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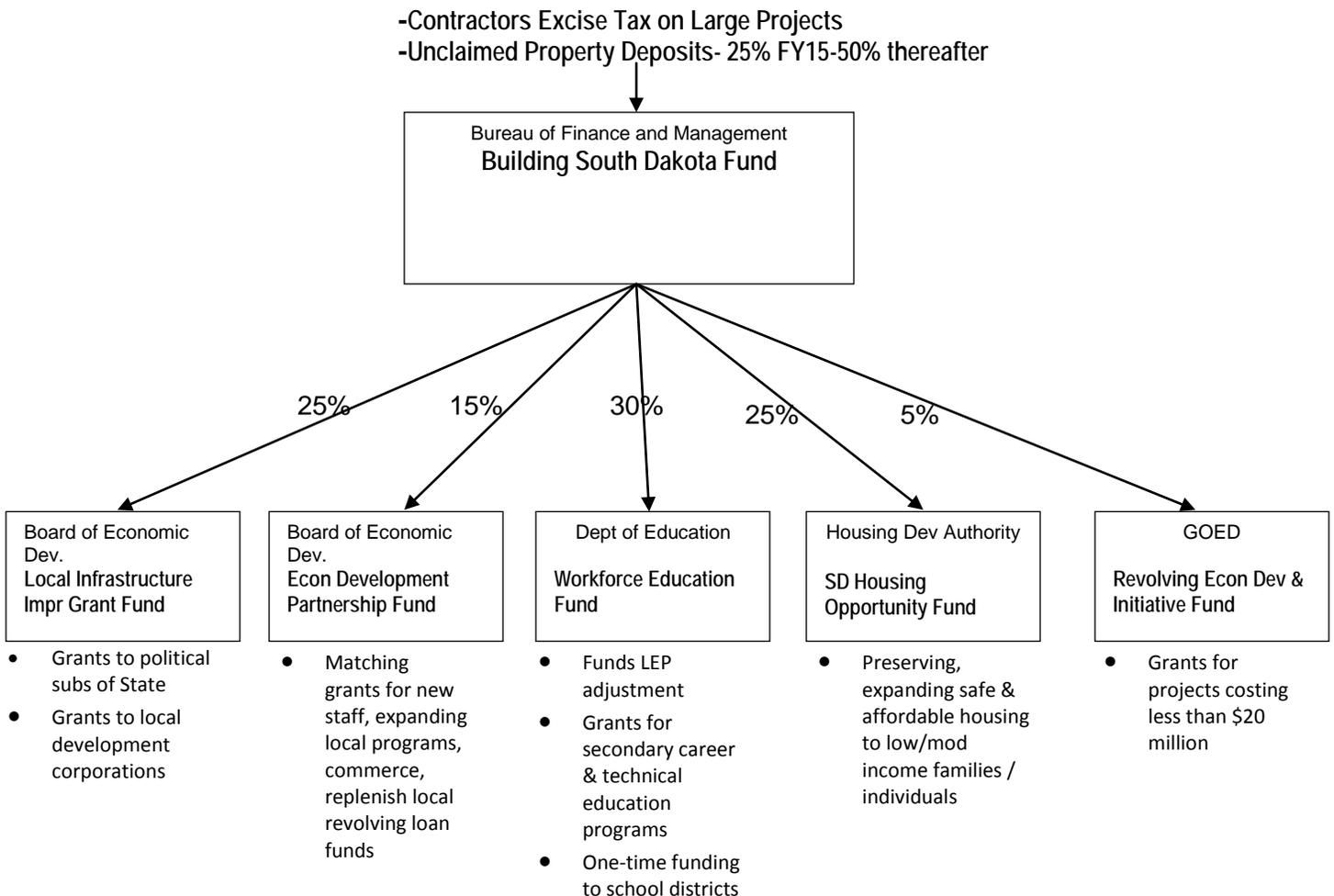
To: Government Operations and Audit Committee (GOAC)

From: Tim Flannery, State Government Audit Manager

Date: April 11, 2013

Re: Outline of Senate Bill 235 – Economic Development

Following is an outline of Senate Bill 235 which was the economic development bill from the 2013 Legislative session. First is a chart of the flow of funds identified in the bill and then the subsequent pages summarize the key provisions of the various sections of the bill.



Section 1:

- Creates the **Building South Dakota Fund (BSDF)**, administered by the Bureau of Finance and Management (**BFM**) and is continuously appropriated to the **BFM**
- If the **Board of Economic Development (BED)** approves project costs > \$20 million → Department of Revenue will deposit all of the contractors excise tax imposed/paid on project costs into the **BSDF**
- The State Treasurer will transfer:
 - 25% of unclaimed property deposited in the General Fund to the **BSDF** in FY2015.
 - 50% of unclaimed property deposited in the General Fund to the **BSDF** in FY2016 and thereafter.
- No deposits/transfers to **BSDF** may be made by **BFM** if projected ongoing revenues are insufficient for that FY, to accommodate the following:
 - Statutory increases for state aid to **1) K-12 General Education 2) Special Education 3) Technical Institutes**
 - Projected Title XIX & Title XXI spending
 - State employee salary policy increases
 - Actuarially Projected increases in Health Insurance costs

Section 2:

- **BFM** shall authorize and disburse money from the **BSDF** for the following:
 - 25% transfer to the **Local Infrastructure Improvement Grant Fund**
 - 15% transfer to the **Economic Development Partnership Fund**
 - 30% transfer to the **Workforce Education Fund**
 - 25% transfer to the **SD Housing Opportunity Fund**
 - 5% transfer to the **Revolving Economic Development & Initiative Fund** for the purpose of making grants to projects that have total project costs < \$20 Million

Section 3:

- Agencies administering funds received from Section 2 shall report annually to **GOAC** about results and operations of the **BSDF**.

Section 4:

- Creates the **Local Infrastructure Improvement Grant Fund**; which is administered by **BED**; continuously appropriated; and has an informational budget.
- **BED** awards grants to any political subdivision of state and local development corporations to construct / reconstruct infrastructure for the purpose of serving an economic development project

Sections 5 - 7:

- Creates the **Economic Development Partnership Fund**, administered by **BED**; continuously appropriated and has an informational budget:

- **BED** may award funds from the **Economic Development Partnership Fund** for **1) new staff 2) the purpose of developing/expanding local – community – economic development programs 3) commence or replenish a local revolving loan fund to develop/expand housing – community – economic development programs (Section 6).**
- **BED** awards grants to any nonprofit development corporation – municipality – county – other political subdivision of the State on a matching basis (Section 7).
- Staffing funds are provided on a 4 year basis →1st yr.- 40% →2nd yr.-30% →3rd yr. – 20%→4th yr.–10% (Section 7)

Sections 8 & 9:

- **BED** shall promulgate rules regarding distribution of funds from **the Local Infrastructure Improvement Fund and the Economic Development Partnership Fund**

Sections 10 - 12:

- Creates the **Workforce Education Fund (WEF)**, administered by the **Department of Education (DOE)**; continuously appropriated and has an informational budget to be used for the following:
 - To fund the limited English proficiency adjustment for the school districts (Section 10)
 - Provides grants for secondary career & technical education programs (Section 10)
 - Provides one-time funding to school districts (Section 10)
- The secretary of the **DOE** shall authorize and disburse money from the **WEF** to fund the State's share of the limited English proficiency adjustment. If, after the State's share of the limited English proficiency adjustment is funded, the **WEF** exceeds \$2 million as of July 1st of each year, the amount of money in excess of \$1 million shall be disbursed as follows (Section 11) :
 - Up to \$1.5 million to fund new and existing secondary career and technical programs; and
 - Any amount remaining in the fund over \$1 million shall be allocated to the school districts based on the ratio of each school district's fall enrollment to the total State fall enrollment.
- SD Board of Education shall promulgate rules regarding the distribution of funds from the **WEF** (Section 12)

Sections 13 - 21:

- Creates the **SD Housing Opportunity Fund**, administered by the South Dakota Housing Development Authority (SDHDA); continuously appropriated and has an informational budget:
 - Funds are for the purpose of preserving/expanding sustainable – safe – affordable housing to low/mod income families/individuals (Section 13)
 - 30% of funds designated in municipalities w/ population of 50,000 or more (Section 18)
 - 70% of funds designated to other areas of the State (Section 18)
 - Funds shall be targeted to low/mod income households w/ max income at/below 115% of the area median income based on the U.S. Dept. of Housing & Urban Development criteria (Section 19)
 - SDHDA Commission shall submit an annual report of activity & use of funds to the Governor & Legislature (Section 21)

Sections 22 - 23:

- Changes the makeup of the **BED** (the Senate now confirms the Governor's appointments and the Legislature now appoints 4 nonvoting members as described below). Up to 13 members are appointed to consult with and advise the **Governor** & the commissioner of the **Governor's Office of Economic Development** in carrying out the functions of the office.
 - 4 nonvoting members are appointed to the board by the **Legislature** for 2yr. terms (Section 23)
 - Majority/Minority leaders of Senate each appoint one member of the Senate
 - Majority/Minority leaders of House of Representatives each appoint one member of the House of Representatives

Sections 24 - 36:

- Creates the **Reinvestment Payment Fund**, administered by the GOED and is continuously appropriated (Section 32)
- Project costs for a new/expanded facility > \$20 Million or for equipment upgrades > \$2 Million a person may apply for a **Reinvestment Payment (RP)**
 - Requires timely filing of application (w/in 90 days after constr. date) → Receives a permit from **GOED** → Timely files the Affidavit of **RP** (w/in 6mo. after project completion date & project costs after 3yr. of constr. date are ineligible)
 - Construction Date on/after 4/1/2013 may receive **RP** (Section 25)
 - **GOED** has 90 days to make the **reinvestment payment** from the **Reinvestment Fund** (Section 31) → **RP** is approved by **BED** → **DOR** deposits sales/use taxes paid by project owner up to max amount of **RP**
 - If a project is located on land that is included within the agreement area of a sales/use tax collection agreement **BED** may only approve a **RP** that is equal to or less than the amount of funds attributable to the project that **DOR** retains pursuant to the terms of the tax collection agreement. (Section 33)

Sections 37 - 39:

- Creates funding for limited English proficiency (**LEP**); the **LEP** adjustment is calculated as follows (Section 37):
 - Multiply 0.25 times the per student allocation; and
 - The above result is then multiplied by the number of K-12 students who, in the prior school year, scored below level four on the state-administered language proficiency assessment. The resulting **LEP** adjustment amount is then included in the calculation of the local need for each school district.
- **Department of Education** computes state aid to education for each school district according to the following calculation (Section 38):
 - Determine each school districts fall enrollment;
 - To arrive at the local need per district:
 - Multiply the per student allocation by the fall enrollment;
 - Multiply the small school adjustment by the fall enrollment;
 - Calculate the **LEP** adjustment;
 - The sum of the above three items equals the local need per district
 - State aid is local need minus local effort

- The secretary shall report to the Governor by January 7th of each year, the amount of state aid necessary to fully fund the general aid formula in the current year.

Sections 40 - 42:

- Appropriated from the **General Fund** the sum of \$7 million to **BFM** for the purpose of funding **BSDF** (Section 40)
- The **commissioner** of **BFM** approves vouchers and the **state auditor** draws warrants to pay expenditures (Section 41)
- Any amounts appropriated in this Act not lawfully expended or obligated shall revert (Section 42)