just having a stipulation agreement and.
14
15 BR: Mr. Chair, no it.
16
17 SN: As opposed to.
18
19 BR: Would not be.
20
21 SN: Mr. Chair, I'll defer for now but I do want to, want to
22 come back and and then maybe just a question for the chair
23 that, that the Committee did put together some questions that
24 we all agreed that were important and I'm not sure if we'll
25 have an opportunity to work through some of these questions
26 or how we would like to handle those and, but I would like to
27 come back to some of these as a later time Mr. Chair. Thank
28 you.
29
30 CS: Okay. That's fine. Further questions from the Committee?
31 One moment, Senator Steinhauer.
32
33 SS: Thank you Mr. Chair. I want to understand a little bit
34 more make, I'm just checking my understanding and then a
35 question. My understanding is, that two appraisals are really
36 submitted, and a reviewer then looks them over, if there's a
37 deficiencies they identify those and they get a chance to
38 correct those deficiencies on the original appraisals, I'd
39 say that second review almost sounds like an open book test,
40 is that a fair assessment?
41
42 BR: Mr. Chair. Yes that would a fair assessment I believe
43 and um, but I would like to clarify that um, you know the,
44 the applicant is also given the opportunity to meet with the
45 reviewer face to face and go through the appraisals and the
46 cited deficiencies and then go back and re-write, you know
47 correct and re-write those appraisals. It's not new
48 appraisals, it's the same ones that they submitted before.
49

1 SS: That's what I thought. Thank you for that
2 clarification. Mr. Chair if I may, so can you tell me a
3 little bit about how you select the individuals that do the
4 review? What are their qualifications and do you have
5 suggestions moving forward how we improve the level and
6 expertise and assistance provided by the reviewers?
7

8 BR: Mr. Chair. Thank you for the question Senator. We do
9 have policies in place. Our, there were policies in place
10 when I was the Executive Director for the selection of
11 reviewers and they have to meet certain criteria. Um, they a,
12 and I, off the top of my head I may not be able to describe
13 that in great detail but the reviewers have to actually be
14 submitted to a review of their work product. A, we contract
15 with, we contracted with John Leary out of Connecticut who
16 was um, a member of the Ad Hoc Committee that promulgated the
17 Uniform Standards of Professional Practice and also served on
18 the Appraisal Standards Board that creates or promulgates
19 those standards for I believe around eight years. So we
20 contracted with Mr. Leary early on in the program to review
21 the work product, excuse me, of our examiners and they also
22 have to um, complete um, education requirements for review
23 appraisers. There are professional associations that offer
24 those types of education and um, they have to be certified
25 um, and I, I'm running short on details now but there is
26 criteria in place for our reviewers and as far as improving
27 that um, I believe that, and this is my opinion, that our,
28 the reviewers that we have on contract when I left the
29 program were highly qualified and a, which you know their
30 level of expertise, in my opinion is unmatched so.
31

32 SS: Um, thank you for that answer and a clarification on the
33 reviewers. Um, this committee often times looks at
34 performance metrics cause one of our key charges besides
35 looking after the appropriate use of funds, is also, are the
36 departments and agencies really hitting their stride in terms
37 of efficiency and are we fulfilling the needs of the state.
38 One of those things we often look at is um, a, are we getting
39 the numbers or when there's an applicant or a, something
40 being filed, how quickly do we turn it over. Is there, so my
41 question is there a back log or cause I, I heard that we
42 don't have enough appraisers but a, is there a delay ever in
43 getting them into this process of review, a, and if so, a,
44 what do we need to do about it?
45

46 BR: Mr. Chair. Um, I'm really not sure how to address that.
47 A, you know I think there are times when a, the review
48 process may take some time. Of course we want the review to
49 be professionally done and accurate. A, I'm not sure how to

1 improve that other than a recommendation that I made to
2 Secretary Hultman was that a, if we could get their review
3 fees more to market-worth that that might help in um,
4 extraditing the reviews.

5
6 SS: To follow-up Mr. Chair, so um, I want to make sure I
7 understand what you're saying is that the fees paid may be to
8 the reviewer are not at market rates and so when they're
9 looking at all the things they gotta do, getting to this
10 review is maybe at the bottom of the stack cause it's not a
11 very lucrative thing for them to do. Is that essentially
12 correct?

13
14 BR: Mr. Chair. Yes, that is correct and I did provide a,
15 and this has been some time ago, provide some figures. I did
16 some research among some of the other states to find out what
17 you know they are paying in, in regards to review fees and we
18 were certainly not at market worth or even competitive with
19 those fees. Now it is my understanding I, I think that maybe
20 there's been some increase in the fees but I, I don't really
21 have any knowledge about that.

22
23 SS: Follow-up. So what do you think is the average time
24 from when a person decides they want an upgrade or they want
25 a have um, become an appraiser, from when they submit to when
26 the review is complete and they get their report of whether
27 they achieved or they've got deficiencies?

28
29 BR: Mr. Chair. Senator I thank you for the question but I'm
30 not sure that I can answer that. It varies with each case.

31
32 SS: Is data collected and tracked on that so that if we do
33 follow-up with the department, we could determine what that
34 average time frame is and see if there are outliers?

35
36 BR: Mr. Chair. Um, it would be my, I would think that the
37 Department could provide that information to you. I don't
38 have it myself but.

39
40 SS: Mr. Chair, if I may one more along the same line. So
41 what do we pay currently to the reviewer? What is, what is
42 his fee for the work he does to help us to get more
43 appraisers in the field?

44
45 BR: Mr. Chair. I'm sorry Senator, I don't have that
46 information.

47
48 CS: Representative Gross.

49

1 VC: Thank you, Mr. Chair. I'm gonna change track a little
2 bit and recall back to why this Government Operations and
3 Audit Committee is addressing this topic. Prior to a
4 settlement you received upon leaving retirement or since
5 then, the subject of appraisal certification was not on
6 GOAC's radar. It was brought to our attention because of a
7 settlement you received following retirement. If I may, at
8 any time prior to a July 20th meeting, excuse me, that you had
9 with the Governor and some others, had you had anything
10 negative in any of your performance evaluations and if so,
11 were those documented in your file?

12

13 BR: Mr. Chair.

14

15 CS: I'm, may be hesitant about going into specific
16 employment issues, um, is there a, are you willing to answer,
17 answer that?

18

19 BR: Yes Mr. Chair. To my knowledge I've never had a, I had
20 not had any negative evaluations.

21

22 VC: And, if I may, you receive copies of any evaluation
23 reports or performance reports or whatever title or whatever
24 term is used for those, you receive copies of those so if, if
25 there had been anything you would have been aware of that?

26

27 BR: Mr. Chair. Yes I would, I would have been aware of
28 those because I, I believe that in the process, if you have
29 any negative areas of performance that you would need to
30 visit with your supervisor and be advised of those um, but I
31 am not aware of any.

32

33 VC: Okay. And, and were you asked to retire?

34

35 BR: Mr. Chair. No, I was forced to retire.

36

37 VC: Thank you.

38

39 CS: Senator Steinhauer.

40

41 SS: Thank you, Mr. Chair. I'm sorry, I'd like to go back
42 to, I'm trying to figure out how, what do we got to do to
43 improve this process um, and so I'd like to ask um, these,
44 going back to the reviewers and the questions that apparently
45 we aren't paying them appropriately, join the list of people
46 that we aren't paying appropriately maybe in the state of
47 South Dakota. But a, are they internal reviewers or internal
48 to the state or are they external and if it's a combination,

1 what do you think is the split? How many of them do we have?
2 Several questions there, I apologize.

3
4 BR: Mr. Chair. Thank you Senator. Um, I think I understand
5 the question. A, they are all independent fee appraisers on
6 contract with the Department.

7
8 SS: Uh huh.

9
10 BR: Um, does that answer?

11
12 SS: So are they um, are those contractors residents of South
13 Dakota or are they external to the state?

14
15 BR: Mr. Chair. Um, four of the, when I was the Executive
16 Director, four of the reviewers are in state and then we had
17 the fifth which I mentioned earlier, John Leary, out of
18 Connecticut who was initially contracted with to perform
19 appraisal compliance reviews on our examiners that was also
20 used as workload and things increased so we would use Mr.
21 Leary for that so both in state and then one out of state.

22
23 SS: So a, a total of five reviewers is what I heard. Four
24 in state, one external. And earlier we heard that possibly
25 the fee is causing a reviewer to maybe put that in the bottom
26 of the stack of his pile. We don't have data as to how
27 quickly we, we turn a, these applications. We don't have
28 average data. That's something I think the committee should
29 pursue but if there is a delay because we don't maybe pay
30 enough incentive for them to get quickly at these reviews,
31 could we solve some of this problem by increasing the number
32 of reviewers from 5 to maybe 7 or 8 and increase the through-
33 put and speed with which reviews are done?

34
35 BR: Mr. Chair. Um, and I, you know, I don't want to um, say
36 that that's the, first of all, if there are delays, I don't
37 want to just target that it's the fees. You know, I don't
38 mean to do that and I can't speak for the examiners. Um, I
39 would like to say with regard to the number of examiners um,
40 as I stated earlier, the examiners that we have on contract
41 currently are, their expertise is you know, highly ranked and
42 um, in order to get that type of expertise, I don't know that
43 adding additional examiners would really solve a problem
44 because you want to keep the quality of them. You know,
45 their expertise, and um all of that, you want to make sure
46 that you have the best working for you and um, you know one
47 thing that I think has been discussed earlier during an
48 examiner's annual meeting, that um, wouldn't necessarily be
49 bringing on more contract examiners but grooming, maybe

1 grooming, some, to, for replacement. You know to slip in to
2 those spots because you want to be very careful that you,
3 your, your examiner or your reviewer, excuse me, is um, is
4 highly qualified and has experience in a review, review work
5 and also is highly expert at the uniform standards because
6 that's what they're judging the work product against.

7

8 CS: Senator Nesiba.

9

10 SN: Thank you Mr. Chair and I'll continue this same line of,
11 of questioning from Ms. Bren. That there sort of two parts
12 to moving up, right. One is this review of the appraisal
13 work you've done and then the second is the national exam
14 that one takes and last time we heard conflicting testimony
15 about how many times one can take the national exam. Is
16 there a limit on the number of times one can take the
17 national exam?

18

19 BR: Mr. Chair. For the entry level which is a state
20 registered appraiser level, there is not a, a number, I mean
21 you can take that exam as many times as you want to. The
22 national exam for the licensed and certified level according
23 to administrative rule, you can take that exam up to four
24 times. If you fail it four times, then I believe according
25 to the administrative rules, you have to, to wait six months
26 and then reapply. Now you do not lose your education or
27 experience that you've gained. You still can apply that.
28 You just have to make application again and start that
29 process.

30

31 SN: Mr. Chair. Has anybody failed it more than four times
32 and then what's, and then what's the process if one does?

33

34 BR: Mr. Chair. I'm not sure if I can answer that Senator.
35 (Inaudible) my recent recall I don't know for the certified
36 and licensed level if anyone has failed that four times. A,
37 I'm not sure. On the state registered, there is no limit so
38 um, that wouldn't be an issue.

39

40 SN: Mr. Chair. Just a final follow-up and, and, and you
41 might not know the answer to this is that, so the question
42 really is, are we, have we, in your experience have we
43 followed the administrative rule in terms of just following
44 that process?

45

46 BR: Mr. Chair. To my knowledge we have followed the rules
47 as long as I was Executive Director.

48

1 CS: Representative Duba and then we'll go to Senator Hunhoff
2 next.

3
4 RD: Thank you Mr. Chair. Um, Ms. Bren, um you talked about
5 um, preparing a report in July for the Governor. Um, why
6 were you, were you asked to prepare that report and what were
7 the contents or the data you were gathering for that report?

8
9 BR: Mr. Chair. Representative Duba.

10
11 RD: Thank you.

12
13 BR: Um, on July 26 of 2020, a, Amber Mulder notified me that
14 there would be a meeting at the Governor's Office, or excuse
15 me at the Governor's mansion, on July 27th in the, to discuss
16 the following: what is the definition of a serious
17 deficiency; what criteria do you use for denials; how many
18 are denied each year; how many are approved; are we saying
19 that Kassidy can take certain classes and resubmit.

20
21 RD: Okay. Mr. Chair. Why was the Governor, or why, why,
22 let's not even ask why the Governor was, why were you asked
23 to speak specifically about serious deficiencies?

24
25 BR: Mr. Chair. May I counsel with my attorney?

26
27 CS: Yes.

28
29 BR: Thank you, Mr. Chair. Um, a proposed Findings of Facts
30 and Conclusions of Law was mailed to Ms. Peters on July 20th
31 of 2020, prior, immediately prior to that meeting.

32
33 RD: Mr. Chair. Um, when you attended the meeting on the 27th
34 at the Governor's residence, did you a, did you a, know who
35 would be in attendance in that meeting or were there any
36 surprises to the attendance in that meeting?

37
38 BR: Mr. Chair. I expected that it would probably be the
39 Governor and a, the Secretary of the Department, and Amber
40 Mulder. I was surprised to see that there were other
41 attendees at that meeting not only in person but by
42 telephone.

43
44 RD: Thank you. Mr. Chair. Follow-up. So when you attended
45 that meeting, um, what was the, can you give us a general
46 context of how the flow of the meeting went, maybe not so
47 much the length of time but how the meeting flowed? What
48 were your specific topics since you were given you know four

1 questions or information to bring and how that meeting that
2 flowed?

3
4 BR: Mr. Chair, may I counsel with my attorney? Thank you
5 Mr. Chair. Representative Duba, um, I would just like to um,
6 go through my notes from that meeting.

7
8 RD: Thank you.

9
10 BR: Um, you know I found when a, when I got there that the
11 attendees were Governor Noem, Marsha Hultman, Amber Mulder,
12 myself, Tom Hart, Kassidy Peters, Graham Oey by telephone,
13 and Tony Venhuizen by telephone and I would like to clarify
14 that this meeting is a little bit of a fog to me. I was
15 very, once I got there I was very nervous and quite frankly
16 intimidated as you can imagine. The Governor started with
17 the meeting with essentially this statement. I know for a
18 fact that South Dakota is the hardest state to get licensed
19 in as an appraiser and I intend to get to the bottom of this.
20 That's my recollection. I brought with me documents that I
21 thought would be helpful. I do not recall all of the
22 documents. However, I believe I did include the appraisal
23 compliance review report and um, that's used by the um,
24 reviewers and also I believe I had um, the upgrade procedures
25 with me. Um, I jotted down the information regarding the
26 questions that Mulder provided in, to me, in her e-mail and I
27 don't recall if I covered all of the questions during that
28 meeting. Um, but I can go through what I had jotted down if
29 you would like.

30
31 RD: Yes, please.

32
33 BR: What is the definition of a serious deficiency? Um, not
34 credible, defined in use USPAP as a, worthy of belief,
35 credible is defined as worth of belief. What criteria do you
36 use for denials? USPAP is the minimum and a, so not credible
37 fails to employ proper methods and techniques. How many are
38 denied each year? For the period five or May 2019 through
39 June 2020, there's been one denial. How many are approved
40 for the period of May 2019 through June 2020? There were a
41 total of 18 upgrade cases of which 12 were approved after
42 initial review and six applicants were entered into an agreed
43 disposition for second review of corrected re-write and
44 reports. Are we saying that Kassidy can take certain classes
45 and resubmit? My jotted down response is yes. Now I'm not
46 sure, I don't recall if we covered those. Um, I'm pretty
47 sure that we covered the first two but I'm not sure, are the
48 first three, but I'm not sure about the rest. There was
49 discussion regarding the upgrade procedures and the

1 experienced training program project. I do not recall the
2 details. At one point during the meeting, I mentioned the
3 appraisal classes that I thought would be helpful for Peters.
4 The Governor was upset that she was just now hearing about
5 these classes. Hultman spoke up saying that Bren had
6 originally prescribed additional education in the initial
7 draft of the agreed disposition. However, she decided that
8 they should not be required as a term or a condition of the
9 agreed disposition. The agreed dis, pardon me.

10

11 CS: Just a reminder if you are going to discuss with your
12 attorney, please turn the microphone off just to make sure,
13 you know.

14

15 BR: Thank you, Mr. Chair. I've been asked to clarify that
16 when I mentioned she, a, decided that they should not be
17 required as a term or condition, that would be Secretary
18 Hultman. Pardon. The agreed disposition transmittal letter
19 only included a recommendation to seek additional advice
20 about education per Amber Mulder's instructions. At this
21 point, I recall the discussion focused on crafting a second
22 agreement requiring Peters to complete the classes. Peters
23 agreed to complete the classes, correct and rewrite the
24 appraisal reports and submit them for review to the examiners
25 or the reviewer, Mr. Ibach, who had contracted with to do the
26 review. I'll continue please. Peters shared her
27 difficulties in finding a supervisor. Towards the end of the
28 meeting, Peters passed out a letter from her supervisor
29 Christine Jewels. After the meeting, I returned to my office
30 knowing that a second agreement would be provided to Peters
31 that included the terms and conditions discussed at the
32 meeting and it would go out in the mail for her to sign. I
33 took steps to contract with Mr. Ibach to perform another
34 review. I asked Mulder to execute a new contract or extend
35 the current contract, which ever worked best. I was not
36 advised of any changes that I needed to make to the appraiser
37 certification program.

38

39 RD: Thank you for that um, detailed statement. Appreciate
40 that. Um, were you a part of, did you craft that second
41 agreement and sign it? And is, is that the stipulation
42 document that we're talking about or did you do a second
43 disposition document?

44

45 BR: Mr. Chair. What you're referring to is the stipulation
46 agreement. It was signed by Amber Mulder and I, I don't
47 recall um, exactly how it was created. I know that it took a
48 lot of the language from you know the typical agreed

1 disposition and it included the classes that I had proposed
2 prior to that, that were removed.

3
4 RD: So again, a stipulation document is not normally used.
5 It was an exception to the process. Is that correct? Have
6 you ever done any of those in the past?

7
8 BR: Mr. Chair. I do not remember a, a second agreement in
9 the past prior to this and it was outside of the recognized
10 upgrade procedures but it is the prerogative of the Secretary
11 of the Department. She is after all, the decision maker.

12
13 RD: Yes.

14
15 BR: So departure would be her decision.

16
17 RD: Were you.

18
19 CS: Okay, let me, Senator Hunhoff has had her hand up.

20
21 RD: Alright, go ahead.

22
23 CS: So I think we'll, Senator Hunhoff.

24
25 SH: Thank you, Mr. Chair but I want to go back to um, the
26 um, the process for the evaluators if possible. Sort of a
27 follow-up for where Senator Steinhauer was. Is that okay?

28
29 CS: That is fine, yes go ahead.

30
31 SH: Thank you. Okay, I'll take my hand down. Um, first of
32 all, I just need to clarify if I understood correctly, we
33 have four reviewers in state that um, provide for the um,
34 review of the, the information that's required. Is that
35 correct?

36
37 BR: Mr. Chair. Yes.

38
39 SH: In regards to that, are those reviewers, do they also
40 have the professional designation at being at the top of
41 their license as appraisers?

42
43 BR: Mr. Chair. Um, I, I believe that they do um, that would
44 be something um, that you would need to ask the department
45 but to my knowledge they all are very highly designated a,
46 and a recognized as professionals among their professional
47 organizations and a, I can't tell you exactly what their
48 credentials are individually but they do hold high
49 credentials.

1

2 SH: Thank you. A follow-up, so you said they are
3 independent contractors. Do you negotiate with them for
4 their services?

5

6 BR: Mr. Chair. I have contracted with the reviewers since
7 we implemented that process. The contracts are actually, in
8 recent years, would have gone through Amber Mulder. She's
9 the contract person for the department, that's my
10 understanding.

11

12 SH: Follow-up. If you have negotiated, and I acknowledge
13 you don't have the final approval, have you negotiated in
14 that contract the time frame for completing their work for
15 each individual that is applying for a license?

16

17 BR: Mr. Chair. No, I do not recall that there is any
18 provision in the contract setting a time limit for submitting
19 reviews.

20

21 SH: Follow-up. So if I can glean from this there are
22 contracts available, you have indicated as a possible problem
23 is the reimbursement. That was just one and you said there
24 are other things but you don't have, and I don't mean this
25 you, the contracts do not have anything for a time frame for
26 completion. So it's at the discretion of that evaluator or
27 reviewer.

28

29 BR: Mr. Chair. Um, yes that is correct. I, I do try to
30 keep track, or I did when I was the Executive Director, did
31 try to keep track and um, we set, we do set some time frames
32 in the submittal of the case to the examiners but you know
33 extensions could be granted, would be granted depending on
34 circumstances but nothing written in the contract.

35

36 SH: One last question. Did I hear correctly that you said
37 with the person that you have out of state, you had
38 contracted with that individual to do a review of your
39 reviewers?

40

41 BR: Mr. Chair. Yes, Senator Hunhoff that is correct. We
42 contracted with John Leary. Um, it's been I think back in
43 the 90s um, to review work product or appraisals that would
44 be submitted by the reviewers that we were considering
45 putting on contract to ensure that their work product
46 complied with uniform standards.

47

48 SH: One last for clarification. So since 1990 you have not
49 had any kind of oversight or review of those reviewers?

1

2 BR: Mr. Chair. I'm not sure I understand your question. A,
3 once they're on contract we don't do like an annual or a
4 biennial review. Once they are on contract then um, there,
5 there's not another review. I don't know if that answers
6 your questions.

7

8 SH: Thank you Ms. Bren. It does. I was looking if we have
9 any other, usually even with independent contractors, there's
10 a review process so I'm just trying to find out again what
11 process, once they came on in 1990, there continuing on and
12 there's no look back if the process or the timeliness or
13 anything for measurable, for performance on those contracts.

14

15 BR: I believe that is correct Senator.

16

17 SH: Thank, thank you Ms. Bren and thank you Mr. Chair.

18

19 CS: Thank you Senator. Representative Gross.

20

21 VC: Thank you Mr. Chair. I'd like to follow-up on that.
22 Those independent contractors that do the reviewing, am I
23 correct in assuming that the contract requires them to
24 maintain their high level of credentials on an ongoing basis
25 to take whatever courses or certification or classes that are
26 necessary to maintain their credentials?

27

28 BR: Mr. Chair. I'm not sure if I can answer that question
29 Representative. We don't require that they take any a, you
30 know, specific courses while they're on contract. They do
31 have to have attend a, review courses. You know a study of
32 how to perform reviews in compliance with the uniform
33 standards and you know, but we don't require anything after
34 that that I recall.

35

36 VC: Follow-up if I may, we don't, my understanding that we
37 as a state may not require it but do we require them in
38 essence to maintain their high level of credentials?

39

40 BR: Mr. Chair. I believe if I understand your question
41 correctly, yes they would maintain their high level of
42 credentials, um.

43

44 VC: For instance, if one of them let their certification
45 lapse they would no longer be eligible to do the review work?

46

47 BR: Mr. Chair. That is correct.

48

49 VC: Thank you.

1

2 BR: They would have to be certified.

3

4 VC: Thank you.

5

6 RD: Mr. Chair.

7

8 CS: Representative Duba.

9

10 RD: Thank you, Mr. Chair. Ms. Bren, um, the Governor was
11 concerned about the process and indicated to you that it was
12 the hardest state to be certified in and she wanted to get to
13 the bottom of it. Had you begun the work on the grant and
14 the EPT program prior to that meeting in the Governor's
15 Office?

16

17 BR: Mr. Chair. Yes we, we had a, begun work on writing that
18 grant application for a, to submit to the appraisal
19 subcommittee and I a, I do have a, it's about two and a half
20 pages long but I do have a summary of overview of that
21 process if the committee would be interested in it.

22

23 RD: Yes.

24

25 TR: We'll provide both of those documents at the end of the
26 testimony.

27

28 RD: Thank you. Please proceed.

29

30 BR: And I really take joy in talking about the Experience
31 Training Program. Um, just a, a great opportunity for
32 appraisers trying to get into the business. In June of 2020,
33 the appraisal subcommittee released their notice of funding
34 availability for state appraisal regulatory agencies support
35 grant pursuant to Title XI as amended by the Dodd-Frank Act.
36 When Dodd-Frank was enacted in I believe is was 2010, it
37 authorized and mandated the appraisal subcommittee to take
38 funds that they were collecting to use for state grants. The
39 ASC was mandated to make these grants to support the efforts
40 of such agencies to comply with title XI. The Professional
41 Appraisers Association of South Dakota appointed Craig
42 Steinley to reach out to the Department with a proposal to
43 create a program to provide experienced training for entry
44 level appraisers using a grant from the ASC, Appraisal
45 Subcommittee. The purpose of the program would be to solve
46 the biggest problem for becoming an appraiser in South
47 Dakota. Candidates or newly credentialed appraiser trainees
48 found it extremely difficult, if not impossible in some
49 areas, to find a supervisor in order to attain the required

1 appraisal experience. Mr. Steinley, while in Pierre for a
2 hearing, shared the idea of a super-supervisor program to
3 provide supervised experienced training to new credentialed
4 South Dakota appraisers that would meet or exceed the
5 appraiser qualifications board criteria to Graham Oey,
6 program attorney, and myself. Mr. Oey ran this idea up the
7 flagpole. I was advised that the Department Secretary
8 supported the proposal as well as the Governor and that I was
9 to move forward post-haste writing the grant application. I
10 engaged three highly-qualified appraiser professionals as
11 Subject Matter Experts or SMEs to assist in writing the grant
12 proposal. The South Dakota grant proposal focused on the
13 eligible ASC funding criteria for expansion of appraiser
14 credentialing opportunities in under served markets. South
15 Dakota, like other states, suffers from an observed shortage
16 of appraisers that are willing to supervise appraiser
17 trainees. Individuals find it extremely difficult to obtain
18 the required experience for their licensed or certified
19 appraiser credential. Finally, after all the years of
20 struggling with the ever increasing shortage of appraisers in
21 South Dakota's small communities with no obvious solution,
22 the grant opportunity was truly an answer to a prayer. While
23 working alongside the SMEs writing the grant application, I
24 began to promote the concept, first to the advisory council
25 and then to the other stake holders. For example, the Board
26 of Directors of Professional Appraisers Association of South
27 Dakota and the South Dakota Chapter of the American Society
28 of Farm Managers and Rural Appraisers, South Dakota Banker's
29 Association and the South Dakota Association of Realtors. I
30 was successful in getting support for the proposed experience
31 training program from all of these stakeholders. Bankers,
32 realtors and appraisers. It was a win, win for everyone
33 especially the candidates are newly credentialed appraiser
34 trainees. Here's an overview of the ETP. It is a high
35 quality and impact oriented blue print for supervised
36 experienced training by a qualified appraiser trainer. It is
37 designed to improve the state's regulatory processes and
38 advance the appraisal profession by providing new credential
39 appraisers in underserved markets throughout South Dakota.
40 It is intended to demonstrate the feasibility of an
41 alternative path for an appraiser trainee to obtain the
42 necessary appraisal experience required for a credential.
43 Once there is proof of concept outcome, the program may serve
44 as a nationwide model for other states. And it has the
45 potential to remove one of the largest obstacles for those
46 seeking to become a credentialed appraiser. I had the
47 privilege of moving the bill through the 2021 legislative
48 session to adopt the authority for the experienced training
49 program. As I recall, the bill passed unanimously through

1 the Senate and only nine no votes in the House. I called
2 that a true example of legislation that was clearly
3 understand to be a solution to a problem that has existed for
4 a long time. The Department received notification that the
5 state's grant application had been approved. Once I received
6 the news that the grant had been approved, I again engaged
7 the same three SMEs, Subject Matter Experts, to execute the
8 State Appraisal Regulatory Agency Experienced Support Grant,
9 excuse me. Their work plan included developing and
10 implementing the experienced training program which included
11 the design and set up, required time-line, policies,
12 procedures and operations manual, training program criteria,
13 eligible student criteria and write lead and associate
14 trainers job descriptions and search the market and secure
15 the trainers. Prior to leaving my position as the Executive
16 Director of the Appraiser Certification Program, I continued
17 to facilitate the work of SMEs. We have made initial contact
18 with SDSU to consider partnering with the Department to
19 deliver a program that would be worthy of designation as a
20 master's degree curriculum. In closing, the intent of the
21 program is to provide appraiser trainees experience and
22 training to obtain the skills necessary to be considered an
23 asset to all users of appraisal services including the
24 expectations of the secondary market, FHA, VA, Fanny Mae and
25 Freddy Mac. I want the committee to know that the
26 experienced training program was intended to be a high
27 quality program with an assured path to an appraiser
28 credential. It was not intended to be a quick and easy path
29 that leads the appraiser trainee with only minimal experience
30 training that almost guarantees that they still won't be able
31 to get work from users of appraisal services. It is my hope
32 that the Department would not diminish the curriculum and the
33 number of hours of experience to complete the program just to
34 increase the number of appraisers in this state that are only
35 minimally qualified to be a credential holder. Thank you.

36
37 RD: Thank you. Mr. Chair.

38
39 CS: Okay, one more follow-up and then Senator Hunhoff has
40 had hand raised again.

41
42 RD: Um, so you talked about we got approval for the grant
43 and um, the approval for the grant, I'd just like that, that,
44 the approximate date of that approval and did you have any
45 opportunity in that meeting with the Governor talk to about
46 the extensive work that it was being done on the EPT program,
47 the grant and the subsequent bill before the Senate and the
48 House?

1 BR: Mr. Chair. Um, the grant application was, there was a
2 hard deadline. It was August 17. We started work on writing
3 the application I believe on or around the first part of
4 July.

5

6 RD: Uh huh.

7

8 BR: Then um, I recall a date of October 23rd of 2020, that we
9 knew that approval was coming. Um, and we had to put
10 together a little bit of additional documentation for the
11 subcommittee you know, to finalize that and it seems to me
12 that the notification to all of the states that had applied
13 for a state grant was issued on December 8 but we already
14 knew that um, we had that. As I recall, and again I am a
15 little fuzzy or um foggy on the meeting with the Governor, I
16 do remember talking about the experience program but did not
17 go into a lot of detail and of course as of July 27th, a we
18 had, you know we had things in place but I don't recall that
19 any details were discussed in depth.

20

21 RD: I have just one follow-up question, just one. So the
22 contents of the grant contained designed setup timeline and
23 the grant was approved based on all of the information by
24 this means and the work that you did so the grant approval is
25 based on that original submission, correct?

26

27 BR: Mr. Chair. Yes, if I understand your question
28 correctly, it was the work of myself and the, the subject
29 matter experts, a, for the grant.

30

31 RD: So any changes to that after you've, you were taken,
32 that opportunity was taken away, would be um, counter-
33 intuitive to the grant approval?

34

35 BR: Mr. Chair. A, Representative Duba, I might want to
36 clarify that um, the grant application was written given the
37 purpose, the goals, mission, that type of thing, the details
38 of the actual program began after the state was granted
39 approval for that application so that, that was in
40 development.

41

42 RD: Thank you very much.

43

44 CS: Thank you Representative. Senator Hunhoff.

45

46 SH: Thank you Mr. Chair. Ms. Bren I'm sorry I had a
47 difficult time keeping up with all, everything and being a
48 licensed professional, I think it's easier getting a license
49 as a nurse then it is for an appraiser. But here is my

1 question. When you talked about the stipulation agreements,
2 is it to be understood that this was the only stipulation
3 agreement that has been done or were there some before with
4 other appraisers?

5
6 BR: Mr. Chair. To the best of my knowledge Senator Hunhoff,
7 prior to the stipulation agreement that we are discussing
8 now, there had not been a second agreement or stipulation
9 agreement to my knowledge offered to an applicant for
10 upgrade.

11
12 SH: Okay, so again and I apologize Mr. Chair, we're just
13 saying this is the only stipulation agreement that has been
14 done. There wasn't anything before or there wasn't anything
15 after?

16
17 BR: Mr. Chair.

18
19 SH: With another appraiser.

20
21 BR: I'm sorry. Mr. Chair. Senator Hunhoff, I can only
22 speak to prior to um, this stipulation agreement that we are
23 discussing today. Um, I do not recall what has happened
24 since, since then, um, or since I have left the program.

25
26 SH: Thank you.

27
28 CS: Thank you Senator Hunhoff. Representative Gross.

29
30 RG: Thank you Mr. Chair. Ugh, to follow-up on Representative
31 Duba's questioning about the grant and stuff. Were you asked
32 to assist or provide any written documentation, uh for for
33 the incoming Executive Director? Prior to your leaving in a
34 2021? Did the transition involve your, in essence, assisting
35 or doing any training of your ah pre-s successor excuse me?

36
37 BR: Mr. Chair. No.

38
39 RG: Thank you.

40
41 CS: Senator Nesiba.

42
43 SN: Yeah. Thank you, Mr. Chair and Ms. Bren. I just want to
44 go back to July of 2020 and try to figure out this, this
45 timeline. So, there was a letter from your office going out
46 to Kassidy Peters on July 20th. Just to outline the facts of
47 the case. Was that letter sent, is that letter sent before or
48 after an agreed disposition has been made?

49

1 BR: Mr. Chair. An agreed, an agreed disposition uh was
2 offered uh around the end of March early April. A review was
3 conducted in accordance with that agreed disposition. And on
4 July 20th or around that date, a proposed findings of facts
5 conclusion of law and order were um, provided to the
6 applicant.

7
8 SN: Mr. Chair. As a, as a follow-up. What happens if an
9 applicant, disagrees with your finding of facts? Is there,
10 somewhere else they can appeal to? Or how does this go from,
11 can they appeal to the Board of Hearing Examiners for
12 instance? Um, and how often does that happen? So, I would
13 imagine that sometimes there are applicants, this is a
14 difficult process. You have an agreed disposition with
15 someone, and they simply say, no you're asking too much for
16 this. Can they then go to the hearing examiners and if so,
17 how often does that happen?

18
19 BR: Mr. Chair.

20
21 CS: Seems like you kind of already touched on that, so if
22 you want to quick summarize that answer

23
24 BR: Yes.

25
26 CS: Briefly.

27
28 BR: Uh, the applicant does have the right to due process
29 though the Office of Hearing Examiners and I only recall, and
30 and this is a three-year time span, that uh we had an upgrade
31 applicant contest our action. And that was back in the, I
32 would say mid 90's.

33
34 SN: And a. Thank you. And Mr. Chair just to, another follow-
35 up. So, there was agreed disposition created in March or
36 April. This meeting happens, do you create a second agreed
37 disposition at this point, or do you create the stipulation?
38 I'm trying to figure out how many agreed dispositions there
39 are and stipulation and what the relationship is between
40 these two or three documents?

41
42 BR: Mr. Chair. Senator, according to the recognized upgrade
43 procedures, there is the opportunity for an agreed
44 disposition which is a second review of corrected re-written
45 appraisal reports. If those on the second opportunity do not
46 comply with uniform standards, then the proposed denial is
47 the next step in the upgrade procedures. The stipulation
48 agreement that we're talking about today is outside of those
49 procedures.

1

2 SN: Another follow-up. Mr. Chair. A-a how much discretion
3 did you have as Executive Director, once that finding of fact
4 is has gone out? How much discretion do you have or does the
5 secretary I suppose have in um giving another opportunity?

6

7 BR: Mr. Chair. The decision to depart from recognize upgrade
8 procedures and offer a second agreement or third opportunity,
9 would be the secretary.

10

11 SN: And then Mr. Chair, has this happen before in your years
12 of experience in that office?

13

14 BR: Mr. Chair. Up until the stipulation agreement, I'm
15 unaware of any, uh instance where this had happened.

16

17 SN: Mr. Chair, just a final comment. So, this was out of the
18 ordinary, that this particular case was treated in a
19 different way then every other case that's uh that's come
20 forward.

21

22 CS: I, I think.

23

24 SN: That's my comment. Thank you.

25

26 CS: Oh, okay, thank you.

27

28 SS: Another question here.

29

30 CS: Senator Steinhauer had his hand up but I think we're,
31 we're break about 10:15. I, you know we've gathered a lot of,
32 a lot of good information here I think. I just kinda looking
33 over the list of questions we had I think, they've generally
34 been answered so if any more questions please uh, new
35 questions or new information, no repeats, k, Senator
36 Stienhauer.

37

38 SS: I might be on the verge of a repeat, just because I'm
39 just trying to clarify my answer Mr. Chair or my
40 understanding. It relates to uh earlier today I think uh what
41 I heard is that what one of our issues in turns of filling in
42 the pipeline of appraisers is that they need to work or be
43 supervised in their training process and finding individuals
44 willing to take them on. Uh comment I guess, I don't think
45 that's unique to the appraiser program. I think we've got
46 shortages in many fields' electricians, plumbers, you name it
47 because they have to work under supervision. And those poor
48 people's supervisor are just rewarded with new competition.
49 So, it's a hard thing to do. So, your grant is very

1 interesting to me, but I don't know if I really go it. My
2 understanding is it's a federal requirement that they work
3 under supervision maybe I'm wrong about that, so correct me
4 there. How are you gunna solve this problem of finding, is
5 it, tell me about the grant and how you're gunna solve this
6 problem not finding people to train?

7
8 BR: Mr. Chair, the intent of the, the experienced training
9 program is to hire an appraiser trainer. We would refer to
10 that as the lead trainer and probably has expertise in
11 certain types of appraisals and then it also gives the
12 opportunity to have associate trainer or trainers to fill in
13 any gaps, you know with that. So they would be hired to
14 provide this experienced training and it will be a
15 combination of virtual, virtual class, and also boots on the
16 ground you know inspections and things like that. A
17 combination which is very common today to use virtual
18 training for other industries.

19
20 SS: So essentially a state paid trainer and is, would that
21 have met the federal requirements?

22
23 BR: Mr. Chair, it, to hire the lead trainer and associate
24 trainer is provided for in the grant application that was
25 approved. The funding for that.

26
27 CS: Senator Wheeler.

28
29 SW: Thank you. And I'm trying to avoid a repeat also, but I
30 want to make sure I clarify, a fact here. You said that, when
31 we're talking about Ms. Peters appraiser application that
32 around March or April of 2020, she had been offered a agreed
33 disposition. Was there any a written agreed disposition that
34 was entered around that time between her and the department?

35
36 BR: Mr. Chair. Yes, in accordance with the procedure there
37 was agreed disposition signed by Ms. Peters and then fully
38 executed with my signature.

39
40 SW: And were the terms of that agreement, um, was the
41 content of that agreement uh, what you come up, had come up
42 with or had determined was necessary for her agreed
43 disposition?

44
45 BR: Mr. Chair. Originally I had drafted an agreed
46 disposition that included appraisal education, classroom
47 hours. And that that provision or term of the agreed
48 disposition was, I was asked to remove that and to simply put
49 in the letter of transmittal that additional education might

1 be beneficial and that you know, that was all that there was
2 for the education just a recommendation.

3
4 SW: Was it common for the Secretary of Labor to suggest
5 amendments like that?

6
7 BR: Mr. Chair. No it was not.

8
9 SW: Had it ever happened in the past?

10
11 BR: Mr. Chair. I do not recall that there's been involvement
12 by the secretary in this, the agreed disposition process.

13
14 SW: Thank you.

15
16 CS: Well, okay, I seen no questions and.

17
18 (Inaudible several committee members are talking at once)

19
20 CS: Okay Representative Peterson raised her hand. I did want
21 to make sure the people online you know had had a chance, yet
22 so we're going to go with Representative Peterson. Even if we
23 take a break at 10:15 I mean we can, you know come back to
24 questioning but still a quick break I think, think, but we're
25 going to go with Representative Peterson at the moment.

26
27 (Inaudible)

28
29 CS: Sorry I'm not sure if my mic was on but Representative
30 Peterson go head.

31
32 RP: Thank you Mr. Chair. You able to hear me?

33
34 CS: We are.

35
36 RP: Thank you. Thank you Ms. Bren for being here. You might
37 be aware that one GOAC's primary responsibility's is the
38 financial oversight of how taxpayer dollars are spent. And
39 you were paid nearly \$300,000 in a settlement. And so, I am
40 wondering if you can tell me, what lead up that? What were
41 the conversations leading to that, leading up to your feeling
42 forced out as I think you responded in a question earlier?
43 And who were those conversations with?

44
45 CS: Please turn your mic off.

46
47 BR: Representative or Mr. Chair. Representative Peterson um
48 on advice of my attorney respectfully decline to answer that
49 question.

1

2 CS: Thank you. With that I think we're going.

3

4 SN: Mr. Chair. Can I do one, just related, follow-up?

5

6 CS: Ok. Um

7

8 SN: Unless Peterson has a follow-up.

9

10 CS: Uh okay, okay, just a second Senator. Representative
11 Peterson do you have a follow-up to that? And again I as I
12 said before you know I would be, just be careful about
13 getting into certain employment issues out of respect for Ms.
14 Bren and just an issue okay. Representative Peterson uh we,

15

16 RP: Not at this time Mr. Chair. Thank you.

17

18 CS: Kay. Thank you. Senator Nesiba.

19

20 SN: Yeah, thank you Mr. Chair. I'll just try to reword that
21 in a, in another way of, just, Ms. Bren why do you believe
22 that you were, you were forced out of your position?

23

24 BR: Mr. Chair, Senator, I believe that it was age
25 discrimination and beyond that would be strictly speculation
26 on my part.

27

28 SN: Thank you.

29

30 CS: Yep. Thank you. We are going to break uh 10:15 uh come
31 back at 10:25. Government Operation and Audit is back in
32 order. We're still on the question segment um, Senator
33 Steinhauer would you.

34

35 SS: Thank you Mr. Chair. Um, during break and I, I'm sure
36 that the news media hear is are probably delighted because I
37 think there's a zillion people listening in today. I was
38 handed a copy of what and frankly some of this is a little
39 confusing to me but I hand a copy of a 2017 document that
40 appears to be a stipulation agreement and earlier uh Ms. Bren
41 indicated that she didn't recall. Frankly I get that I walk
42 into rooms and can't remember why I walked into them, so I,
43 your memory has been very good. We appreciate your testimony
44 and your straight forwardness. So, in the spirit of full
45 discloser during break then I gave Ms. Bren and her attorney
46 a copy of what appears to be a stipulation agreement from
47 2017. And with your indulgence Mr. Chair I'd like them to a
48 maybe just comment on, on, that.

49

1 CS: Absolutely.

2

3 TR: First of all, in so far as a legal objection. Uh this is
4 a document that's captioned.

5

6 CS: Uh can you please identify yourself.

7

8 TR: My apologies. Mr. Chairman, Timothy Rensch attorney for
9 Sherry Bren

10

11 CS: Thank you.

12

13 TR: And I would just note for the record that we were shown
14 this document maybe a four or five minutes ago and just given
15 a copy here at the table. And I just wanted to point out to
16 the committee by way of an objection. That this is a document
17 that's captioned in the Office of Hearing Examiner. And when
18 something is before the Office of the Hearing Examiner, it's
19 a different matter then these proceedings that we're dealing
20 with now when there's not been a request for a hearing or any
21 need to before the hearing examiner. Subject to that
22 objection I will allow Ms. Bren to answer questions as, as,
23 far as she is able.

24

25 CS: okay. Thank you uh, did you, so no further, did you have
26 a comment on that on that?

27

28 TR: All go.

29

30 CS: Or follow-up Senator Stienhauer?

31

32 TR: Maybe a specific question

33

34 CS: Yeah.

35

36 TR: About it.

37

38 CS: Okay.

39

40 TR: And then we'll answer it.

41

42 SS: Thank you Mr. Chair. I'm not exactly sure where to go
43 with it, so uh we were asking about earlier whether a
44 stipulation agreements had been in place with other
45 individuals who were attempting to upgrade their appraisal
46 license and I think your answer was you didn't recall that
47 they were. This might seem to contradict that. However,
48 your attorney I think is indicating that um this is different
49 in that it isn't um a stipulation agreement related to an

1 upgrade uh in a denial. Can you clarify that for me cause I,
2 I really to want to make sure I understand? This appears to
3 be a stipulation agreement which would indicate that they've
4 been done in the past.

5
6 BR: Mr. Chair. Thank you, Senator. Uh yes, I've briefly, uh
7 scanned over this document and as my attorney stated it is
8 clear that, it's something that is the result of an
9 administrative hearing at the Office of Hearing Examiners and
10 I also note that we are talking about the upgrade process
11 today at this hearing and this is clearly stated that it's a
12 new applicant case within the body of the stipulation
13 agreement. Once a case goes to hearing, then these documents
14 are outside of my authority or control. And it, it would not
15 be the same thing as, as what we are talking about today.
16 This is a new applicant, went to hearing and a stipulation
17 agreement was issued by the department.

18

19 CS: Follow-up?

20

21 SS: Thank you Mr. Chair. So I see that you were cc'd on it
22 at that time but it was probably just to keep you apprised
23 of the status of that, uh that hearing and it was it, so, it
24 was a hearing examiner and a decision by the secretary
25 nothing that you were directly involved in. Is that correct?

26

27 BR: Mr. Chair. I do not recall this case. It's, it's not
28 upgrade, it's a new applicant case and I don't recall who the
29 parties were. But if it went to the Office of Hearing
30 Examiners then that is the decision of the department
31 secretary.

32

33 CS: And just as a reminder when you do confer be sure to
34 turn both of your microphones off. Senator Nesiba.

35

36 SN: Thank you Mr. Chair and Ms. Bren. Just to be clear I
37 have not seen this uh this document but a, to be clear this
38 document was not signed by you?

39

40 BR: Mr. Chair. No it was not, Senator, it's signed by Amber
41 Mulder.

42

43 SN: And just a follow-up Mr. Chair. This came from the, from
44 the Office of Hearing Examiners and did not come from your
45 program, correct?

46

47 BR: Mr. Chair, the transmittal letter of this stipulation
48 agreement appears to have come from the Department of Labor
49 and Regulation. The Department of Labor and Regulation is

1 captioned on the stipulation agreement, not sure the origin
2 of that.

3
4 SN: And just final follow-up. Just to reiterate the main
5 point here that when we were talking about the case of
6 Kassidy Peters, that, in all of your years of working in the
7 Appraisal Certification Program, you had never signed, you
8 had never been a part of a stipulation agreement for somebody
9 that was in the process of uh upgrade in their license
10 request?

11
12 BR: Mr. Chair. To the best of my knowledge Senator, there
13 has not been a second agreement which has been titled
14 stipulation agreement. It's the agreed disposition if you
15 know if the reviewed reveals deficiencies then it goes to a
16 proposed finding of facts, conclusions of law and order for
17 denial, after that the stipulation agreement is beyond the
18 recognized upgrade procedures.

19
20 SN: Thank you.

21
22 CS: Yep. Thank you. Further questions? Again, new
23 information no repeats.

24
25 RD: Thank you. Mr. Chair. On the 28th of October and again a
26 bit today we've heard talk, we've, we've had testimony around
27 PAASD but more in particular around the advisory committee
28 that you worked closely with. And we we know that in other
29 states that there are advisory boards that work directly with
30 the ED, the Executive Director. In your opinion, do you think
31 rather than having just a voluntary board do you think it
32 would benefit the process, if we considered codifying and
33 making that board a permanent part of this process?

34
35 BR: Mr. Chair, Representative Duba, thank you for the
36 question. Um you know this has been discuss other the many
37 many years. You know should we have a board? You know a
38 decision-making board. Should we leave it the same where the
39 department secretary is the decision maker. And I believe
40 that in all our discussions there have been pros and cons.
41 You know one of the advantages of having the Executive
42 Director be the, the first line I'll say of handing you know
43 complaints and upgrades and administration of the program, is
44 you do have the consistency uh in all matters you know fair
45 and consistent and with a board there, you know maybe a
46 downside to that. That a board members are appointed uh and
47 they have uh different agendas and board members change. You
48 know with term limits and things like that. So, it's possible
49 that some of the consistency is lost. So, I think you know it

1 would be a balancing act and I, I really don't have a strong
2 opinion opposing are pro, you know, promoting an actual
3 decision-making board. You know I think there's pros and
4 cons.

5

6 RD: Follow-up? But you yourself worked very closely in
7 ongoing matter with PAASD and the board in your 10 year as an
8 Executive Director, correct?

9

10 BR: Mr. Chair. That is correct Representative, we, I relied
11 very heavily on the Advisory Council their duty to the
12 program was to advise the secretary on the administration and
13 operation of the program and you know, I don't know that I
14 ever recall a time when the Advisory Council came with a
15 recommendation to secretary that we've denied that you know.
16 And you know as with the board the Advisory Council members
17 have to come to that meeting, that position, wearing their
18 regulators hat. They have to put aside their, you know, their
19 personal things and operate as a regulator and in my opinion
20 the Advisory Council that we've had over the years, some
21 members have changed and and I'd like to note that this is
22 entirely volunteer Advisory Council. They're not paid
23 anything for their attendants and participation at the
24 Advisory Council meetings. But I have to say that in all of
25 my years as Executive Director we have had some phenomenal
26 members on the Advisory Council that really were an asset to
27 the department. Even though they were not being you know
28 appointed and getting paid or anything like that. It was
29 strictly for the betterment of their profession, that's my
30 personal opinion.

31

32 CS: Ok. One follow-up from Representative Duba. Then we'll
33 go to Senator Hunhoff online.

34

35 RD: Thank you very much. Ms. Bren, the stipulation document
36 was prepared by Amber Mulder and signed. After that signature
37 accrued on August 7th. Did you have any involvement going
38 forward with that particular case? Were you helping to
39 execute that stipulation agreement? Which would have normally
40 been your course of business as the ED.

41

42 BR: Mr. Chair. I believe the answer to that would be you
43 know I followed through on that case just like any other case
44 once Ms. Peters completed the education that was required
45 through that stipulation agreement and then submitted the
46 corrected rewritten reports. The, a review was conducted and
47 so I followed through as I would have in other course of
48 business with any case.

49

1 RD: Thank you.

2

3 CS: Thank you. Senator Hunhoff. Senator Hunhoff. Looks like
4 your still on mute.

5

6 SH: Sorry. Ok. Thank you Mr. Chair, and I apologize and I
7 know you say no requestion, but I wanted to go to that
8 stipulation agreement of a case before. If I heard correctly
9 when, when Ms. Bren described the processes for someone that
10 is not able to achieve a license. The last step in the
11 process was that you could go before an administrative law
12 judge. Is that correct?

13

14 BR: Mr. Chair. Yes, if the applicant wanted to contest the
15 sighted deficiencies through due process they have the right
16 to go an administrative hearing before the law judge.

17

18 SH: Thank you. Just one follow-up. Is it typical then that
19 if these cases go before the administrative law judge an
20 Executive Director has no knowledge of that?

21

22 BR: Mr. Chair. Senator Hunhoff, I'm not sure I understand
23 your question.

24

25 SH: Thank you. Simply, I'm the Executive Director of an
26 association under state government and someone has now filed
27 to go before an administrative law judge. I as the Executive
28 Director of that association have no knowledge that the next
29 step in the process is going forward.

30

31 BR: Mr. Chair, that would be incorrect Senator, the
32 Executive Director would be aware of a case, a new applicant
33 upgrade or complaint case going before the Office of Hearing
34 Examiners.

35

36 SH: Just one more then, thank you Mr. Chair and Ms. Bren,
37 did I then hear you incorrectly that when the question was
38 asked if you knew about this case prior to the one that that
39 sheet of paper that's out there? You indicated you were not
40 aware of that.

41

42 BR: Mr. Chair, I'm not, I don't recall this particular case
43 it's doesn't have the responce name, I just don't recall
44 this particular case.

45

46 SH: Thank you.

47

48 CS: Okay. Thank you Senator. I think if we're wrapping up
49 the question portion. It looks like, alright now we a.

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SN: Can I follow-up just on that?

CS: Okay. You may.

SN: And I'm sorry it's a follow-up to the previous question that yeah, going back to the advisory the Advisory Council that the good Representative from Sioux Falls was asking about. Would you see it as valuable to have the Advisory Council as an advisory body in statute? Not as decision making body but to formalize it instead of leaving it informal but to actually have in statute to serve as advisor a as advisory board to the appraiser yeah to the appraiser. What's the title? ACP? Certification Program yep.

CS: Certification program?

SN: Thanks. So many so many acronyms' todays for those for those listening at home.

BR: Mr. Chair. Thank you Senator. I, I believe it's my opinion that it would be a good idea to have the Advisory Council have statutory authority for for that body and the reason I say that is you know in the 30 years that I was Executive Director, you know we engage that body of folks on a regular basis. We had term limits we had meetings. You know typically scheduled every quarter. But moving forward it might be a good idea to have statutory authority so that it continues in its compacity if that's that the legislator decides.

SN: Thank you.

CS: OKay. Thank you Senator. I see Representative Peterson has her hand up so we are going to go to her and if anyone else online wants to speak after please put your hand up right away. OKay. Representative Peterson.

RP: Thank you Mr. Chair. Ms. Bren you had indicted at in a response to Senator Nesiba question that you believe that you were discriminated against. And I wondered if you could tell us what is it that made you feel that way?

CS: Representative Peterson they did indicate earlier, you know they didn't feel comfortable answering you know questions beyond the scope of the age discrimination is that still accurate?

(Inaudible)

1
2 CS: Okay. Any any further questions Representative Peterson?
3
4 RP: Yea I think that was a question related to the age
5 discrimination, I don't think that's beyond that.
6
7 CS: Okay.
8
9 RP: It related to, why did she feel that she was
10 discriminated against related to age? That was my question.
11
12 CS: You want confer turn your mics off.
13
14 BR: Mr. Chair. On advice of counsel I respectfully decline
15 to respond to that question.
16
17 CS: Okay. Thank you.
18
19 RD: Mr. Chair just one follow-up, please. If I might?
20
21 CS: Okay. Go ahead.
22
23 RD: Ms. Bren would you feel more comfortable answering that
24 question or related questions if you were released from the
25 disparagement of the non-disparagement agreement?
26
27 BR: Mr. Chair. At this time I don't care to respond to that
28 but we can take that issue up at a later time if that does
29 accrue.
30
31 CS: Okay. Thank you. Can't see any more.
32
33 RD: Thank you Mr. Chair.
34
35 CS: Okay thank you Representative. I didn't see any more
36 hands go up online. We do have some others in the room and
37 remotely to testify related to the appraiser program. So I
38 think we're gunna more on to that next. We do thank you Mr.
39 Wrench and Ms. Bren for coming here today and answering our
40 questions.
41
42 TW: We'll get you those documents.
43
44 CS: Okay. We appreciate that to, please do. First one signed
45 up is Brian Gatzke
46
47 LS: He is on the line. (inaudible)
48
49 CS: And he is

1

2 LS: He was on the line.

3

4 CS: Is on I see his uh name up there online so go head make
5 sure your mute is off and.

6

7 BG: Mr. Chair thank you for allowing me to participate and
8 all the questions that have been come.

9

10 CS: Mr. Gatzke you're a little s we're hearing some static.
11 Your.

12

13 BG: Okay so is this any better? Testing 1 2 3.

14

15 CS: It is not.

16

17 BG: Testing 1 2 3. I will reconnect in and dial back in
18 sometimes that helps.

19

20 CS: Yeah we'll go on to the next testifier at the moment.
21 Let's you can see do something different on your end for the
22 time being. Up next we have Alan Hanks. In the room. For the
23 record state your name and you may began.

24

25 AH: There we go. Thank you Mr. Chairman. Committee members.
26 My name is Alan Hanks from Rapid City and I'm representing
27 myself. The reason I felt come basically the reason I felt
28 that I needed to come and talk is because I think I've had
29 somewhat of a unique experience. Very similar to some of the
30 discussion today. Just it has far as way of background I'm
31 looking up here and I see any familiar faces. I I served with
32 Senator Hunhoff in the legislature but a lot of new faces
33 here, which is a good thing. But as a former elected official
34 and more importantly as a as a former appraiser. I th I want
35 answer just a few questions. I I do want to say that you
36 covered an awful lot of ground in in you pretty much,
37 basically answered about a uh 80 percent of my talking points
38 already. So I'm gunna keep it very brief cause I know the
39 meeting is getting long. Uh, first I want I want talk about
40 the fact that there was question of what we can we do to make
41 the appraisal uh process better as far as upgrading. A couple
42 suggestions I've had in uh I think I've actually shared some
43 of these with with Sherry Bren in the past and they already
44 some are been uh dressed. First first would be look at
45 additional alternatives to training slash hours. And I think
46 that's already been addressed. Look for opportunities to use
47 educational system more in the process of getting qualified.
48 I like that as being addressed. There's a couple others that
49 I think weren't talked about talked about that I think were

1 important. Uh number one uh see if there's any way to look at
2 the liability that a supervisor takes on when he takes a
3 trainee underneath uh his guidance. And the reason I say that
4 is the fact that I'm uh I've had this conversation uh many a
5 times, is the fact that as a training supervisor you are held
6 responsible for 100 percent of the work product of your
7 trainee. And I will tell you um, I was looking at actually
8 becoming a trainer I was actually uh state licensed uh both
9 in in South Dakota and Arizona. Uh I was gunna move up to uh
10 certified residential and the reason I was going to do that
11 was because uh I had some people that were interested in in
12 training underneath me. Uh and having the conversation that
13 that 100 percent liability uh for the work product of a
14 trainee, killed the deal. Um, I'm not sure what the answer is
15 but I think its something that should be looked at and if
16 there's possibility of limiting exposure. I think your
17 probably going to find a lot more willingness for uh for
18 certified uh appraisers to actually take on trainees. Uh thee
19 other thing and of course uh it was referred to uh briefly is
20 is a fact that, because of the the current situation,
21 especially in the past know I-I-I want s want a repeat that
22 I'm former, appraiser because I did give up my license about
23 five years ago. Uh I just I've other business uh uh
24 investments uh made me go a different direction. But back
25 then the problem was it the fact that unless you literally
26 were either uh related to or good friends with a appraiser
27 that was certified, you couldn't find a trainer. You
28 literally couldn't find one. And so I-I've I've I want a give
29 credit where credit is due that they have moved on beyond
30 that. I didn't realize they had done that but that is a good
31 thing. Uh the other th the other thing that I would suggest
32 is taking a look at, appraisers that are no longer certified.
33 Those that have have basically let their licenses expire. Uh
34 my understanding a-a-and and uh if if um if if this is isn't
35 correct uh I would ask that someone please correct me. But,
36 the way it was explained to me is that if you let your
37 license lapse and if you want to get back in, you have to go
38 back and start from square one. You don't get credit for k uh
39 for your educational credits. I do believe you probably get
40 credit for your work experience. So if there was a way to
41 basically have a process where you could go out and reach out
42 appraisers like myself and others that have moved on but, now
43 I'm semi-retired I'd have the time to get back into it, but
44 I've let my license lapse. I'm not gunna go back down say I'm
45 not gunna spend uh the time uh and the money and the travel
46 to go back and work my way back up the ladder and go through
47 the whole process again. Uh couple other things that I though
48 was uh I'm gunna put on a different hat if I may Mr.
49 Chairmen. Uh this hat is a uh I-I-I was very fortunate to

1 actually uh serve as uh chief executive of of a uh large uh
2 uh governmental organization city of Rapid City when I was
3 Mayor. A-and one of the things that I just want comment on is
4 the fact that um I understand uh th-that uh the Executive
5 Director B-Bren uh feels that she wasn't treated properly. I
6 don't know the details, but I-I want point out a couple of
7 things generically. And that is number one uh as an Executive
8 Director, uh she is at will employ is my understanding. She
9 serves at the pleasure of the chief executive and please

10

11 CS: Well

12

13 AH: (inaudible)

14

15 CS: Okay. Let's, careful about going into in.

16

17 AH: Yep.

18

19 CS: Details.

20

21 AH: And that fine.

22

23 CS: I just wanted again just before.

24

25 AH: But from from experience, cause I've been many similar
26 situations. When, when you're looking for a change within an
27 organization uh whether uh a department typically uh often uh
28 you you have to uh, you basically you decide as an executive
29 uh that the best course of action is to have new leadership
30 within that position. And quite often what will happen is you
31 would call in a department director, I'm just going to use an
32 example, uh department director and Executive Director. And
33 what you would do is you would basically give them the
34 opportunity to retire and if they chose not to retire then
35 you would replace them, in essence, let them go. The reason
36 you do that is the fact that it's out often courtesy to that
37 employee. Uh because as they go forward and look for other
38 opportunity. There's a big difference between when you when
39 ask a question well what happen to your other job. While I
40 was let go. Verses I-I resigned. And so I can see where
41 Sherry Bren would feel that she was forced to retire but.

42

43 CS: Okay. Again careful.

44

45 AH: Yep.

46

47 CS: On.

48

49 AH: Okay.

1
2 CS: Mentioning name and.
3
4 AH: Yep.
5
6 CS: So.
7
8 AH: Okay.
9
10 CS: Are.
11
12 AH: Will do.
13
14 CS: Okay.
15
16 AH: Last thing I I'll tell you what everything else pretty
17 much been covered. I don't want a take up anymore your time
18 but uh appreciate your uh your time. Appreciate all the
19 questions uh they've been very good and based upon your
20 direction to the, to the folk's testimony I don't think I
21 should add anymore.
22
23 CS: Okay, okay but just in case anyone.
24
25 ??: (inaudible)
26
27 CS: Has some.
28
29 ??: (inaudible)
30
31 CS: Questions?
32
33 AH: I'm more than willing to answer any questions.
34
35 CS: Right. Is there any questions for Mr. Hanks?
36
37 SN: Yes.
38
39 CS: Okay, Senator Nesiba?
40
41 SN: Yeah, thank you Mr. Chair and I don't know if Mr. Hanks
42 can, Hanks can answer this or not. I'm Sorry is it Hank or is
43 it Hanks?
44
45 AH: Hanks.
46
47 SN: Hanks, was Ms. Bren an at will employee?
48

1 AH: I would assume so based upon my understanding of it, Mr.
2 Chair I apologize

3
4 CS: It was, you know for I mean that not trying out question
5 for I mean that's you have no relation to that I mean you're
6 not working for the department of labor or anything so I. I.

7
8 SN: And then, Mr. Chair just a just a comment that, I would
9 hope that you know that everybody working for State
10 Government doesn't feel like, that their employment is
11 entirely at the whim of some administrator above them and can
12 be summerly dismissed for any reason this why we have law and
13 I think this why the State ended up paying over two hundred
14 thousand dollars to settle what was viewed a wrongful
15 dismissal and so my comment Mr. Chair is that I think this
16 case is far more complicated than Mr. Hanks has has made it.
17 Thank you

18
19 CS: Any Further questions, comments?

20
21 CS: Okay. Thank you. And thank you for supplying some very
22 good information.

23
24 AH: Thank you. appreciate it.

25
26 CS: I should we check with Mr. Gatzke. We're going to check
27 back with Mr. Gatzke

28
29 BG: Okay, this is Brian Gatzke is it any clearer today?

30
31 CS: Yes, we can hear you much better. Thank you!

32
33 BG: Okay. Alright thank you. My name is Brian Gatzke. I'm
34 owner of Northern Plains Appraisal in Brookings South Dakota.
35 And the specialty that our firm has is with rural property
36 agriculture, small commercial and rural residential. I'm here
37 today because I've been asked by many people press and
38 legislators and private citizens about why is it so hard to
39 become an appraiser, and from that stand point I'm one of the
40 few exceptional people that have a supervisor role and being
41 here in Brookings South Dakota at South Dakota State
42 University, I have also taught at the University appraisal
43 classes and helped established the program with a team of
44 people, and I believe that you are correct that the largest
45 obstacle outside of passing the exams and courses is finding
46 the supervisor and keep in mind as you're dealing with this
47 issue it's a federal license, that's mandated to be managed
48 by the State at a minimum federal standard and listening to
49 Ms. Bren's uh discussion today I thought she a did very

1 outstanding job of summarizing the notes for you, but one of
2 things is there's a couple of issues. My liability as a
3 supervisor went up from \$600.00 as a private individual, to
4 \$2600, I'm limited to three people believe me that is all you
5 can handle as a private person. I'm not biased I have an
6 open door to all groups of diversity. It really takes six to
7 twelve months before you actually know if the trainee is
8 worthy of being an appraiser because of the complexity of
9 what we do. You know, we're, we're investigative reporters
10 you have to have a high cognitive skill set you must
11 communicate, and you have to have a high level of logic. The
12 process that I have seen in the past is the State of South
13 Dakota has been noted is being one of the top fund
14 organizations, a state association for governments in the
15 past. I'm active with three of appraisals organizations and
16 I only am here speaking on my own behalf not of those three
17 organizations. As a supervisor my mission in life is
18 different maybe then most people. But I can tell you that you
19 don't make money doing this. I have already trained one of
20 my largest competitors he is very good high-quality appraiser
21 and I have a lot of respect for the individual. But same
22 time I did train a competitor. But we have an open-door
23 policy. I work with a wide variety of people and addition of
24 that having the trainees come in because it's South Dakota
25 State University with a minor of real estate. I have an open
26 door to visit with anybody and I also do speaking up on
27 campus whenever a student or organization asks. There are a
28 lot of things that you can go down the road on, but I thought
29 I would share with you that the biggest challenge is having
30 somebody with a work ethic today verses work ethic at twenty
31 years ago, in addition to that ethics plays a big role in
32 what we do, and they do teach ethic classes but that's really
33 something that you learn as a young child. But we have an
34 open-door policy and a so I have quite a bit what you call
35 school of hard knocks, lumps and bruises and and so, if
36 there's anyone that has a question, I would be happy to
37 address that on a supervisory role but keep in mind we are
38 required to meet a federal standard, and this is where you
39 have this issue of federal related transactions. Federal
40 related transactions under FIRREA is what led to this
41 industry and we're really an infant. Think about any other
42 professional license we only been around since 1991, so with
43 that I'll take any questions otherwise just wanted express
44 that alternative paths are needed I really would encourage
45 you to look at agriculture instead of residential or
46 combinations thereof. The training program that is set up
47 they have foundation is really set up residential. Are
48 shortage is in central South Dakota is on agriculture and
49 commercial. Asian population so with that thank you and I'll

1 answer any of your questions, Chairman thank you for this
2 time.

3
4 CS: Okay, thank you and I'll just make a comment since we
5 got about four people, I think that signed four or five
6 people to testify, you know, if you're not testifying by the
7 committee member thinks of a question, they had for somebody
8 already went or if maybe a questions asked that someone feels
9 they could better answer we can certainly you know be open
10 about, about some questions there. So, Representative Duba.

11
12 RD: Thank you Mr. Chair. Thank you Mr. Gatzke. I have
13 question for you, and I heard from um Mr. Hanks and now from
14 you. You talk about the liability as of being a supervisor.
15 Is there a possibility or in your opinion would it behoove
16 individuals if there were some incentives, financial
17 incentives? Because we know that this group is self-funded
18 and there is a budget around it. Would it a financial
19 incentive help reduce concerns around liability?

20
21 BG: Representative Duba this is really a more than South
22 Dakota question this is a wide and broad federal related
23 question. It's a federal license a federal mandate and airs
24 and admission insurance for liability is incentives would
25 help, but you are talking two thousand dollars a supervisor
26 in my case, and does the State have enough money if you had
27 ten or twenty supervisors to pay a two thousand dollars year
28 differential. I'm not sure. Thank you.

29
30 RD: Thank you for that answer. And you know we can, we can
31 look into that because, because, we know they have a budget.
32 So, thank you very much for your answer.

33
34 CS: Actually I did think of a question an I think Mr. Hanks
35 touched on it more but if either of you would like to answer
36 the comment about when you retire from the profession and
37 maybe credits or you kind of have to start over. Do either
38 of you know that's is there anything that can be done at the
39 State level to do something about that? Or is that all, all
40 federally related? You know, I see you shaking head on that.
41 Do you want to come up and just say, I Mean if the answer is
42 no just say no for the record.

43
44 ??: No for the record.

45
46 CS: Oh, Okay I'll say it in the microphone that he did say
47 no it would be a, be at the federal level if that's accurate.
48 Okay. Further questions? Okay Senator Steinhauer and go to
49 Senator Nesiba.

1
2 SS: Thank you Mr. Chair. Mr. Gatzke thank you for your
3 testimony and highlighting this issue that was also brought
4 up about liability and the incremental cost. So, we've heard
5 a little bit about the hurdles to become a trainer in terms
6 of liability insurance cost you create your future
7 competition, so, I'm going just ask. Why do it? What are the
8 benefits to you? Because sometimes besides minimizing the
9 liability's we need to figure out how to extenuate the
10 benefits. So, what are the benefits becoming a trainer?

11
12 BG: One of the benefits is running any company is to grow
13 the company and having a training process in place is one way
14 to grow future employees. I have become good friends with
15 the induvial who left. He's, you know as they say teach
16 someone how to fish and they can feed a family and that's and
17 that's what that person is doing. They're doing a very good
18 job from my standpoint I want to help people, my wife says
19 quite saving the world, but in the same hand a we're trying
20 to grow the company and grow the business. There are real
21 good folks out there and, I realize that's sensitive topic
22 but well also the back log is intense. Right now, I think
23 last two years some of the folks had the best year ever on
24 record, we have a shortage. We're setting at three to four
25 months back log in are business, and what other business can
26 you guarantee three of four months back log. And so, there is
27 plenty of room for new competitors. Thank you.

28
29 ?? Thank you, Senator Steinhauer.

30
31 Sn: Yeah, Thank you, Mr. Chair and Mr. Gatzke. How many
32 people have you trained since you started doing this?

33
34 BG: Um, I really have not kept track. Um, but I believe that
35 it's probably close to ten to twelve and as they say usually
36 one is six stay.

37
38 Sn: That was my, you anticipated my next question I was
39 trying to figure out how. So, do people, do people just give
40 up or did you end up dismissing people or how do people end
41 up not becoming an appraisers?

42
43 BG: Part of training process is with any career is the
44 sacrifice that you give it to, the early phases and so you
45 learn by hiring someone usually six or eight months after
46 you've hired them if their what you call the caliber that you
47 think an appraiser should be. The also the other prob, the
48 other issue is that, at the federal level we have courses
49 that are required to take, and along South Dakota had the

1 entry exam. Well, those are all gate keepers. And if you
2 fail the courses, if you fail the entry exam, usually after a
3 few times, you realize that it's not a career for the
4 individual. And you encourage them to go away. And we've
5 modified our training so they're more into the sales analysis
6 research side of it. But again, there is no cookie cutter
7 approach, it's lack of consistency. Some people are not meant
8 to be supervisors. Maybe I'm not. I keep trying. We've got
9 three good people now, but the thing is, is not everybody is
10 meant to be an appraiser not everybody is meant to be a
11 supervisor and frankly to be a supervisor is pretty easy.
12 You sit through four-hour class, you take a one hour examine
13 and you are done. There is no review of your work product or
14 anything like that. But that's a whole another topic that's
15 not a federal related one. That's an opinion of myself.

16

17 Sn: Thank you Mr. Gatzke. No further questions. Thanks

18

19 CS: Further questions for Mr. Gatzke at this time? Alright
20 thank you Mr. Gatzke.

21

22 BG: Thank you Chairman.

23

24 CS: Next up we have Megan Olson. Ah, Megan Olson online.

25

26 MO: Thank you Mr. Chair. My name is Megan Olson and I have
27 the privilege of representing community banks that are
28 independently owned all over the state of South Dakota and
29 really to echo what you've heard this morning. I won't get
30 real lengthy but rural South Dakota is absolutely struggling.
31 This is not a new issue you know that you can talk to any
32 banker across the state of South Dakota especially those in
33 rural areas they will tell you exactly that. We're seeing
34 wait times for new homeowners, small business owners, exceeds
35 six eight, ten, twelve weeks, and really as community bankers
36 our goal is to to you know help with the vibrancy of South
37 Dakota make sure its strong. This is a clog in the wheel.
38 And so, we're very supportive of anything that the legislator
39 can help with, the changes and the programs that the
40 Department of Labor has already started to make and just echo
41 the importance of really trying to stream line this process
42 and making sure that we get more folks in the market place
43 that are capable of serving citizens, and and really moving
44 the process forward.

45

46 CS: Okay, Senator Hunoff.

47

48 SH: Thank you Mr. Chair. Just a question for whoever. You
49 know it's very interesting and enlightening to hear the last

1 three speakers. And I guess what I'm questing is this. We
2 hear about ever need with South Dakota with work force. Until
3 this scenario evolved this summer that's the first, we have
4 heard. So, what have been your actions up to this point to
5 get the message across that we need more? Thank you.

6

7 BG: This is Brian Gatzke. I can reply if you want? Senator,
8 or Chairman.

9

10 CS: Go ahead Mr. Gatzke.

11

12 BG: A couple of things from a national level. I'm engaged
13 with two appraisal organizations. I serve as a chair on an
14 education committee for a one organization and I have been
15 engaged in the government level working in DC and other areas
16 also, at the state level, being the, involved with another
17 organization in our state level I've got engaged in promoting
18 this. Now workforce development also I'm also do consulting
19 for the South Dakota Native American homeowners' coalition.
20 One of the shortfalls they have, is they can't find
21 appraisers and I engaged them about five or six years ago.
22 They help, they called us because we had an ad out looking
23 for trainees. And so that option is still there, we're
24 helping write a class with another, with a team of people and
25 work force development would be a great topic to bring
26 forward. The feds have federal money available for veterans,
27 for minorities, for diversity, disadvantaged. I think this
28 State could become very active in that role of obtaining
29 those grants. But in the same hand, we have to remember, if
30 you're going to require an appraiser to be the supervisor
31 that appraiser will not train their competition unless they
32 have a different motion in life. So, encourage you to look
33 at our higher education system. Votech schools would be a
34 great tool for residential and the board of regents would be
35 a great place for advanced learning, at the high-level of
36 master's degree. Much like the Texas A&M does with the
37 college of real-estate. Hope that helps answer your
38 question. Thank you.

39

40 SH: Thank you.

41

42 CS: Representative Dubia.

43

44 RD: Thank you Mr. Chair, Mr. Gatzke very good points. Were
45 you at all engaged or involved with the development of the
46 curriculum with a grant that was approved for the State of
47 South Dakota?

48

1 BG: The appraisal organization that I was involved with and
2 am still involved with today was asked to support the
3 program. Ah, we supported the program providing the fact that
4 it would go into rural areas, agriculture, and small-town
5 commercial. But it's my understanding the program has taken
6 a little bit of a turn into residential only. And that's
7 mainly because of the complexity of the rural and commercial
8 area and the residential is still complex but it's a focused
9 area and finding trainers on all three topics probably the
10 biggest challenge and I can understand why the state choose
11 to do only residential focus on the training program because
12 it's a steppingstone. Thank you.

13

14 SH: Thank you. That was very helpful thank you.

15

16 CS: Further questions for Gatzke or Megan Olson. Miss Olson
17 did you have anything further?

18

19 MO: No, that was it Mr. Chair. Thank you.

20

21 CS: Okay, Thank you. Next, we have Chase Christenson.
22 Chase Christenson.

23

24 CC: Hi can you hear me.

25

26 CS: We can hear you

27

28 CC: I apologize the name is not correct on your screen
29 probably, but I am Chase Christenson representing just myself
30 here. Just a couple of things I'm gonna try and hit you from
31 two avenues from here today. I am a former state registered
32 appraiser. I was in the field for four years working under
33 that, that level of the four levels. And then I moved out of
34 the appraisal world in 2020 and jumped over into just full-
35 time lending and now work at a small community bank. Under
36 that avenue, or working at community bank, you know today, I
37 work a lot with, like Brian was saying, a lot with AG deals
38 and some residential. But in that process now you have a
39 local banker, a local realtor, a local broker, a local buyer
40 and seller, and, if it's a home deal a local home inspector
41 and and the missing link to all of that is typically the
42 appraiser and sometimes that's calling to Nebraska or calling
43 somewhere out of state to try to find that appraiser that can
44 it done because the last appraiser you called as well, we can
45 do it for you but it will be twelve weeks, so. That is a
46 main issue I guess on the, on the bank side the community
47 bank side in South Dakota right now. But jumping back in my
48 former appraisal hat, one thing I would say is I was lucky
49 enough to find a supervisor and and not many people out there

1 like Brian who previously spoke before me and lucky enough
2 you are in that part of the state to find somebody like that
3 able to be willing to train your competition and take on that
4 responsibility like Brian was telling you but, one thing I
5 would like to just point out from everything I've heard today
6 is and it hasn't really been brought up much is the cost that
7 the person trying to get into the field has to burden and I'm
8 not saying that as you know if you're going on to get your
9 masters or anything else, there's always costs and further
10 education and I understand that but, the timing that it takes
11 and like Brian said, one out of six typically make it in the
12 field and it typically just takes twelve months to get into,
13 in you know, just get set up and going. I think based on
14 everybody I have talked to, you're looking at a three to four
15 year minimum to just to get your state registered and then be
16 ready to go take that exam to start looking to bump up in
17 your career to that general status level and throughout that
18 time you might find a supervisor that says you know I would
19 love to take you on come work for me I'll train you I'll do
20 everything but they're not obligated to pay you so that's
21 kind of the other side you know the the supervisor is taking
22 on a lot of responsibility and more reliability, and more
23 incurred cost but at the same time you could be working there
24 as the trainee for three or four years not making any
25 compensation and as we've heard before you do need a
26 bachelor's degree to even get into the program. so, you're
27 you're looking at being a twenty- or twenty-one-year-old
28 likely individual at a minimum to get started. Um, most, you
29 know, a lot of South Dakotans are including myself was you
30 know, looking to start my family I was getting married that
31 year looking at buying a house and here I'm going into a
32 field where well, you're not gonna really get compensated for
33 the next four years for everything you're doing. A lot of
34 supervisors aren't able to offer benefits to their trainees.
35 So, its you know, kind of a another aspect to look at it as
36 you know, there's there's a lot to why that is I believe that
37 only one in six make it, you know a lot get in and say
38 including myself, I was four years in and said you know the
39 compensations I'm getting back for this and the amount of
40 work is not worth it and I was offered a full-time job so I
41 jumped ship at that time but um. And one other point I guess
42 after listening to everything today and I'm kind of jumping
43 around here a little bit but um I have talked to a lot of
44 appraisers and especially now that I make a lot of phone
45 calls to them trying to hire them. Supervisor process of
46 hiring a trainee getting them through all the work and then
47 sending in their report to be reviewed and you get to that
48 point that supervisor has groomed, has looked at that report
49 has absolutely micromanaged that report to, a fine-tooth comb

1 before that report is getting sent via to their reviewer.
2 I've heard of reports of four to eight months before the
3 reviewer gets ahold of that report, gets the report back to
4 them and then you know is able to analyze it and say well you
5 did x y and z wrong and with that said I mean, it kind of
6 goes back to you know I been in this thing for four years I
7 thought I made it to the finish line, I'm submitting my final
8 report only to sit here you know kind of on my hands waiting
9 for five to nine more months and I have heard a case of an
10 individual it did take him nineteen months before you know,
11 the reviewer did not like his report the first time that was
12 five months and then it took an additional almost half a year
13 before he heard back from that reviewer. You know to get
14 bumped up to that general status so you know the costs
15 incurred in waiting for the process to play out by the, by
16 the individual trying to you know jump, up, I do think that's
17 why only one in six you know, including myself bail out and
18 just say you know, I can't do this another twenty-four months
19 without receiving more compensation and making it work for my
20 family, so.

21

22 CS: Alright, questions for Mr. Christensen? Okay thank you
23 Mr. Christenson and up we have Craig Steinley I apologize if
24 I didn't say that correctly.

25

26 CR: Thank Mr. Chairman I was asked to discuss a little bit
27 about the advisory council that we have but, I'm also
28 compelled based on some of the statements uh today to make
29 some additional comments, I'm representing myself today I'm
30 currently the vice president of the appraisal institute the
31 largest trade organization for appraisers in the United
32 States but I'm not speaking in that official capacity. Just
33 speaking as individual who's has uh appraised in South Dakota
34 since, the mid nineteen eighties and has had the privilege of
35 bringing four trainees into the business as a trainer I'm
36 four for four so I guess I will tout that as apparently being
37 outside the average. I want to speak just a little bit about
38 the difficulties in becoming a supervisor that you've heard
39 today. The federal model for the trainee apprentice, trainee
40 supervisor model or the apprentice model as its called is
41 unlike any other training program I ran a large real estate
42 office I was a sales manager with fifty two brokers in an a
43 prior life uh, and I knew to the penny when I hired a real
44 estate broker how much additional income bring to the firm
45 based on a passed history because as a, as a, as a broker or
46 salesperson under training you can go out do things on your
47 own. In the world of appraisal, the federal model requires
48 that the supervisor be present for everything that the
49 trainee does there is no ability for the trainee to go out do

1 things on their own it's an unfortunate circumstance so that
2 leads to a net negative in your office by hiring an appraiser
3 as a trainee. If I hired a trainee and they didn't work out
4 I would have cost myself a lot of money I don't know how you
5 could do that repeatedly and have people drop out its not a
6 model that's stainable, it's fairly sustainable if they stay
7 I'm privileged in that all four of those individuals I still
8 work with them today and I want to make it clear I work with
9 them they don't work for me we have a joint firm at that
10 point there for females and their um much smarter than I am
11 so I'm just I'm happy to be still associated with them. For
12 that reason, and in all my travels at the national level I've
13 been going to are congressional delegation in DC for about uh
14 fifteen years now including several conversations with the
15 governor when she was a representative for this state about
16 this issue about trying to break this log jam. Uh and what
17 you have front of you now is an alternative proposal called
18 the experienced training program which all appraiser
19 regulatory officials have their eyes on throughout the state
20 because if South Dakota can make that work South Dakota will
21 again be leading the pack when it comes to the way in which
22 we solve this problem. Rather than having a model that is
23 not monetarily sustainable the experience training program
24 will provide a supervisor think of a retired or semi-retired
25 appraiser who is you know, decided they don't want to be in
26 the trenches any more you hire them to be the lead trainer
27 working at SDSU and they have class of about twenty students
28 that they take through the process of experience and get to
29 the point where they're trained up have their experience
30 credit which is the hard thing to get and are able to then
31 take and pass the national uniform licensing exam for
32 whatever level they would like to obtain. And I do want to
33 correct something that Mr. Gatzke said the experience
34 training program has opportunities for residential, at um a
35 licensed level it has further opportunity if you can continue
36 for two years rather just eighteen months to reach the
37 certified residential and if you are in the program for all
38 three years you're at the certified general level and the
39 curriculum that we developed does included agriculture
40 assignments it does include commercial assignments so this is
41 an alternative to experiences that will allow students to
42 decide what it is they, they want to practice and the
43 beautiful thing about this because its controlled by the
44 department of labor is if they want to much like you have a
45 doctors in rural areas program if you want to restrict those
46 first twenty to people who are gonna to make a commitment to
47 work in rural areas or if you want to offer them federal job
48 training money to pay for their experience training and yet
49 they have to make a commitment to serve rural areas then as

1 the department of labor they have a lot of access to funds
2 for retraining and for training to do those things so we
3 thought it was a win, win we were delighted when the
4 department of labor and regulation got behind this program
5 when the governor whole heartily supported it when the
6 legislator last year or the beginning of this year supported
7 the legislation that we brought to implement the experience
8 training program. I want to make it clear about the ETP that
9 its more than just getting the piece of paper that says you
10 have a license and here's why. Once you get that piece of
11 paper that says I'm licensed or certified in order to do VA
12 work you have to have five years more years of experience
13 before the VA will accept you on their panel FHA has a
14 waiting period Fanny and Freddie for conventional work look
15 to their lenders that are selling the paper to them and many
16 of those have uh, uh, a ten yearing periods where even after
17 you get your piece paper you still are not accepted so in the
18 example that was just given to us where we have ah I think
19 Mr. I didn't catch his name I'm sorry Mr. ah Chase I believe
20 was his first name he mentioned a local lender a local buyer
21 a local seller a local home inspector a local realtor but the
22 buyers don't want local financing they want secondary market
23 financing because that's where the low interest rates are so
24 you have to have a person do that appraisal who is qualified
25 doesn't only just have a piece of paper that says I'm
26 licensed or certified but has been accepted in to a panel by
27 a lender or by a BA or FHA so that that local transaction can
28 get secondary market financing at low interest rates you all
29 know that if you go in for an in house mortgage a local
30 mortgage the rates much higher or higher at least so it's a
31 complicated federal problem and the solution with the
32 experienced training program is not just to get these people
33 a piece of paper but it's to train them to the point where
34 they will be immediately be accepted on these panels if you
35 simply run them from a program where they get a piece of
36 paper but they don't have proper training cuz you tried to
37 hurry them through then all doing them is leading them on
38 another path that's a dead end and so that that's the reason
39 the experienced training program was designed to the length
40 and breath that it is. I'm so pleased that South Dakota
41 State has partnered with the department of labor and
42 regulation to actually be the one to implement that in the
43 way you heard Miss Bren uh talk about. I'm also, in full
44 disclosure one of the used past examiners that you been
45 talking about and I just want to mention I can't speak to any
46 of the delayed comments that have been made there a lot of
47 reasons these get delayed I just had a case that I finished
48 up where a the information that was provided in the
49 submission package was incomplete to give the benefit of the

1 doubt to the applicant I ask that be supplemented with
2 additional information before I can review that information
3 if I would of reviewed it without the supplemental
4 information would have been a failure so I gave that person
5 the opportunity and it took them well over two months to
6 collect that information and provide it to me. So, did the
7 process take a while? Yes, but we're trying to get these
8 people through the system and um, so again I, I, take this
9 rather seriously when we first started doing these reviews
10 there was no compensation, we were doing them for free and
11 over time to the department credit Sherry has tried to raise
12 those and recently there was another increase of, but they
13 are far below market rent or market rate excuse me you can
14 tell my profession market rent. Um, and yet we do them any
15 way I don't want to call them pro bono work in the world of
16 Senator Wheeler, but they certainly are something that we
17 take seriously none the less. Let me talk about the advisory
18 council and I'll quit. Until ah, February of last year the
19 advisory council met every quarter to my recollection I
20 attended many of those meetings, we are one of nine states
21 that has a decision being made by an administrator rather
22 than a decision-making board or commission. You all know the
23 real estate commission for example makes all the decisions
24 and they're the final decision maker with the appraiser
25 certification program it's the Secretary of the Department
26 that is really the final decision maker and so we thought at
27 helpful years ago decades ago to have some outside input from
28 the industry from the bankers, from the realtors so that
29 those decisions weren't made in administrative vacuum without
30 input from those that were effected we didn't realize that it
31 was it was, a regular occurrence but not particular well
32 formalized. So, I had asked a couple of the members of this
33 committee to consider a legislative fix perhaps to make sure
34 that it remains an advisory council if you heard Miss Bren
35 say that there's a debate about should we really just have a
36 decision-making board and scrap the whole current program and
37 that's a whole other issue right now that we probably won't
38 get into we'll. If we stick with what we have, we just need
39 to formalize that, and these people have been volunteering,
40 I've never served on the advisory council this is not self-
41 serving they been volunteering they been picking up their own
42 expenses for years and years um, to better the industry and
43 the department had relied on them heavily in the past alot of
44 legislation we brought before you and this came from the
45 advisory council and it was good legislation it was good
46 bills that we brought and typically we received good
47 favorable um, um, votes from committees and the senate and
48 the house and the governor signature to follow. So, I would
49 very much like to see this committee as a step forward to

1 number one get behind the experienced training program as it
2 was written by the SME's make sure that has everything it
3 needs to succeeded funding and any administrative or legal
4 barriers are removed and the second thing is to more
5 formalize to formally constitute an advisory committee still
6 advisory only using many of the rules that are in place now
7 as to how they are selected who they represent they don't
8 have a vote they're not decision making they just offer
9 advice and as has been done in other advisory councils to
10 offer them some sort of at least reimbursement of expense's
11 and again not self-serving because that's not where I intend
12 to spend my time. But I do think it's something that we until
13 this event that happened and the subsequent changeover of the
14 executive director, we had no idea that it wasn't formalized
15 that it wouldn't continue it hasn't met since last February I
16 understand there is potential meeting in January um, but
17 especially at a time of upheaval like this that would have
18 been the best time to have an advisory council to weigh in
19 what was going on. Thank you.

20

21 CS: Questions from the committee? I don't see none. Thank
22 you. I believe that it is it for people wishing to testify on
23 the appraiser topic. Other comments from the committee?
24 Senator Gross.

25

26 SG: Thank you, Mr. Chair I assume looking for general
27 comments.

28

29 CS: Yeah.

30

31 SG: First of all I would like to thank everybody who spent
32 time took time out of there morning to visit with the
33 committee I think we've heard some good testimony for
34 comprehensive and learned a great deal of the committee very
35 much appreciated. I hope I can speak on behalf of the whole
36 committee that the everyone time was beneficial to us and
37 hopefully we can do going forward will be beneficial to the
38 industry. I guess that's what I would like to speak to is I
39 think we as a committee to discuss generically what our next
40 steps might be. I very much appreciate Mr. Steinley comments
41 near the end because I think brought some things together
42 that we can consider as a committee potentially getting
43 behind legislation that might codify the advisory committee
44 that's been mentioned, might also take action that would
45 support the experienced training program as he mentioned I'll
46 probably forget something in my comments here, but I thought
47 he brought a lot of good points here. I do think from the
48 standpoint of our committees' resources going forward we need
49 to uh memorialize or document what we've learned and heard in

1 this process as a record for our minutes verses always having
2 to go back and listen to the testimony look at all the notes
3 so I would encourage continuation of a kind of a summary as
4 the committee members seen a draft prior to this meeting of
5 you know what we have learned documentation of that if the
6 committee supportive of that. Thank you.

7

8 CS: Comments? Senator Steinhauer.

9

10 SS: Thank you Mr. Chair and while I be supportive of um, I'm
11 not sure that I want to hammer it out today, what our
12 findings are maybe there is a little subcommittee that does
13 it and reports back to the future meeting. But the other
14 thing that I think might be advisable for us to consider
15 cause I think are at least I view one of our main goals is to
16 ensure efficient operations of various committees that we've
17 heard, I feel like almost like we've been in a mini summer
18 study we've heard a lot of opportunities for improvement um
19 we have standing committees that are not go acts standing
20 committees that typically interact with various departments
21 the department of labor normally would interact with a
22 standing committee of commerce and energy and so what I'm
23 thinking then and I'm just throwing this out by way of
24 discussion is that we ask the department of labor to present
25 a report by maybe the beginning of the third week of our next
26 session. This upcoming session less than a month away. So, I
27 know that's a little bit of a scramble but I mean I know been
28 doing a lot work on there and if that report um, provides um,
29 I'm thinking I've got five things that are on my mind. One is
30 some data regarding the timeliness of how quickly they turn
31 applications so we understand what the committee would
32 understand what the situation is. Together with uh you know
33 the fact finding maybe we can have that done that
34 representative Gross is suggesting so the standing committees
35 have that awareness but also I would like to hear from the
36 department of labor recommendations as to what they would do
37 with this concern about the liability cost whether its capped
38 or do we want to participate in the cost that's item number
39 two so item number one is data and item number two is what do
40 we do about liability um, item number three should we
41 increase or adjust the pay for the reviewers and number four
42 is there a suggestion on how we might interact with the
43 those that have been certified as appraisers and retired how
44 do reengage those individuals and um, should number five
45 should we institutionalize the advisory committees and maybe
46 there's others but I guess where I'm headed here is I think
47 the committee um might want to require that the department of
48 labor provide a report to the standing committee the
49 legislators and, and with that maybe some recommendations if

1 they have for legislation. Obviously, any individual can
2 bring legislation, but I think the standing committee's
3 commerce of energy built a house and the senate should have
4 report on this important issue.

5

6 CS: Representative Karr.

7

8 RK: Mr. Chairman thank you. I hope you can hear me and um,
9 traveling today so that some technical issues. I was
10 wondering if miss Bren was still in the room or available. I
11 have a follow up question.

12

13 CS: She, she is not in the room anymore. So.

14

15 RK: Okay. Thank you. Um, from what I've heard this morning
16 is that has been a really good process and I open right I
17 think there is many suggestions, and I would echo the
18 comments of Senator Steinhauer, Representative Gross we've
19 all heard anecdotal the issues with the appraisals especially
20 in the rural areas which has been testified today and so I
21 think there is some opportunities um for some problem solving
22 and uh at this time that's what I have to add. I don't know
23 if there is a way to follow up with Ms. Bren on a couple of
24 follow up questions that we could submit um, but um, thank
25 you Mr. Chair.

26

27 CS: Thank you Representative. Senator Dubia.

28

29 SD: Thank you Mr. Chair. Um, I echo all of the positive um,
30 ideas and comments of my colleagues on this committee I think
31 that they are excellent suggestions I've got about five pages
32 of notes here so, so maybe I'll be a part of that sub work
33 group. But I also think we need to um, um, commend Ms. Bren
34 on her courage and bravery to come forward and talk about
35 what for her has been a very difficult and painful topic um,
36 this was her life's work she was very dedicated to the State
37 of South Dakota and the appraisal process, she gave us some
38 um great inside to the entire process of how people you know
39 become appraisers or step up and yes we're going to see some
40 good things come out of that but I also think we need to
41 recognize that this employee was very dedicated to bringing
42 change and was very um, I think the word words she used is
43 she said some of that meeting to me is a fog but I was
44 intimidated and so what happen to her we can not loss site of
45 that I'm sure will discuss that separately but again I want
46 to commend her for her bravery um, today in this meeting.
47 Thank you.

48

49 CS: Senator Nesiba.

1

2 SN: Yeah, thank you Mr. Chair just a closing comment. I
3 think this meeting was really about two things today partly
4 about the appraisal process and our need to improve that I'm
5 optimistic about the new grant program that was started under
6 um, um, um, under Mrs. Bren and the work going on that that
7 would be supportive of um, my colleague here to my left has
8 put forward in terms of report I think the reason we're
9 really here is that this was really a human resources issue.
10 Right. This is a question about was a long-time dedicated
11 employee. Was she wrongful fired, was she wrongful fired on
12 behalf of a relative of the governor and did the State end
13 two hundred seventeen thousand dollars to cover that up and
14 we are not going to know the answer to that question because
15 of this non disparagement clause and we've had a couple of
16 examples today when um, when Ms. Bren you know, stopped with
17 counsel um needed to, need to confer because is trying to
18 really careful to follow that. But what we really need is to
19 elimination of this non disparagement clause and then I think
20 we could have deeper inside into what actually happened in
21 that meeting at the mansion so thank you Mr. Chair.

22

23 CS: Alright. I see no further comments at, at this time
24 we'll move on to us next gen item bureau of administrations
25 to present the annual report of the obligation recovery
26 center. I'll just kind of note if we're around noon or so we
27 might take a five ten-minute break but um, we are going to I
28 think plow through lunch and get this meeting over with.

29

30 SS: Mr. Chair just a point sorry interrupt you did um, um,
31 the suggestion that I had that we have maybe a report from
32 the department of labor do you did you want to have any
33 action to require such a report to the standing committees or
34 do you just want conclude and move on?

35

36 CS: Well, I mean, if you want to make a motion you sure can
37 or if its something that can be done.

38

39 SS: Mr. Chair I would, if you don't mind I would like to
40 make a motion that we request, I don't know that we can
41 compel the department of labor to present by the um, the
42 beginning of third week of the next legislative session a
43 report to the legislature that includes these things, one
44 some date regarding the timeliness in approval process for
45 um, new appraisers and up grades for the appraisal process,
46 two, their suggestions on how we might um, um, limit the
47 liability cost incremental cost for those that are training
48 appraisers if they have any suggestions on that line, three.
49 Uh, that they provide any recommendations to the change in

1 pay for the reviewers of those submitted appraisals for the
2 new or upgraded certification, uh, four, do they have any
3 thoughts on how we might engage in active appraisers to
4 become um, appraisers again or assist in the process to
5 become an appraiser, and five, do they think its advisable to
6 institutionalize the advisory committee those would the the
7 components of a report provided to the um, standing
8 committees commerce and energy both the house and the senate.

9
10 SS: I second that, Mr. Chair.

11
12 CS: Okay I have a motion by Senator Steinhauer Seconded by
13 Senator Nesiba um, any further comments on that motion. Yep
14 Nesiba.

15
16 SN: Just I'd urge you to support this one of the parts of
17 that motion is the part to have further discussion about the
18 advisory council and I would like the input from the
19 secretary as part of that, as part of that conversation and
20 so I think that would be that would be valuable. Thank you.

21
22 CS: I'll maybe I would ask one question for clarification
23 there's been had some discussion required reports is that
24 just the one-time kind of a one time report for this upcoming
25 session not a continues one?

26
27 SS: Mr. Chair um yeah I certainly appreciate that comment
28 because we've got a lot of ongoing reports I don't whether
29 how much they really uh, but I think this is a hot issue
30 right now and it will get read and it's a one time request.
31 and well get red and it's a onetime request.

32
33 CS: Okay, thank you. Uh, Representative Peterson.

34
35 RP: Thank you Mr. Chair I would just want to make sure I
36 heard correctly. Was representative Gross, representative's
37 Gross suggestion a list about uh, sort of a summary of what
38 we've found and in our hearings and and this process included
39 in that motion?

40
41 CS: I don't believe so and I can let Representative Gross
42 clarify but I think it was maybe discussed mainly gather up
43 the information you know and at a later date kind of have
44 something more formal.

45
46 VC: Mr. Chair if I may, no, I did not see that as part of
47 the motion but if that is something the committee wants me to
48 uh follow through on I would offer to do that. Separately
49 separate from the motion.

1
2 RP: Thank you Mr. Chair. Once we vote on this motion will
3 another motion to do what Representative Gross had suggested
4 be necessary or is it just okay for him to go ahead and do
5 that. Do we need formal action on that.

6
7 CS: I guess just uh, speaking from opinion I don't think we
8 would need formal action at this time on on that, but I leave
9 that up to Representative Gross. Let's finish the motion we
10 have at hand right now okay they're, okay representative or
11 okay okay, further comments on this motion if you have any.
12 Okay, with that, um, Secretary will call the roll and the
13 members uh will vote and those in favor vote I, those appose
14 vote nah.

15
16 Secretary: Senator Nesiba?

17
18 SN: Aye.

19
20 Senator Steinhauer?

21
22 SS: Aye.

23
24 Secretary: Senator Hunhoff?

25
26 SH: Aye.

27
28 Secretary: Senator Wheeler?

29
30 SW: Aye.

31
32 Secretary: Representative Duba?

33
34 RD: Aye.

35
36 Secretary: Representative Karr?

37
38 RK: Aye.

39
40 Secretary: Representative Peterson?

41
42 RP: Aye.

43
44 Secretary: Representative Otten?

45
46 RO: Aye.

47
48 Secretary: Representative Gross?

49

1 VC: Aye.

2

3 Secretary: Senator Schoenfish?

4

5 CS: Aye.

6

7 Secretary: Ten yes.

8

9 CS: Motion carries. Representative Duba.

10

11 RD: Thank you Mr. Chair I would like to move that the
12 advisory council um, be involved in the execution of the EPT
13 program so that that it is in a certain format right now and
14 if there are going to be changes made um, that the advisory
15 council be a part of any discussion around those changes and
16 potential um, to bring up uh, concerns or opportunities.
17 However, you wanna write that motion. I want I want the
18 advisory council to be involved in the finalization and
19 execution of EPT training program. As they have been in the
20 past.

21

22 CS: Okay we have a motion by Representative Duba, I think I
23 know her staff is writing it down, maybe have a read one more
24 time, just for clarification.

25

26 LS: The motion currently reads to have the advisory council
27 be involved in the finalization and execution of the EB, EPT
28 program. And this can I ask a question.

29

30 RD: Sure.

31

32 LS: This motion would be in the form of a letter from the
33 Chair to the advisory council members, would, or in the
34 department of labor?

35

36 RD: I would think it would go to the advisory council and
37 the department of labor and the new executive director, does
38 that sound correct, I think all three parties.

39

40 CS: Do we have a second?

41

42 SN: Second. Sorry, Mr. Chair, second.

43

44 CS: Seconded by Senator Nesiba. Further comments on that
45 motion.

46

47 RD: Mr. Chair.

48

49 CS: Representative Duba.

1
2 RD: Thank you, I, I know that we've been able to establish
3 in all of our discussions, that the advisory council was
4 extremely involved in the process up through February of this
5 year, that there have not been any further meetings, we had
6 testimony by the PAASD group and the advisory council on our
7 October 28th meeting, that there were three very concerning
8 changes that were being introduced by um, the by the
9 department of labor, um, that they have weighed in on and I
10 think it is imperative that we involve the appraisers um, in
11 the development of this training program and any suggestions
12 that are continuing to come forward from the department of
13 labor.

14
15 CS: Okay, thank you representative, further comments from
16 the committee? Senator Wheeler.

17
18 SW: It's a question for the uh, maker of the motion, I'm
19 just trying to get my head around the the jurisdiction of our
20 committee and the request that you are making, um, are you
21 asking the committee to recommend that this occur, or are you
22 asking the committee to somehow direct that this occur?

23
24 RD: That's a great question, I'm not sure what, you know
25 what we can do, is it, can we can we, if we cannot direct,
26 can we recommend, strongly recommend?

27
28 LS: I would suggest if would be a recommendation.

29
30 RD: So we should put that into the motion. Thank you. It's
31 a great point Senator Wheeler.

32
33 SW: Thank you, I concur on that, uh, that is my
34 understanding, that we as a committee don't have power to,
35 direct executive agencies to take particular actions.

36
37 CS: Uh, Senator Nesiba.

38
39 SN: Just in response to this, this motion, my sense of this
40 committee is so we have a general support uh to have uh, to
41 draft legislation to to formalize this committee but it
42 already exists in its informal way and I think that this is
43 just one of those things to direct and urge the secretary and
44 the director of that program to use this important resource
45 that's been so important, uh historically. So I don't think
46 our recommendation is even um, we're just asking them to do
47 what they were doing a year ago. I don't think this is too
48 big of a, too heavy of a lift. Thank you.

1 CS: Representative Gross.

2

3 RG: Thank you Mr. Chair, I guess the the only question I
4 would have would be relative to you know what constitutes the
5 advisory committee at this point, if it hasn't been
6 operational since uh February, and it's uh, quasi volunteer,
7 although there was a historical structure, should it be the
8 advisory committee as constituted prior to February of 21 or
9 just some people the secretary selects, or, what should, what
10 should the advisory committee that we're recommending in this
11 look like?

12

13 RD: Can I answer that question?

14

15 CS: Representative Duba.

16

17 RD: Thank you Mr. Chair. Um, Representative Gross, there is
18 a docket, if you go onto the department of labor website
19 because I looked into this and I googled it, not just now,
20 but, I think yesterday, before I came, that council is
21 specifically, all the members are listed on the department of
22 labor website. And they can be called into action at the
23 behest of the department of sec of labor secretary, so it is
24 the individuals who are listed on that website that I'm
25 referring to but thank you very much for asking.

26

27 SN: Appreciate the clarification, thank you.

28

29 CS: With that, secretary will call the rolls, in favor, vote
30 I, those vote uh, oppose vote nah's.

31

32 Secretary: Senator Nesiba?

33

34 SN: Aye.

35

36 Secretary: Senator Steinhauer?

37

38 SS: Aye.

39

40 Secretary: Senator Hunhoff?

41

42 SH: Aye.

43

44 Secretary: Senator Wheeler?

45

46 SW: Aye.

47

48 Secretary: Representative Duba?

49

1 RD: Aye.

2

3 Secretary: Representative Peterson?

4

5 RP: Aye.

6

7 Secretary: Representative Otten?

8

9 RO: Aye.

10

11 Secretary: Representative Gross?

12

13 VC: Aye.

14

15 Secretary: Senator Schoenfish?

16

17 CS: Aye.

18

19 Secretary: nine yes.

20

21 CS: Motion carries.

22

23 END OF THE PORTION OF THE MEETING DEDICATED TO THE FIRST ITEM
24 ON THE AGENDA. THERE ARE APPROXIMATELY 55 MINUTES OF
25 COMMITTEE HEARING REGARDING UNRELATED MATTERS, AGENDA TWO AND
26 THREE, THAT ARE NOT TRANSCRIBED.

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