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STATE OF SOUTH DAKOTA

ECONOMIC DEVELOPMENT FINANCE AUTHORITY

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Sections 12:21:01:01 through
12:21:01:19, inclusive; 12:22:01:01
through 12:22:01:13, inclusive;
12:22:02:01 through 12:22:02:18
(Repeal), inclusive; 12:22:03:01
through 12:22:03:18 (Repeal),
inclusive; 68:01:01:01 through
68:01:01:06, inclusive; 68:01:02:01
through 68:01:02:20, inclusive

ORIGINAL

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RULES HEARING

Transcript of Hearing
August 13, 2025
9:30 a.m.

= = = = =

BEFORE THE HONORABLE CATHERINE WILLIAMSON
ADMINISTRATIVE LAW JUDGE, OFFICE OF HEARING EXAMINERS

AND THE ECONOMIC DEVELOPMENT FINANCE AUTHORITY

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 9:30 a.m.; before Cheri McComsey Wittler, a
5 Registered Professional Reporter, Certified Realtime
6 Reporter, and Notary Public within and for the State of
7 South Dakota.

1 ADMINISTRATIVE LAW JUDGE: We'll be on the
2 record then for the Economic Development Finance
3 Authority. We're here in the Governor's Office of
4 Economic Development, the conference room, in Pierre,
5 South Dakota. It is August 13 of 2025 at 9:30 a.m.

6 Jeff Erickson, Chairman, is present. He has
7 called the meeting to order, and I've taken over just
8 briefly. This is Catherine Williamson with the Office of
9 Hearing Examiners in order to have the rules hearings in
10 this matter.

11 I'd like to give a rollcall as to the members
12 present. They're via phone.

13 Mr. Erickson, you are here.

14 CHAIRMAN ERICKSON: Yes.

15 ADMINISTRATIVE LAW JUDGE: Sharon Casey.

16 MS. CASEY: Present.

17 ADMINISTRATIVE LAW JUDGE: Tom Jones.

18 Matt Judson.

19 MR. JUDSON: Here.

20 ADMINISTRATIVE LAW JUDGE: Don Kettering.

21 MR. KETTERING: Here.

22 ADMINISTRATIVE LAW JUDGE: Michael Luken.

23 MR. LUKEN: Here.

24 ADMINISTRATIVE LAW JUDGE: Jim Schmidt.

25 MR. SCHMIDT: Present.

1 ADMINISTRATIVE LAW JUDGE: Very good. We have a
2 quorum.

3 And the agenda for today indicates that the
4 rules hearing for ARSD 12:21 is the first part of the
5 agenda today. So we're going to step right into that.
6 And I'm going to call on a member of the Finance Division
7 staff to testify to those rules.

8 Mr. Valentine.

9 MR. VALENTINE: Yes. Good morning. This is
10 Jack Valentine, the Director of Finance, on behalf of the
11 Governor's Office of Economic Development and the staff.

12 Here today before you are the rules in their
13 format presented to Legislative Research Council code
14 counsel. I would note that there were a number of style
15 and form edits that were returned by code counsel to
16 staff with regard to these rules. As staff continues to
17 work through those to determine whether they constitute
18 substantive changes to the rules, again we would present
19 these to you now in the format as they were presented to
20 code counsel and ask that we be given some time to
21 continue to work through those edits that were returned
22 to us by code counsel.

23 With that being said, it's likely -- or we would
24 ask or request that, after the presentation of these
25 rules, we take comments and then that the board would

1 defer action on this meeting to the September board
2 meeting when we can present the revised rules after
3 working through those issues with code counsel to the
4 authority for action.

5 With regard to 12:21 through -- 12:21:01:01
6 through 12:21:01:19, this is the Beginning Farmer Loan
7 Program. The changes recommended by legal counsel and by
8 staff are largely to do away with references to the
9 economic development -- do away with references to the
10 Value Added Finance Authority and bring them up to speed
11 with the now recognized Economic Development Finance
12 Authority, remove those statutory references thusly, as
13 well as to bring the rules for this program up to speed
14 with changes in federal tax code law as it relates to the
15 maximum bond principal amount for beginning farmer bonds,
16 bring net worth requirements subject to board approval,
17 and to do some basic cleanup again of outdated or
18 unneeded, unnecessary items.

19 With that, that is 12:21:01:01 through
20 12:21:01:19.

21 If there's no questions on that, I would move to
22 the Hearing Examiner.

23 ADMINISTRATIVE LAW JUDGE: Yeah. Are there any
24 questions from the board on this?

25 CHAIRMAN ERICKSON: None by Jeff Erickson.

1 MR. KETTERING: None, Don Kettering.

2 MR. SCHMIDT: None, Jim Schmidt.

3 MS. CASEY: None, Sharon Casey.

4 MR. LUKEN: None, Michael Luken.

5 MR. JUDSON: None, Matt Judson.

6 ADMINISTRATIVE LAW JUDGE: Okay. Very good.

7 Then 12:22:01, I think, is the next section.

8 MR. SCHEIBE: Excuse me, Catherine.

9 ADMINISTRATIVE LAW JUDGE: Hang on just a
10 second, Mr. Scheibe.

11 CHAIRMAN ERICKSON: This is Jeff Erickson. Do
12 we need to then make a motion, or how do we want to
13 handle this?

14 MR. SCHEIBE: Mr. Chairman, this is Aaron
15 Scheibe, GOED's legal counsel. Many of you may remember
16 me from some of my prior life. I'm present here in the
17 room.

18 My recommendation, Mr. Chairman, would be not to
19 make a motion on the specific rules that were presented
20 here. The intent for staff would be to continue this
21 hearing while we work through those issues with LRC that
22 Jack discussed.

23 So at this time, Mr. Chairman, I would not
24 recommend a motion. I was going to suggest to Catherine
25 that, at least on the record, we note there is no member

1 of the public present here in Pierre and nobody's
2 indicated that they want to testify today.

3 CHAIRMAN ERICKSON: Okay. And then, Aaron --
4 this is Jeff again -- would we want to make then one
5 motion just saying that we're -- after this is discussed
6 that we're deferring action on this until the September
7 board meeting?

8 ADMINISTRATIVE LAW JUDGE: That would be
9 appropriate.

10 CHAIRMAN ERICKSON: Okay. Again that's -- then
11 we'll just walk through these. We've all reviewed them
12 before so, hopefully, it will be pretty fast.

13 I think in the future we'll just -- if we don't
14 have questions, I'm not going to say I don't have
15 questions. Then we don't have to take time. So let's
16 just move this along if we could.

17 ADMINISTRATIVE LAW JUDGE: Very good.

18 And then there is no -- there's no opponents in
19 this matter, is there?

20 And hearing none, seeing none, then we will move
21 on to the next article is 12:22.

22 Mr. Valentine.

23 MR. VALENTINE: Yes. Thank you.

24 12:22:01:01 is the general provisions for the
25 agribusiness bonding and lending program. Again, the

1 changes as presented to LRC code counsel were to remove
2 references to the former Value Added Finance Authority as
3 well as to create new references to the Economic
4 Development Finance Authority and to do the cleanup
5 thusly.

6 There were no substantive changes recommended
7 from the Value Added Agribusiness Lending Program rules
8 as presented to code counsel.

9 ADMINISTRATIVE LAW JUDGE: Okay. Any comments
10 or questions from the board?

11 Hearing none, are there any comments, questions
12 in the room? There are no other people in the room so
13 I'm just throwing that out there.

14 Hearing none, seeing none, this would be
15 another --

16 Mr. Valentine, did you wish to have this matter
17 continued then to September 10 as well?

18 MR. VALENTINE: Yes. Yes.

19 ADMINISTRATIVE LAW JUDGE: Okay. Very good.

20 Is there anything further in -- okay. Which is
21 the next rule, 68:01:01?

22 MR. SCHEIBE: Catherine, we have Chapter
23 12:22:02 which is a repeal of the Value Added
24 Agribusiness Relending Program.

25 ADMINISTRATIVE LAW JUDGE: Okay. I don't have

1 that on my list.

2 MR. SCHEIBE: It's part of the same chapter that
3 we just referenced.

4 ADMINISTRATIVE LAW JUDGE: Part of the same
5 chapter? Okay. And I'll let you go through that.

6 MR. VALENTINE: Being referenced is 12:22:02:01
7 through 12:22:02:18 which is the proposed repeal in its
8 entirety of the Value Added Agricultural Relending
9 Program. This repeal is requested as this program is no
10 longer supported by the USDA and its affiliated programs
11 through the Farm Service Agency. It's outdated. We have
12 other loan and financing programs that have supplanted
13 this program, and so, therefore, we're asking to repeal
14 it as a cleanup of the rules and the effort in sunseting
15 this program.

16 ADMINISTRATIVE LAW JUDGE: Any questions or
17 comments from the board?

18 Seeing or hearing none, and with no opposition
19 present or online, then we'll move to the next chapter.

20 MR. SCHEIBE: Catherine, this is 12:22:03, the
21 repeal of the Value-Added Agriculture Subfund.

22 ADMINISTRATIVE LAW JUDGE: Subfund. Okay.
23 12:22:03.

24 Mr. Valentine.

25 MR. VALENTINE: Yes. Thank you. This is

1 12:22:03:01 through 12:22:03:18. Again, this is another
2 repeal in its entirety of that chapter. These rules, in
3 2019, were moved under the Board of Economic Development,
4 or this program in its entirety was moved under the Board
5 of Economic Development, and these rules in their
6 substantial form exist underneath that chapter. Thusly,
7 just as a matter of cleanup so we don't have rules in two
8 separate places within the Administrative Rules listing,
9 we're asking for the complete repeal of these Value-Added
10 Agricultural Subfund rules in Chapter 12:22:03.

11 ADMINISTRATIVE LAW JUDGE: Any comments or
12 questions from the board?

13 MR. SCHEIBE: Catherine, this is Aaron Scheibe
14 from GOED staff counsel. If I could just on the record
15 note that there is separate authority for this particular
16 subfund that exists under the Board of Economic
17 Development's rules and authority. So the repeal today
18 does not affect those.

19 ADMINISTRATIVE LAW JUDGE: Okay. Very good.
20 Thank you for the clarification.

21 Anything further?

22 Hearing none, seeing none, are there any raised
23 hands online or anything, Mr. Valentine? Do you have the
24 Zoom in front of you?

25 MR. VALENTINE: Yes. There is one more section,

1 68:01:02:01, which is the proposed repeal of the APEX
2 loan program. Similarly to the Value Added Agricultural
3 Relending Program, GOED, the Board of Economic
4 Development, and the Economic Development Finance
5 Authority have at their disposal other financing, loan
6 and grant and bond, opportunities that take the place of
7 this program which is no longer, again, supported by the
8 USDA or its associated Farm Service Agency programs.
9 Therefore, in the sunseting of this program, again we're
10 asking for the -- we're proposing the complete repeal of
11 this Chapter 68:01:02.

12 ADMINISTRATIVE LAW JUDGE: Any questions or
13 comments regarding this chapter?

14 Seeing and hearing no comments, did you wish to
15 have --

16 MR. SCHEIBE: Catherine, if I may, I believe
17 Jack may have overlooked another provision that is
18 noticed for this hearing. It's Chapter 68:01:01. This
19 deals with kind of the general EDFA provisions, and so I
20 would encourage him maybe to give a brief discussion for
21 that.

22 ADMINISTRATIVE LAW JUDGE: We'll move back to
23 that one.

24 MR. VALENTINE: Yes. Thank you.

25 ADMINISTRATIVE LAW JUDGE: Go ahead.

1 MR. VALENTINE: 68:01:01:01 through 68:01:01:06
2 are the general provisions for the Economic Development
3 Finance Authority. The proposed changes to this chapter
4 regard, again, outdated notations to the Value Added
5 Finance Authority which are being updated to refer to the
6 Economic Development Finance Authority as well as some
7 general cleanup within that chapter.

8 ADMINISTRATIVE LAW JUDGE: Are there any
9 questions or comments from the board regarding this?

10 Hearing none, seeing none, any opposition to
11 this?

12 And without any opposition to this, is this
13 another chapter that can wait until September 10? And
14 seeing a nod at the end of the table, I'm going to --

15 MR. VALENTINE: Yes.

16 ADMINISTRATIVE LAW JUDGE: -- put that on the
17 list for September 10.

18 MR. VALENTINE: Yeah.

19 ADMINISTRATIVE LAW JUDGE: And are there any
20 further rules for this board to consider today?

21 MR. SCHEIBE: None for the Economic Development
22 Finance Authority. We will, of course, reconvene for the
23 Board of Economic Development rules hearing shortly, but
24 I think we're through what staff had prepared and
25 proposed.

1 ADMINISTRATIVE LAW JUDGE: Very good. Anything
2 from the board in regards to the rules for this finance
3 authority?

4 CHAIRMAN ERICKSON: Again, just a clarification.
5 Do you want a motion that we -- that our action is to
6 defer final approval of these rules until our September
7 board meeting?

8 ADMINISTRATIVE LAW JUDGE: That would be
9 appropriate.

10 CHAIRMAN ERICKSON: I would make that motion.
11 This is Jeff Erickson.

12 MR. JUDSON: Judson will second.

13 ADMINISTRATIVE LAW JUDGE: With a motion and a
14 second by Judson, all in favor say aye, all opposed say
15 nay.

16 (All indicate aye.)

17 ADMINISTRATIVE LAW JUDGE: Any nays?

18 (No audible response.)

19 ADMINISTRATIVE LAW JUDGE: Hearing none, motion
20 is approved. This will move to September 2.

21 MR. SCHEIBE: September 10.

22 ADMINISTRATIVE LAW JUDGE: Oops. September 10.
23 I don't want to get my dates wrong.

24 CHAIRMAN ERICKSON: And the actual motion is
25 just to our September meeting because that may be moved

1 around. There will obviously be plenty of notice. But I
2 think it needs to be broad enough again that we have the
3 flexibility.

4 ADMINISTRATIVE LAW JUDGE: Correct.

5 CHAIRMAN ERICKSON: So our September meeting was
6 the motion of Jeff Erickson.

7 ADMINISTRATIVE LAW JUDGE: Correct. So noted.

8 CHAIRMAN ERICKSON: Thank you.

9 MR. SCHEIBE: So at this time, Catherine, I
10 think staff would appreciate if we would then continue
11 this hearing pursuant to that motion and let the EDFA
12 board go into its regular meeting at this point.

13 ADMINISTRATIVE LAW JUDGE: Very good. I will
14 excuse myself from this meeting. And thank you so much,
15 appreciate being here, perhaps see you in September.

16 (The hearing is concluded at 9:58 a.m.)
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1 STATE OF SOUTH DAKOTA)

2 :SS

CERTIFICATE

3 COUNTY OF SULLY)

4

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.

15

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18

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

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