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STATE OF SOUTH DAKOTA  
BOARD OF ECONOMIC DEVELOPMENT  
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Sections 68:02:01:35, 68:02:01:36,  
68:02:01:47, 68:02:01:48,  
69:02:01:50, 68:02:01:55; and  
68:02:10:01 through 68:02:10:17,  
inclusive ORIGINAL  
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RULES HEARING  
Transcript of Hearing  
August 13, 2025  
10:15 a.m.  
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BEFORE THE HONORABLE CATHERINE WILLIAMSON  
ADMINISTRATIVE LAW JUDGE, OFFICE OF HEARING EXAMINERS  
AND THE SOUTH DAKOTA BOARD OF ECONOMIC DEVELOPMENT

A P P E A R A N C E S  
AARON SCHEIBE  
MAY, ADAM, GERDES & THOMPSON  
503 South Pierre Street  
Pierre, South Dakota 57501  
ALSO PRESENT: Jack Valentine

1                   The following Transcript of Hearing was  
2 taken at the Dolly-Reed Plaza, 711 East Wells Avenue,  
3 Pierre, South Dakota, on the 13th day of August, 2025,  
4 commencing at 10:15 a.m.; before Cheri McComsey Wittler,  
5 a Registered Professional Reporter, Certified Realtime  
6 Reporter, and Notary Public within and for the State of  
7 South Dakota.

1           CHAIRMAN ERICKSON: We have a quorum and, with  
2 that, I'm going to turn the first part of this meeting  
3 over to Catherine to walk us through the hearing portion.  
4 Thank you.

5           ADMINISTRATIVE LAW JUDGE: Okay. Very good.

6           CHAIRMAN ERICKSON: The floor is yours.

7           ADMINISTRATIVE LAW JUDGE: Okay. Very good.

8           It is August 13 of 2025. We're here at the  
9 Dolly-Reed Plaza in Pierre, South Dakota, and members of  
10 the board are present via teleconference. And we are  
11 here regarding the rules review hearing on 68:02:01  
12 subchapters 35, 36, 47, 48, 50, and 55 as well as  
13 68:02:10:01 through 68:02:10:17.

14           And we're going to start off -- do we have --  
15 Ashley, you said we have a quorum present?

16           MS. MOORE: We do.

17           ADMINISTRATIVE LAW JUDGE: Very good. Can you  
18 call roll, please.

19           MS. MOORE: Matt Judson.

20           MR. JUDSON: Here.

21           MS. MOORE: Sharon Casey.

22           MS. CASEY: Here.

23           MS. MOORE: Mike Luken.

24           MR. LUKEN: Here.

25           MS. MOORE: Don Kettering.

1 MR. KETTERING: Here.

2 MS. MOORE: Tom Jones.

3 Reed Kessler.

4 MR. KESSLER: Here.

5 MS. MOORE: Joy Nelson.

6 Kevin Tetzlaff.

7 MR. TETZLAFF: Here.

8 MS. MOORE: David Emery.

9 MR. EMERY: Here.

10 MS. MOORE: Craig Christianson.

11 MR. CHRISTIANSON: Here.

12 MS. MOORE: Brad Moore.

13 Tim Reed.

14 MR. REED: Here.

15 MS. MOORE: Erik Muckey.

16 Jeff Erickson.

17 CHAIRMAN ERICKSON: Here.

18 ADMINISTRATIVE LAW JUDGE: Very good. Thank  
19 you.

20 And I'd call on a member of the Governor's  
21 Office of Economic Development, the Finance Division  
22 staff, to talk about Article 68:02.

23 Mr. Valentine, Jack Valentine.

24 MR. VALENTINE: Yes. Thank you. Good morning.

25 At this time I'd like to propose the rules as

1 presented to Legislative Research Council code counsel in  
2 the format as they were presented to code counsel.

3 For this board I would note that a number of  
4 style and form as well as potential substantive changes  
5 were returned from code counsel's office as the board and  
6 GOED's legal counsel and staff work through those changes  
7 to find out exactly what those entail. Again, we are  
8 presenting to you now what was presented to Legislative  
9 Research Council code counsel, and in September, at the  
10 September board meeting, we would then present what we  
11 have worked out with code counsel at that time as well as  
12 pointing out any substantive changes that resulted from  
13 that return and the further discussions and developments  
14 with code counsel.

15 With that being said, I would like to introduce  
16 Chapter 68:02:01 under the Board of Economic Development  
17 REDI loans, drawing specific attention to a couple of  
18 changes that were proposed by staff and legal counsel  
19 that are substantive.

20 In 68:02:01:36, the change is to bring the  
21 minimum loan amount from \$1 million to \$3 million. The  
22 average size of the REDI loan has increased over the  
23 years. It's gotten to the point where pretty much every  
24 REDI loan that's made requires such a waiver and, thusly,  
25 bringing the current loan pursuant to this chapter in the

1 original principal amount up to the \$3 million level  
2 seems to be in parity with project costs in the private  
3 sector at this time.

4 Moving on to 68:02:01:38, there's some cleanup  
5 in the use of loan proceeds; in 68:02:01:42, some cleanup  
6 in the acceptance and time restrictions on the applicant;  
7 68:02:01:48, some cleanup with regard to maturity and  
8 interest rates and notes in that section.

9 And then, again, one that's of particular note  
10 with some substantial changes as proposed by legal  
11 counsel and staff is 68:02:01:50 under delegation of  
12 administrative functions. Staff and legal counsel are  
13 proposing that the board grant additional latitude to  
14 staff in closing of loans and with regard to making  
15 decisions at the time of closing regarding collateral  
16 increases or decreases, minimal increases or decreases in  
17 loan amounts. And really just as a function of  
18 timeliness, being responsive and nimble to the private  
19 sector, to our lending partners, and only after the Board  
20 of Economic Development has approved the base loan would  
21 this latitude be granted. That amount of latitude is in  
22 the amount of 5 percent as proposed.

23 I think that at this time it's worth pausing and  
24 opening it up to the board for any questions or comments  
25 regarding that particular proposal.

1 ADMINISTRATIVE LAW JUDGE: Any questions or  
2 comments?

3 MR. VALENTINE: Great. So without hearing any  
4 questions or comments, I guess I would close out that is  
5 Chapter 68:02:01, REDI loans, presented for your  
6 consideration for deferring to the September board  
7 meeting after staff and code counsel -- or after staff  
8 and legal counsel have time to work things out with code  
9 counsel.

10 MS. MOORE: Jack, this is Ashley. I just wanted  
11 to let you know that Tom Jones has joined the meeting.

12 ADMINISTRATIVE LAW JUDGE: Very good.

13 MR. JONES: Thank you, Ashley.

14 ADMINISTRATIVE LAW JUDGE: Any comments on that  
15 rule, those rule changes?

16 I'd note for the record that there is no members  
17 of the public present here in the board room.

18 Has there been any comments submitted in regards  
19 to these rule changes, Mr. Scheibe or Mr. Valentine?

20 MR. VALENTINE: We have received no comments  
21 regarding these rules changes from the public.

22 ADMINISTRATIVE LAW JUDGE: Okay. Thank you.  
23 Very good. Then we'll move to the next rule.

24 MR. VALENTINE: Yes. Thank you.

25 Presented again for your consideration and

1 request to defer to the September meeting is Chapter  
2 68:02:10 for the South Dakota Jobs grant program. Again,  
3 the changes proposed by staff and legal counsel to LRC  
4 code counsel were met with a return of a number of style  
5 and form changes requested by code counsel. As we work  
6 through those changes, since even though they're quoted  
7 as style and form, they do potentially carry substantive  
8 changes with them, again we ask that we defer action on  
9 this to the September meeting.

10 In Chapter 68:02:10 these are mainly cleanup  
11 items proposed by staff and legal counsel with regard to  
12 the South Dakota Jobs grant program. 68:02:10:06, board  
13 action on applicant, general notes and cleanup;  
14 68:02:10:10, time restrictions on applicant, again  
15 general notes and cleanup; 68:02:10:12 with regard to  
16 payment is, again, general cleanup and notes.

17 And, with that, Chapter 68:02:10 is presented to  
18 you as it was presented to Legislative Research Council  
19 code counsel.

20 MR. SCHEIBE: Ms. Williamson, if I may.

21 This is Aaron Scheibe, outside counsel to GOED  
22 staff. I did, for the board's benefit, just want to make  
23 a note on the South Dakota Jobs grant rules that were  
24 just reviewed by Mr. Valentine, one of the issues that  
25 we're looking at very carefully is that these rules and



1     this program, the South Dakota Jobs grant program, was  
2     met originally by the legislature. The intent of the  
3     program was to administer and work in the same manner as  
4     the Reinvestment Payment Program, which is a separate  
5     program of GOED and administered by the board.

6             And so the rules changes that have been proposed  
7     today and the response back from code counsel we're  
8     looking very closely at because of its potential impact  
9     on how those programs are run together. And so that's  
10    part of the reason for the request for deferral today,  
11    Mr. Chairman.

12            ADMINISTRATIVE LAW JUDGE: Very good. Thank  
13    you.

14            Any further commentary on these rules changes?

15            Seeing no proponents, any opponents?

16            Seeing or hearing none, this would then be put  
17    on that list for the September meeting.

18            Any further rules in regards to this meeting  
19    today?

20            MR. VALENTINE: No further rules will be  
21    presented for the board's consideration or for this  
22    hearing today.

23            ADMINISTRATIVE LAW JUDGE: Okay. Then I'm going  
24    to -- I'm going to adjourn the rules hearing, and I'll  
25    let the board continue with their meeting.

1           MR. SCHEIBE: Ms. Williamson, did you want to  
2 potentially entertain a motion?

3           ADMINISTRATIVE LAW JUDGE: Oh, we can entertain  
4 a motion to move this to September, yes.

5           CHAIRMAN ERICKSON: This is Jeff Erickson. I'd  
6 make the motion to defer all rules that were discussed  
7 today to our September board meeting.

8           ADMINISTRATIVE LAW JUDGE: Is there a second?

9           MR. KETTERING: Second.

10          ADMINISTRATIVE LAW JUDGE: We have a motion and  
11 a second. All those in favor say aye.

12                           (All indicate aye.)

13          ADMINISTRATIVE LAW JUDGE: Are there any  
14 opposed?

15                           (No audible response.)

16          ADMINISTRATIVE LAW JUDGE: Is there one opposed?

17                           (No audible response.)

18          ADMINISTRATIVE LAW JUDGE: Okay.

19          CHAIRMAN ERICKSON: I don't believe there was  
20 anyone opposed. I think someone just groaned a little  
21 bit. You get our age like myself and Don Kettering, you  
22 just kind of grown when you move around.

23          ADMINISTRATIVE LAW JUDGE: I wasn't sure what I  
24 heard there.

25          MR. KETTERING: I'm still a young kid at heart.

1 ADMINISTRATIVE LAW JUDGE: We'll be off the  
2 record then in regards to the rules hearing.

3 (The hearing is concluded at 10:28 a.m.)  
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1 STATE OF SOUTH DAKOTA)

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CERTIFICATE

3 COUNTY OF SULLY )

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5 I, CHERI MCCOMSEY WITTLER, a Registered  
6 Professional Reporter, Certified Realtime Reporter, and  
7 Notary Public in and for the State of South Dakota:

8 DO HEREBY CERTIFY that as the duly-appointed  
9 stenographic court reporter, I took the proceedings had  
10 in the above-entitled matter on the 13th day of August,  
11 2025, and that the attached is a true and correct  
12 transcription of the proceedings so taken.

13 Dated at Onida, South Dakota this 27th day of  
14 August, 2025.

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17

18 /s/ Cheri McComsey Wittler  
19 Cheri McComsey Wittler  
20 Notary Public and  
Registered Professional Reporter  
Certified Realtime Reporter

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