



STATE OF SOUTH DAKOTA
OFFICE OF THE GOVERNOR
KRISTI NOEM | GOVERNOR

March 25, 2022

RE: 2022 House Bill 1033

Dear Senators and Representatives of the South Dakota Legislature,

South Dakota has the strongest economy in the nation, but one of our primary economic challenges is lack of available housing for those who wish to live and work in our state. As new businesses come to our state, generating more and better-paying jobs, we need more career housing for the resulting growth in our workforce.

In my December 2021 budget address, I proposed \$200 million for infrastructure grants to facilitate infrastructure for career housing across the state. The goal of my proposal was to make career housing more attainable by reducing infrastructure costs that otherwise would have been passed on to home buyers. The 2022 Legislature agreed with my request and appropriated \$150 million in general funds plus an additional \$50 million of federal funds to be used for housing infrastructure.

That appropriation is a major victory for South Dakota and a significant investment that could make a real difference. There is widespread desire for a career housing infrastructure plan that creates affordable career housing for South Dakotans who are enjoying the arrival of new and higher paying career opportunities.

However, the legislation was finalized in the last week of the 2022 Session with details different from what my administration thought was the best path forward. No legislation is perfect, and House Bill 1033 is certainly no exception.

In the form it was delivered to my desk, the funding in House Bill 1033 is allocated to the Housing Opportunity Fund (HOF) held by the South Dakota Housing Development Authority (SDHDA), which is an "independent public instrumentality" pursuant to SDCL 11-11-10. Under current law, HOF is "targeted toward low to moderate-income families and individuals" – meaning it could be used by those earning no more than 115 percent of the area median income (AMI) for a community. See SDCL 11-13-2 and SDCL 11-13-7.

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Housing infrastructure as described in Section 5 of House Bill 1033 is not targeted to a family or individual, so this apparent defect in the bill creates uncertainty because of the statutorily required "targeting" under current South Dakota law. That uncertainty creates risks for the SDHDA and those seeking grants or loans to consider, and that risk may result in red tape and delays.

Furthermore, there are two additional points for consideration:

1. While House Bill 1033 is a special appropriation that authorizes the expenditure of funds for "housing infrastructure," SDCL 11-13-5 was not amended to authorize the expenditure of the same by the SDHDA.
2. The ARPA funding referred to in Section 1(2) of House Bill 1033 is federal fund expenditure authority. The SDHDA will need to comply with federal law to obtain access to these funds, potentially as a sub-recipient, and expend those dollars in compliance with evolving federal guidance.

While the details of the infrastructure program in House Bill 1033 are not what I requested, I am hopeful the SDHDA can make the 2022 legislation work for South Dakota.

I have signed House Bill 1033, and by its own terms is set to go into effect on June 27, 2022. The Legislature may correct these drafting oversights, and I am hopeful that the Legislature will be able to deliver the needed statutory clarification before grants and loans will be made.

It's always a blessing to be able to call South Dakota home, and it's an exciting time to work and live in South Dakota. Thank you for your commitment and service to the State of South Dakota.

Sincerely,



Kristi Noem
Governor