State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

Draft #1

857Z0173

HOUSE BILL NO. _____

Introduced by: _____

FOR AN ACT ENTITLED, An Act to provide additional funding for the housing opportunity fund by redistributing certain building South Dakota funds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 1-16G-48 be amended to read:

1-16G-48. The commissioner of the Bureau of Finance and Management shall authorize and disburse money from the building South Dakota fund for the following purposes:

(1) Twenty-five percent of the fund shall be transferred to the local infrastructure improvement grant fund created in § 1-16G-50;

(2) Five percent of the fund shall be transferred to the economic development partnership fund created in § 1-16G-51;

(3) Thirty percent of the fund shall be transferred to the workforce education fund created in § 13-13-88; <u>and</u>

(4) ~~Thirty-five~~ <u>Forty</u> percent of the fund shall be transferred to the South Dakota housing opportunity fund created in § 11-13-2. Disbursement of funds to the South Dakota Housing Development Authority shall be made after South Dakota housing opportunity funds have been obligated by the oversight commission created pursuant

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1 to § 11-13-8~~; and~~

2 ~~(5) Five percent of the fund shall be transferred to the revolving economic development~~

3 ~~and initiative fund created in § 1-16G-3 for the purpose of making grants to projects~~

4 ~~that have a total project cost of less than twenty million dollars~~.

5 The commissioner of the Bureau of Finance and Management, at the request of the

6 commissioner of the Governor's Office of Economic Development and the approval of the

7 special committee created in § 4-8A-2 or the Senate and House standing committees on

8 appropriations meeting in joint session, shall transfer building South Dakota fund money among

9 the local infrastructure improvement grant fund, the economic development partnership fund,

10 and the revolving economic development and initiative fund, provided the money is unobligated

11 at the time of the request and subsequent transfer.

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State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

Draft #2

758Z0174

HOUSE BILL NO. _____

Introduced by: _____

FOR AN ACT ENTITLED, An Act to increase the amount of unobligated cash that may be transferred to the building South Dakota fund after the end of a fiscal year.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 4-7-43 be amended to read:

4-7-43. Notwithstanding the provisions of §§ 4-7-32 and 4-7-39, on July first of each fiscal year or at such time that the prior fiscal year general fund ending unobligated cash balance is determined, the commissioner of the Bureau of Finance and Management shall transfer all prior year unobligated cash as follows:

(1) If the combined cash balance is less than ten percent of the general fund appropriations from the general appropriations act for the prior year, an amount of unobligated cash shall be transferred to the budget reserve fund, so that the combined cash balance equals ten percent of the general appropriations from the general appropriations act for the prior year;

(2) If the combined cash balance is equal to or greater than ten percent of the general fund appropriations from the general appropriations act for the prior year, or there is additional unobligated cash after the provisions in subdivision (1) are satisfied, an

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1 amount of unobligated cash shall be transferred to the building South Dakota fund,
2 so that the collective BSDF cash balance does not exceed one and one-half percent
3 of the general fund appropriations in the general appropriations act for the previous
4 fiscal year; and
5 (3) If the collective BSDF cash balance exceeds one percent and one-half of the general
6 fund appropriations in the general appropriations act for the previous year, or if there
7 is additional unobligated cash remaining after the transfers in subdivisions (1) and
8 (2), the remaining unobligated cash shall be transferred to the budget reserve fund
9 and general revenue replacement fund pursuant to the provisions of §§ 4-7-32 and 4-
10 7-39.

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State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

Draft #3

569Z0172

HOUSE BILL NO. _____

Introduced by: _____

FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the contractor's excise tax revenues that are deposited into the building South Dakota fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 1-16G-47 be amended to read:

1-16G-47. There is hereby created the building South Dakota fund for the purpose of building and reinvesting in South Dakota's economy and to create high quality jobs. The Department of Revenue shall deposit two percent of all the contractor's excise tax imposed and paid pursuant to the provisions of chapter 10-46A or 10-46B into the building South Dakota fund. Any money in the building South Dakota fund is continuously appropriated to the Bureau of Finance and Management. The state may accept and expend for the purposes of this chapter any funds obtained from appropriations or any other source. Interest earned on money in the fund shall be deposited into the fund.

~~If the Board of Economic Development approves a new or expanded facility with project costs exceeding twenty million dollars to receive a reinvestment payment pursuant to the provisions of §§ 1-16G-56 to 1-16G-68, inclusive, the Department of Revenue shall deposit all of the contractor's excise tax imposed and paid pursuant to the provisions of chapter 10-46A or~~

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1 ~~10-46B on the project costs into the building South Dakota fund.~~

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

Draft #4

965Z0262

HOUSE BILL NO. _____

Introduced by: _____

FOR AN ACT ENTITLED, An Act to establish a tax refund program for certain workforce housing projects.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That the code be amended by adding a NEW SECTION to read:

Terms used in this Act mean:

(1) "Allowable costs," expenditures that are incurred for construction of a workforce housing project to the extent that the expenditures are directly attributable to the improvement of the property or its structures including expenditures for property acquisition, site preparation work, surveying, construction materials, construction labor, architectural services, engineering services, and building inspection fees;

(2) "Construction date," the first date excavation or construction begins for a workforce housing project;

(3) "Department," the Department of Revenue;

(4) "Person," any individual, firm, copartnership, joint venture, association, cooperative, limited liability company, limited liability partnership, corporation, estate, trust, business trust, receiver, or any group or combination acting as a unit;

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1 (5) "Project," the construction of workforce housing at a single site;

2 (6) "Secretary," the secretary of the Department of Revenue;

3 (7) "Workforce housing," an owner-occupied housing unit that costs no more than one
4 hundred fifty thousand dollars for property acquisition and to construct or a rental
5 housing unit that costs no more than one hundred thousand dollars per unit for
6 property acquisition and to construct.

7 Section 2. That the code be amended by adding a NEW SECTION to read:

8 As provided in this Act, any person holding a permit issued pursuant to section 4 of this Act
9 may apply for and obtain a refund or credit of the sales or use tax imposed and paid by the
10 person under the provisions of chapter 10-45 or 10-46 or the contractors' excise tax imposed and
11 paid under the provisions of chapter 10-46A or 10-46B for any allowable cost.

12 Section 3. That the code be amended by adding a NEW SECTION to read:

13 The refund of taxes pursuant to section 2 of this Act pertains only to project costs incurred
14 and paid after July 1, 2018, up to and including twenty-four months from the construction date.

15 Section 4. That the code be amended by adding a NEW SECTION to read:

16 Any person desiring to claim a refund pursuant to this Act shall apply for a permit from the
17 secretary prior to or within ninety days after the construction date. The application for a permit
18 shall be submitted on a form prescribed by the secretary. A separate application shall be made
19 and submitted for each project. Upon approval of the application, the secretary shall issue a
20 permit entitling the applicant to submit refund claims as provided in sections 5 and 6 of this Act.
21 No permit or refund claim is assignable or transferable except as collateral or security pursuant
22 to chapter 57A-9. However, the secretary may permit the assignment or transfer of a permit and
23 refund claim if the initial permit holder entity reorganizes into a new entity, if the new entity and
24 the initial entity share common ownership, and the reorganization was completed solely for a

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1 legitimate business purpose. The new entity shall file with the department an amended
2 application for permit.

3 Section 5. That the code be amended by adding a NEW SECTION to read:

4 Any claim for refund of an allowable cost shall be submitted on forms prescribed by the
5 secretary and shall be supported by any documentation the secretary may require. The secretary
6 may deny any claim if the claimant has failed to provide information or documentation
7 requested or considered necessary by the secretary to determine the validity of the claim.

8 Section 6. That the code be amended by adding a NEW SECTION to read:

9 Any person issued a permit pursuant to section 4 of this Act shall submit a claim for refund
10 to the department no more frequently than on or before the last day of each month and no less
11 frequently than on or before the last day of each month following each calendar quarter. The
12 secretary shall determine and pay the amount of the tax refund within ninety days of receipt of
13 the claim for refund. However, no refund claim may be paid until on or after the construction
14 date. Ninety-five percent of the amount of refund shall be paid to the claimant as provided in
15 §§ 10-59-22 and 10-59-23, and five percent shall be withheld by the department. No interest
16 may be paid on the refund amount. The secretary may pay the refund by electronic funds
17 transfer.

18 Section 7. That the code be amended by adding a NEW SECTION to read:

19 No claim for refund pursuant to this Act may be considered by the department if the claim
20 for refund is received twelve months after the twenty-four month time period established in
21 section 3 of this Act. Any claim received after that deadline is also barred from any future
22 refund eligibility.

23 Section 8. That the code be amended by adding a NEW SECTION to read:

24 No document or record in support of any claim for refund may be considered by the

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1 department if the document or record in support of any claim for refund is received twelve
2 months after the twenty-four month time period established in section 3 of this Act. Any
3 document or record received after that deadline is also barred from any future consideration.
4 However, if the department requests any additional document or record from the project
5 owner after a review of the claim for refund, and the request is made after the applicable time
6 period as provided in this section has expired, the project owner has sixty days to provide the
7 requested document or record. No document or record received after this sixty-day period may
8 be considered by the department. Any document or record received after that period is also
9 barred from any future consideration.
10 Section 9. That the code be amended by adding a NEW SECTION to read:
11 The amounts withheld by the department as provided in section 6 of this Act shall be
12 retained until the project has been completed and the claimant has met all the conditions of this
13 Act, at which time all sums retained shall be paid to the claimant.
14 Section 10. That the code be amended by adding a NEW SECTION to read:
15 If any claim has been fraudulently presented or supported as to any item in the claim, if the
16 construction costs of a project exceed the allowable limit for a workforce housing project as
17 provided in this Act, or if the claimant fails to meet all the conditions of this Act, the claim may
18 be rejected in its entirety and all sums previously refunded to the claimant shall constitute a debt
19 to the state and a lien in favor of the state upon all property and rights to property whether real
20 or personal belonging to the claimant and may be recovered in an action of debt.
21 Section 11. That the code be amended by adding a NEW SECTION to read:
22 Any person aggrieved by the denial in whole or in part of a refund claimed under this Act
23 may, within thirty days after service of the notice of the denial by the secretary, demand and be
24 entitled to a hearing, upon notice, before the secretary. The hearing shall be conducted pursuant

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1 to chapter 1-26.

2 Section 12. That the code be amended by adding a NEW SECTION to read:

3 Any amount refunded pursuant to this Act for a project that is not completed within the time
4 frames prescribed in this Act, including any extensions granted by the secretary, shall be
5 returned to the state without interest. Any refunded amounts not returned pursuant to this section
6 and all sums previously refunded to the claimant constitute a debt to the state and a lien in favor
7 of the state upon all property and rights to property whether real or personal belonging to the
8 claimant and may be recovered in an action of debt.

9 Section 13. That the code be amended by adding a NEW SECTION to read:

10 Any person aggrieved by a decision of the secretary under this Act may, within thirty days
11 of receipt of written notice of the secretary's decision, make written application to the secretary
12 for a hearing to be conducted pursuant to chapter 1-26. Any hearing shall be conducted and any
13 appeal shall be taken pursuant to the provisions of chapters 1-26 and 1-26D. A copy of the
14 hearing examiner's proposed decision, findings of fact, and conclusions of law shall be served
15 on all parties when furnished to the secretary. If the secretary, pursuant to chapter 1-26D,
16 accepts the final decision of the hearing examiner, no appeal from a final decision of the
17 secretary upon any additional tax to be paid may be taken unless any amount ordered paid by
18 the secretary is paid or a bond filed to insure payment of the amount.

19 However, if the final decision of the secretary, pursuant to chapter 1-26D, rejects or modifies
20 the decision of the hearing examiner regarding the amount due, an appeal may be taken without
21 payment of the amount ordered to be paid and without filing of a bond. If the secretary's
22 decision is affirmed by the circuit court, no appeal may be taken unless any amount ordered to
23 be paid by the secretary is paid or a bond is filed to insure payment of the amount.

24 Section 14. That the code be amended by adding a NEW SECTION to read:

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1 The secretary shall promulgate rules, pursuant to chapter 1-26, establishing the procedures
2 for filing refund claims and the requirements necessary to qualify for a refund.
3 Section 15. That the code be amended by adding a NEW SECTION to read:
4 If the project is located on land that is included within the agreement area of a tax collection
5 agreement entered into by the state and an Indian tribe pursuant to chapter 10-12A, the
6 department is only obligated to pay a percentage of the refund as required by this Act equal to
7 the percentage of funds that the department retains pursuant to the terms of the tax collection
8 agreement.
9 Section 16. That the code be amended by adding a NEW SECTION to read:
10 The name of any person or entity that receives a refund or credit of sales, use, or contractor's
11 excise tax pursuant to this Act and the amount of any refund or credit granted to that person is
12 public information and shall be available and open to public inspection as provided in § 1-27-1.

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State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

Draft #5

983Z0266

HOUSE BILL NO. _____

Introduced by: _____

FOR AN ACT ENTITLED, An Act to require that the unobligated cash balance of the building South Dakota fund be used in determining the allocation of unobligated general funds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 4-7-42 be amended to read:

4-7-42. Terms used in §§ 4-7-43 and 4-7-44 mean:

(1) "Collective BSDF <u>unobligated</u> cash balance," the total <u>unobligated</u> cash balance of the:

(a) Building South Dakota fund;

(b) Local infrastructure improvement grant fund;

(c) Economic development partnership fund;

(d) Workforce education fund;

(e) South Dakota housing opportunity fund; and

(f) Funds disbursed pursuant to the provisions of subdivision 1-16G-48(5);

(2) "Combined cash balance," the total cash balance of the:

(a) Budget reserve fund at the end of the prior fiscal year including any outstanding balance on repayments due to the budget reserve fund pursuant to

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1 a legislative act; and

2 (b) General revenue replacement fund at the end of the prior fiscal year.

3 Section 2. That § 4-7-43 be amended to read:

4 4-7-43. Notwithstanding the provisions of §§ 4-7-32 and 4-7-39, on July first of each fiscal
5 year or at such time that the prior fiscal year general fund ending unobligated cash balance is
6 determined, the commissioner of the Bureau of Finance and Management shall transfer all prior
7 year unobligated cash as follows:

8 (1) If the combined cash balance is less than ten percent of the general fund
9 appropriations from the general appropriations act for the prior year, an amount of
10 unobligated cash shall be transferred to the budget reserve fund, so that the combined
11 cash balance equals ten percent of the general appropriations from the general
12 appropriations act for the prior year;

13 (2) If the combined cash balance is equal to or greater than ten percent of the general
14 fund appropriations from the general appropriations act for the prior year, or there is
15 additional unobligated cash after the provisions in subdivision (1) are satisfied, an
16 amount of unobligated cash shall be transferred to the building South Dakota fund,
17 so that the collective BSDF <u>unobligated</u> cash balance does not exceed one percent of
18 the general fund appropriations in the general appropriations act for the previous
19 fiscal year; and

20 (3) If the collective BSDF <u>unobligated</u> cash balance exceeds one percent of the general
21 fund appropriations in the general appropriations act for the previous year, or if there
22 is additional unobligated cash remaining after the transfers in subdivisions (1) and
23 (2), the remaining unobligated cash shall be transferred to the budget reserve fund
24 and general revenue replacement fund pursuant to the provisions of §§ 4-7-32 and 4-

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1 7-39.

2 Section 3. That § 4-7-44 be amended to read:

3 4-7-44. If the collective BSDF unobligated cash balance is less than one half percent of the
4 general fund appropriations in the general appropriations act for the previous fiscal year, the
5 commissioner shall transfer an amount of money from the general revenue replacement fund to
6 the building South Dakota fund so that the total of the amount deposited pursuant to this section
7 and § 4-7-43 does not exceed one half percent of the general fund appropriations in the general
8 appropriations act for the previous fiscal year. However, the combined cash balance may not be
9 reduced to less than ten percent of the general fund appropriations from the general
10 appropriations act for the prior year by any transfer made to the building South Dakota fund
11 pursuant to this section.

Draft #6

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

774Z0247

HOUSE BILL NO. _____

Introduced by: _____

FOR AN ACT ENTITLED, An Act to revise certain provisions regarding tax deed procurement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 10-25-1 be amended to read:

10-25-1. In the case of any real property sold for taxes and not yet redeemed, the owner or holder of the tax certificate may conduct, or cause to be conducted, proceedings to procure a tax deed on the real property, as provided by §§ 10-25-2 to 10-25-12, inclusive. The proceedings shall be initiated no sooner than ~~three~~ two years from the date of the tax sale or at any time thereafter within ~~six~~ three years from the date of the tax sale subject to the provisions of §§ 10-25-16 to 10-25-19, inclusive. The time period applies equally to the county or any other purchaser of the tax certificate. Any assignee of a tax certificate shall take the certificate subject to the time period of the first owner of the tax certificate.

Section 2. That § 10-25-16 be amended to read:

10-25-16. If proceedings to procure a tax deed are not commenced within ~~six~~ three years after the date of the tax sale certificate on which the proceedings are based, the tax sale certificate, the lien for taxes, the lien of any taxes paid by the holder of the tax sale certificate as subsequent taxes, and all rights thereunder cease and are forever barred. The county treasurer

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1 shall cancel the certificate on the treasurer's record and shall note on the sale records and the tax
2 books of the treasurer's office that the tax sale certificate and the lien of subsequent tax receipts
3 held by the owner of the tax sale certificate are barred and of no validity.

4 Section 3. That § 10-25-17 be amended to read:

5 10-25-17. The provisions of § 10-25-16 do not apply to tax sale certificates that are held by
6 the county. If any such certificate is assigned by the county, and if the certificate is dated more
7 than ~~four~~ two years preceding the date of its assignment, the purchaser of the certificate has one
8 year from the date of its assignment within which to commence proceedings to procure a tax
9 deed.

10 Section 4. That § 10-25-18 be amended to read:

11 10-25-18. The commencement of proceedings to procure a tax deed within the periods
12 limited in §§ 10-25-16 and 10-25-17 does not extend the lien of the holder of the tax sale
13 certificates more than six months beyond the expiration of the periods of limitations. If any such
14 proceedings, commenced within the time limited by §§ 10-25-16 and 10-25-17, are not
15 completed, and the right of the party instituting the proceedings to receive a tax deed under the
16 provisions of §§ 10-25-1 to 10-25-12, inclusive, is not fully completed and established, within
17 six months after the expiration of ~~six~~ three years from the date of the tax sale certificate upon
18 which the proceedings are based; allowing, however, to purchasers of tax sale certificates
19 assigned by the county the additional period of one year from the date of the assignment within
20 which to commence such proceedings and six months after the expiration of the period of one
21 year within which to complete the proceedings; then all rights under the proceedings cease and
22 are forever barred and the county treasurer shall cancel the tax sale certificate in the manner
23 provided in § 10-25-16. Thereupon, the lien of the holder of the tax sale certificate is
24 extinguished and all further proceedings on the tax sale certificate are barred.

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1 Section 5. That § 10-21-14 be amended to read:

2 10-21-14. The county treasurer shall make duplicate receipts for tax payments. One receipt
3 may be delivered to the person paying the taxes and the other shall, within one week, be filed
4 with the auditor. The auditor's copy of the receipt shall specify the property on which the tax
5 was assessed, the amount of taxes collected for state purposes including the levy for state
6 highways, the amount of each separate and distinct fund the tax is allocated to, and the years for
7 which any of the real property described has been sold for taxes and not redeemed, unless the
8 certificates for such tax sales are more than ~~six~~ three years old.

9 Any county auditor who fails to enter upon any tax receipt the amount of taxes for state
10 purposes, or any county treasurer who fails to specify on the duplicate tax receipt the
11 information required by this section, is guilty of a Class 2 misdemeanor.