

2017 SOUTH DAKOTA ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

Prepared by
South Dakota Housing Development Authority
and
Governor's Office of Economic Development

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HAS YOUR RIGHT TO FAIR HOUSING BEEN VIOLATED?

If you feel you have experienced discrimination in the housing industry, please contact:

U.S. Department of Housing and Urban Development
Sioux Falls Field Office
4301 West 57th Street, Suite 101
Sioux Falls, SD 57108
(605) 330-4223

Or

U.S. Department of Housing and Urban Development
Denver Regional Office of FHEO
1670 Broadway
Denver, Colorado 80202-4801
(303) 672-5151
(800) 877-7353
TTY (303) 672-5248

Or

Fair Housing South Dakota
(877) 832-0161
fairhousing@fairhousingsd.com
<https://www.sdhda.org/for-renters/fair-housing-and-your-rights>

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EXECUTIVE SUMMARY

BACKGROUND

In exchange for federal funds, the State of South Dakota is required to submit certification of affirmatively furthering fair housing to the U.S. Department of Housing and Urban Development (HUD). This certification has three elements and requires that the State:

1. Complete an Analysis of Impediments to Fair Housing Choice (AI);
2. Take actions to overcome the effects of any impediments identified; and
3. Maintain records reflecting the actions taken in response to the analysis.

HUD describes impediments to fair housing choice in terms of their applicability to local, state and federal law. The federal Fair Housing Act defines impediments as:

Any actions, omissions or decisions taken because of race, color, religion, sex, national origin, familial status, and mental or physical disability which restrict housing choices or the availability of housing choice.

The AI process involves a thorough examination of a variety of sources related to housing, affirmatively furthering fair housing, the fair housing delivery system and housing transactions, particularly for persons who are protected under fair housing law. AI sources include census data, employment and income information, home mortgage application data, federal and state fair housing complaint information, surveys of housing industry experts and stakeholders, and related information found in the public domain.

An AI also includes an involved public input and review process via direct contact with stakeholders, public forums to collect input from citizens and interested parties, distribution of draft reports for citizen review, and formal presentations of findings and possible actions to overcome the identified impediments.

OVERVIEW OF FINDINGS

Socio-Economic Context

The population in South Dakota increased from 814,180 to 865,454 or by 6.3 percent between 2010 and 2016. During this time period, the largest increase in an age cohort group was seen in those aged 65 and over; this group increased by 71,841 or 209.3 percent. In terms of race and ethnicity, since 2010 white and Native American populations grew relatively slowly, by 4.8 and 7.7 percent, respectively. On the other hand, black, Asian and Hispanic populations grew extremely fast, with growth rates exceeding 45.6 percent. Some racial and ethnic populations were concentrated in certain parts of the state; the American Indian population was concentrated, but exclusively in tribal trust lands. At the time of the 2015 ACS, the state had a disability rate of 11.94 percent, which was slightly lower than the 12.4 percent national rate.

The labor force in South Dakota, defined as people either working or looking for work, rose from around 434,508 to 453,885 between 2009 and 2015; this growth represented an increase of roughly 4.5 percent. During this time period the unemployment rate remained relatively steady at 4.46 percent; the national unemployment rate during this same time frame fluctuated from just over 7 percent, up to 10 percent and leveling off at 8.3 percent in 2015. Median household income in South Dakota continues to rise and the gap between South Dakota median income and the national median income continues to be reduced. From 2010 to 2015, the South Dakota Median income increased 9.9 percent, going from \$46,369 to \$50,957. Nationally during this same time period, the national increase was 3.8 percent. South Dakota's 2015 median income was \$50,957, nationally the household median income was \$53,889. In South Dakota, the poverty rate in 2015 was 14.1 percent with 121,195 persons considered to be living in poverty, and persons in poverty were concentrated in the native trust lands of the state.

The number of housing units in the state increased by 5.4 percent and rose from 364,128 units to 383,838 units between 2010 and 2016. More specific information regarding housing units is from the 2015 ACS. Of the 372,328 housing units reported in the 2015 ACS, 72.3 percent were single-family units. A total of 330,858 units were occupied housing units, and, of these, 68.1 percent were owner-occupied and 31.9 percent were renter-occupied. The portion of owner-occupied units was slightly higher than the national average of 63.9 percent at that time. At the time that the 2015 census was taken, 5,438 or 1.6 percent of households were overcrowded and another 2,186 or 0.7 percent of households were severely overcrowded. In South Dakota, 0.6 and 1.0 percent of all households were lacking complete plumbing or kitchen facilities, respectively, at that time. Additionally, 5.7 percent of households had a cost burden and 18.2 percent of households had a severe cost burden in 2015.

Lending Practices

Home Mortgage Disclosure Act (HMDA) data were used to analyze differences in denial rates in the state by race, ethnicity, gender, income and location. Evaluated home purchase loan applications from 2016 showed that there were 37,533 loan applications and 5,356 denials, for an average application denial rate of 14.3 percent. The HMDA data also showed that American Indian, black, and Hispanic applicants experienced significantly higher rates of application denials than white applicants; however, the number of loan applications for white applicants was 75.7 percent of the applications received.

Evaluation of the Fair Housing Profile

A review of national fair housing studies revealed that despite efforts to curb fair housing discrimination in the U.S., problems still exist in terms of discrimination against racial and ethnic minorities and discrimination against persons with disabilities. Statewide fair housing studies and cases demonstrated issues of discriminatory

advertising based on race and familial status as well as disability discrimination in failure to meet accessibility standards.

Fair housing complaint data was collected from HUD for the years 2014 – 2016. During this time, there were thirty-one fair housing complaints filed with 24 cases being disability related. On average 130 charges are filed annually with the South Dakota Division of Human Rights. Data from the Division of Human Rights showed that 108 complaints were filed in South Dakota from October 1, 2015, through September 30, 2016, only one of which was housing related. South Dakota Housing Development Authority contracts with an individual to be the Fair Housing Ombudsman. Fair Housing South Dakota provides 1-800 access resource for renters and landlords to utilize to understand their rights and responsibilities. From July 1, 2016, through June 30, 2017, 410 calls were received regarding fair housing concerns and landlord/tenant disputes.

An online fair housing survey regarding the state of fair housing throughout South Dakota was conducted July 10, 2017, through August 14, 2017. Results of the survey showed that some respondents have concerns about fair housing and that they are aware of barriers to affirmatively furthering fair housing, including discrimination in the rental markets and confusion of the availability of affordable housing as a fair housing issue. Some respondents also indicated that they were aware of fair housing laws but noted that additional outreach and education efforts regarding fair housing are needed in their communities.

Research Conclusions

Based on the research conducted for this AI study, the protected classes that were determined to be disproportionately impacted by discrimination in the housing market were racial and ethnic minorities, persons with disabilities and households with familial status. This conclusion was supported by HMDA data for the home purchase market, which noted higher frequencies of denial for Native Americans, black and Hispanic applicants, and also by fair housing complaint data from HUD for the rental market, which identified the most common bases for complaint as disability, sex, and familial status.

IDENTIFIED IMPEDIMENTS TO FAIR HOUSING CHOICE AND SUGGESTED ACTIONS

Impediment: Discrimination in the housing market

HUD complaint data, survey data and information from recent fair housing cases in the state show that fair housing discrimination in South Dakota does exist in the housing market. The most prominent examples found were discrimination in terms, conditions, or privileges relating to rental, discriminatory refusal to rent, statements and notices and failure to make reasonable accommodation, particularly as these issues pertain to the protected classes of disabled and familial status.

Action: Reduce discrimination in the housing markets

Long Term: A number of actions should be continued with renewed energy in order to reduce identified discrimination problems in the housing market. To address non-compliance issues in regard to disability accommodations, effort should be made to better communicate to funded projects the importance of reasonable accommodation and also to multifamily properties the importance of compliance with design and construction standards. As for discriminatory advertising, endeavors should be made to remind printed media of the disallowed practices in advertising for housing.

Short Term: SDHDA will continue to review new multifamily construction and rehabilitation projects to ensure compliance with design and construction standards. During the architectural plan review of the 2017 applications, SDHDA will note the common concerns that are present and provide follow-up information to the architects and contractors as needed.

SDHDA will also create or find appropriate pamphlet material regarding reasonable accommodation for distribution or host a training opportunity. The information will be provided to multifamily developers, owners and managers to remind them of the importance of allowing reasonable accommodations.

SDHDA will evaluate providing additional fair housing training to specific population groups and more frequently through the year.

Impediment: Difficulties in the home purchase market

Fair housing problems were also identified in the home mortgage market through Home Mortgage Disclosure Act (HMDA) data including disproportionately high denial rates for selected minority racial and ethnic applicants, higher denial rates in low-income areas, and a disproportionate share of high interest rate loans extended to racial and ethnic minorities.

Action: Reduce denial rates and other problems in the home mortgage market

Long Term: Reducing problems in the home mortgage market should be addressed through education efforts and working to provide additional resources. For example, enhanced homebuyer education courses should be offered in order to better teach the importance of establishing and keeping good credit as well as the attributes of high interest rate loans and the problems associated with accepting less advantageous loan products.

Short Term: SDHDA will evaluate their website to determine if additional fair housing law and information, as it pertains to individuals looking for homeownership financing, is needed. In addition, SDHDA will evaluate the incorporation of renter's education or providing information to current renters of SDHDA financed properties, providing tenants with information regarding homeownership, keeping good credit, the attributes of high interest rate loans, in addition to renter/landlord responsibilities and budgeting. SDHDA will provide information to management companies that

they can provide to tenants or publically display in their multifamily housing development to share pertinent information or educational courses being offered.

SDHDA will review the HERO curriculum and use that to model renter's education material. SDHDA will also work with the State's Bankers' Association, SDHDA Homeownership Department and related entities to provide fair housing education materials at trainings, meetings or at a minimum provide material for their publications. The material will cover consumer rights, unfair lending practices and other relevant information.

SDHDA is a member of South Dakota Native American Homeownership Coalition (SDNAHOC) whose mission is to create opportunities so more Native Americans in South Dakota can achieve their dream of homeownership. SDHDA will continue to work with SDNAHOC to evaluate financing, education and development opportunities to support this mission.

Impediment: Lack of available housing units

Action: Production of new and preservation of existing housing units

Long Term: Increasing availability of affordable and habitable housing units provides individuals and families with choices allowing them the ability to find housing units that are suitable and affordable.

Short Term: Continued access to funding is vital for development of new housing and rehabilitation of existing housing. Educational efforts are needed to understand the importance of affordable housing in every community. Sharing of success stories and documenting financial impact will assist in public support of both state and federal funding.

SDHDA programs will also be evaluated to ensure efficient use of funds, utilizing funds geographically and targeting of incomes as appropriate.

Development of housing in rural communities is often difficult and typically requires involvement of individuals who are not involved in housing on a daily basis. SDHDA will continue to provide technical support, training and potentially additional resources and services to assist in development of housing in rural communities.

SDHDA will evaluate new funding sources to determine if they would be appropriate for developing additional housing in South Dakota.

SDHDA will continue to work with local governments and organizations to assist in rehabilitation of existing housing units, code enforcement and ability to change ownership of vacant and abandoned homes in rural communities.

Impediment: Lack of education

Action: Providing additional educational opportunities for homeowners, renters, service providers, advocacy groups, contractors and developers regarding budgeting, homeownership, renter/landlord responsibilities, fair housing, accessibility requirements, housing maintenance, limited English proficiency and other topics as deemed necessary

Long Term: Increasing the opportunity for individuals and agencies to learn important aspects of housing to increase opportunity for success.

Short Term:

Renter's education is important for housing success. SDHDA will evaluate existing renter education courses, determine how and when to incorporate this service and how to fund the service providers.

Provide additional fair housing training targeted to specific population groups so the training can be more tailored, creation of more fair housing brochures tailored to specific populations groups and evaluate alternative methods of information sharing and/or additional fair housing trainings. Trainings may be provided for tenant groups, housing authority clients, human service agencies, multi-cultural organizations, realtors, lenders, in addition to other targeted groups.

Maintenance of the housing unit will reduce unexpected expenses and be beneficial for the renter/landlord relationship. Evaluate how to incorporate maintenance education into both the home buying and renter process.

Impediment: Tenant selection criteria

Action: Working with landlords, management companies and service agencies to increase housing opportunities for individuals and families who are unable to meet specific tenant selection criteria

Long Term: Increasing availability of housing options for individuals and families who typically are unable to access appropriate housing units due to multiple reasons.

Short Term: Creation of a landlord risk mitigation program to provide financial security for landlords and management companies who are willing to work with service agencies in providing housing opportunities.

Continue dialogue and training opportunities to create relationships and partnerships in addressing housing opportunities working with public housing authorities, developers, service agencies and advocacy groups to ensure everyone has access to appropriate housing.

Assist in the development a coordinated entry system with SD Housing for the Homeless Consortium to ensure those identified as homeless or at risk of becoming homeless have access to services and appropriate housing choices.

SECTION I. INTRODUCTION

BACKGROUND

Title VIII of the 1968 Civil Rights Act, also known as the federal Fair Housing Act, made it illegal to discriminate in the buying, selling or renting of housing because of a person's race, color, religion or national origin. Sex was added as a protected class in the 1970s. In 1988, the Fair Housing Amendments Act added familial status and disability to the list, making a total of seven federally protected classes. Federal fair housing statutes are largely covered by the following three pieces of U.S. legislation:

- The Fair Housing Act,
- The Housing Amendments Act, and
- The Americans with Disabilities Act.

State or local governments may enact fair housing laws that extend protection to other groups as well. For example, the South Dakota Human Relations Act of 1972 includes the following protected classes: race, color, creed, religion, sex, disability, ancestry, or national origin.

WHY ASSESS FAIR HOUSING?

Provisions to affirmatively further fair housing are long-standing components of the U.S. Department of Housing and Urban Development's (HUD) housing and community development programs. These provisions flow from Section 808(e) (5) of the Federal Fair Housing Act, which requires that the Secretary of HUD administer HUD's housing and urban development programs in a manner that affirmatively furthers fair housing.

In 1994, HUD published a rule consolidating plans for housing and community development programs into a single preparation: the Consolidated Plan for Housing and Community Development. This document incorporates the plans for original consolidated programs, including Community Development Block Grants (CDBG), HOME Investment Partnerships (HOME), Emergency Shelter Grants¹ (ESG), and Housing Opportunities for Persons with AIDS (HOPWA), as well as additional program components that have been enacted since such as the Neighborhood Stabilization Program and the Housing Trust Fund.

As a part of the consolidated planning process (24 CFR 91), states and entitlement communities receiving such funds as a formula allocation directly from HUD are required to submit to HUD certification that they are affirmatively furthering fair housing. This certification has three parts and requires:

- Conducting an Analysis of Impediments to Fair Housing Choice (AI);

¹ The Emergency Shelter Grant was renamed the Emergency Solutions Grant.

- Taking appropriate actions to overcome the effects of any impediments identified through the analysis; and
- Maintaining records reflecting the analysis and actions taken.

HUD interprets these three certifying elements to entail:

- Analyzing and working to eliminate housing discrimination in the jurisdiction;
- Promoting fair housing choice for all people;
- Providing opportunities for racially and ethnically inclusive patterns of housing occupancy;
- Promoting housing that is physically accessible to, and usable by, all people, particularly individuals with disabilities; and
- Fostering compliance with the nondiscrimination provisions of the Fair Housing Act.

On July 16, 2015, the Affirmatively Furthering Fair Housing (AFFH) Final Rule was published providing program participants with an approach to more effectively and efficiently incorporate into the planning process the duty of affirmatively furthering the policies of the Fair Housing Act. The purpose of this rule was to refine the prior analysis of impediments approach by replacing it with a fair housing assessment tool that would better inform HUD program participants' planning process and assist them in fulfilling the statutory obligation. Per the AFFH Rule, no Assessment of Fair Housing (AFH) will be due before the publication of the Assessment Tool applicable to the program participant. In addition, HUD must provide a minimum of nine (9) months after publication of the Assessment Tool when setting the deadline for submission of the AFH.

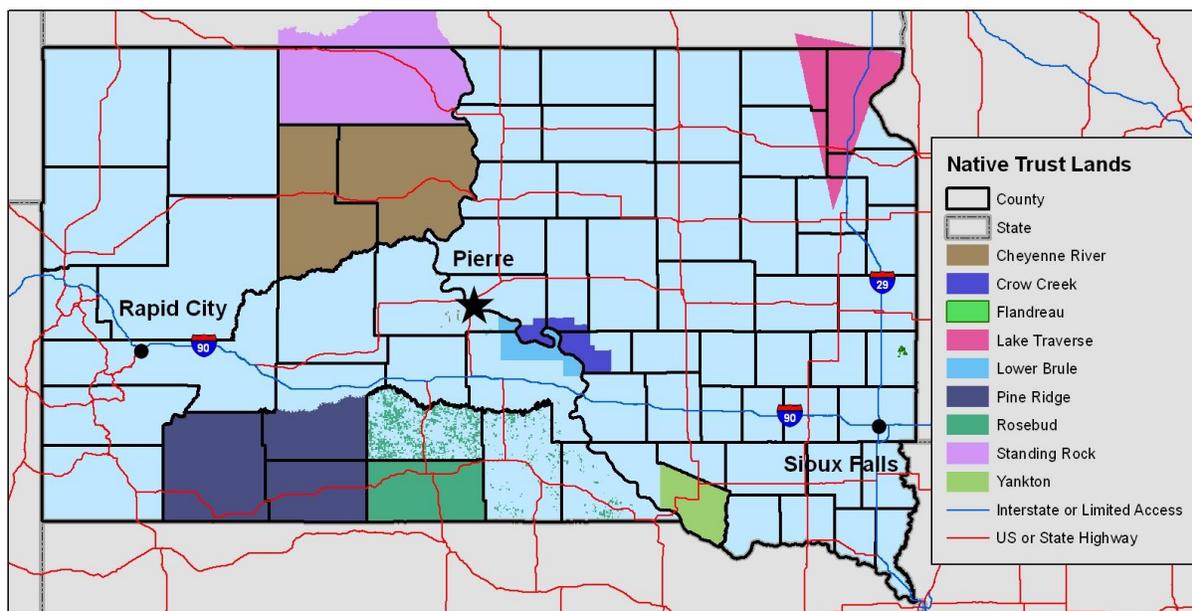
As of January 2017, the Affirmatively Furthering Fair Housing applicable Assessment Tools and their related Data and Mapping Tool were not available for States and Insular Areas. On January 18, 2017, HUD provided general guidance for program participants regarding compliance with the AFFH Rule. Per the guidance, South Dakota will continue to meet the obligation of affirmatively furthering fair housing by conducting an Analysis of Impediments to Fair Housing Choice.

PURPOSE OF THIS RESEARCH

Thus, the purpose of the *2017 South Dakota Analysis of Impediments to Fair Housing Choice* is to research, analyze and identify prospective impediments to fair housing choice in the State of South Dakota and to suggest actions that the State can consider in working toward eliminating, overcoming or mitigating the identified impediments.

A map of the State of South Dakota, including the designated American Indian trust lands, is presented below.

Map I.1
State of South Dakota



RESEARCH METHODOLOGY

The 2017 South Dakota Analysis of Impediments to Fair Housing Choice offers a thorough examination of a variety of sources related to housing, such as demographic change, economic influences, and the state of the housing market, but also information pertaining to affirmatively furthering fair housing, the state of the fair housing delivery system and housing transactions affecting people throughout South Dakota. This information was collected and evaluated through four general approaches:

1. *Primary Research* – the collection and analysis of raw data that did not previously exist.
2. *Secondary Research* – the review of existing data and studies.
3. *Quantitative Analysis* – the evaluation of objective, measurable and numerical data.
4. *Qualitative Analysis* – the evaluation and assessment of subjective data, such as people’s beliefs, feelings, attitudes, opinions and experiences.

Some of the baseline secondary and quantitative data providing a picture of the state’s housing marketplace were drawn from the 2010 census and intercensal estimates. These data included population, personal income, poverty estimates, housing units by tenure, cost burdens, and housing conditions. Other data were drawn from records provided by the Bureau of Economic Analysis, the Bureau of Labor Statistics and a variety of other sources. The narrative below offers a brief description of other key data sources employed for the 2017 South Dakota AI.

Home Mortgage Disclosure Act Data

To examine possible fair housing issues in the home mortgage market, Home Mortgage Disclosure Act (HMDA) data was analyzed. The HMDA was enacted by Congress in 1975 and has since been amended several times. It is intended to provide the public with loan data that can be used to determine whether financial institutions are serving the housing credit needs of their communities and to assist in identifying possible discriminatory lending patterns. HMDA requires lenders to publicly disclose the race, ethnicity and sex of mortgage applicants, along with loan application amounts, household income, census tract in which the home is located, and information concerning prospective lender actions related to the loan application. For this analysis, HMDA data from 2016 was analyzed.

Fair Housing Complaint Data

Housing complaint data was used to analyze housing discrimination in the renting and selling of housing. HUD provided fair housing complaint data for the State of South Dakota for the years 2014 through 2016. That information included basis of complaint, issues pursuant to the grievance and closure status of the alleged fair housing infraction, which relates to the result of the investigation including any testing conducted in the enforcement process. This review of 31 fair housing complaints allowed for inspection of the tone and relative degree and frequency of certain types of unfair housing practices seen in the state and the degree to which they were found to be with cause, while acknowledging that many individuals may be reluctant to step forward with a fair housing complaint for fear of retaliation or similar repercussion.

Of the 31 cases filed with HUD, 24 were disability related, four were familial status and three were race related. Eleven of the cases reached a settlement, nine were determined to have no cause and five are pending resolution. The remaining cases either elected to go to court, complainant failed to cooperate or the complaint was withdrawn.

March 2015, SDHDA entered into a contract for a Fair Housing Ombudsman to provide fair housing resources for the general public. A 1-800 number and email provide easy access for individuals to address fair housing complaints and landlord/tenant disputes. From April 2015 through July 2017, a total of 978 inquiries were received from individuals in communities, outside of Sioux Falls. Of these inquiries, 415 were classified as fair housing related. The goal of the Ombudsman is to mediate the situation, however 36 of the inquiries were referred on to HUD's office of fair housing. In addition, 41 inquiries were referred on to the SD Attorney General's Office of Consumer Protection for formal complaints.

2017 South Dakota Fair Housing Survey

One of the methods HUD recommends for gathering public input about perceived impediments to fair housing is to conduct a survey. The State of South Dakota elected to utilize such a survey instrument to measure the degree of understanding of fair

housing laws, awareness of actions made to affirmatively further fair housing, perceptions of state and local government policies that adversely affect fair housing including zoning requirements and development practices, as well as known practices in both public and private sectors that may deliberately or unwittingly affect housing choice due to protected class status. This step was a cost effective, efficient method to target research resources. The South Dakota 2017 Analysis of Impediments to Fair Housing Choice Survey, which was conducted online, received a total of 331 responses.

The 2017 survey targeted the general public and individuals and organizations involved in the housing arena. The survey was publically announced via press releases, in conjunction with public meetings, direct email and posted on SDHDA's website and social media. An email contact list was assembled by SDHDA and partner agencies with experts in at least the following areas:

- Fair housing, disability, social service, and other advocacy (disability and cultural) organizations;
- Rental housing developers, architects and contractors;
- State and local governments;
- Banking and insurance laws and regulations;
- Real estate development, real estate sales and management laws and regulations;
- Renter rights and obligations, including civil rights;
- Habitat for Humanity, public and tribal housing authorities and other housing providers;
- Economic development organizations.

The survey approach also assured that selected target populations, through their service provider network or advocacy organizations, were well represented. Furthermore, these entities are utilized to help publicize fair housing planning activities and promote public involvement.

The survey protocol involved sending an e-mail announcement to each prospective respondent, introducing them to the upcoming survey, its purpose and intent. A link was provided that directed the respondent to the online survey. The e-mail message also urged respondents to forward the survey announcement to any other individual or agency involved in fair housing. Furthermore, the announcement and survey link were posted on the lead agency's website and other social media. In addition, several gift cards were provided to help incentivize individuals to complete the survey.

As noted above, the survey was designed to address a wide variety of issues related to fair housing and affirmatively furthering fair housing. The survey was structured for responses to be applicable to the organization or individual perspective. Of the 331 responses 50 percent were individuals, 39 percent represented nonprofit, advocacy or governmental agencies and 11 percent represented housing developers, owners, managers and lending institutions. The following narrative summarizes key survey themes and data that were collected from the survey instrument.

Federal, State and Local Fair Housing Law

Questions in this section related to awareness of fair housing laws, understanding of fair housing laws including protected classes, availability of fair housing training and knowledge of the fair housing complaint referral process. Answers to this question provided a snapshot of understanding and awareness of fair housing in the state.

Fair Housing in South Dakota

This section offered a number of open-ended questions that allowed respondents to identify: general concerns about fair housing in South Dakota, possible barriers or constraints in the fair housing process, geographic areas with fair housing problems and also non-compliance issues with any private lenders or landlords in the state. The use of open-ended questions allowed respondents to address any number of concerns such as redlining, neighborhood issues, lease provisions, steering, sub-standard rental housing, occupancy rules, or other fair housing issues in the state. In addition, there were two yes/no questions to determine if the respondent was familiar with fair housing and whether they would like the opportunity to learn more about fair housing.

State and Local Government Policies and Activities Related to Fair Housing

In this section, respondents were asked to offer insight into any state or local government policies and practices related to fair housing or barriers that they have experienced. For individuals, the question was in relation to obstacles they encountered while obtaining housing; for housing developers/owners, the question was in relation to obstacles identified in developing housing; and for the nonprofit/advocacy respondents, the question was in relation to clients they currently serve.

More specifically, questions related to: planning, financing or administrative actions that may have adversely affected fair housing; awareness of non-compliance issues with public housing authorities in the state; codes or regulations, in relation to building, occupancy, health or safety, that may be barriers to fair housing; or public administrative actions or policies, including tax policy, that may represent barriers to fair housing choice. These questions were used to identify fair housing issues in the state in relation to zoning, building codes, accessibility compliance, subdivision regulations, displacement issues, development practices, residency requirements, property tax policies, land use policies, or NIMBYism (Not in My Backyard).

Fair Housing Activities in South Dakota

The questions in this section were utilized to measure general awareness of fair housing outreach and education activities in the state.

If limited input on a particular topic was received, it was assumed that the entirety of stakeholders did not view the issue as one of high pervasiveness or impact. This does not mean that this issue was non-existent in the state, only that there was not a large perception of its prevalence as gauged by survey participants.

LEAD AGENCY

South Dakota Housing Development Authority (SDHDA) is the lead agency for preparing the 2017 Analysis of Impediments to Fair Housing Choice. The Governor's Office of Economic Development is also involved in the production of the AI.

Commitment to Fair Housing

In accordance with the applicable statutes and regulations governing the Consolidated Plan, SDHDA certifies that it will *affirmatively further fair housing*. This statement means that the SDHDA has conducted an AI within the state of South Dakota, will take appropriate actions to overcome the effects of any impediments identified through that analysis, and will maintain records reflecting that analysis and actions in this regard.

PUBLIC INVOLVEMENT

SDHDA conducted the public input process associated with this AI. The key actions that were used to notify the public of the AI process included e-mail announcements, public postings, including a paid advertisement and press releases, and other communication activities directed to citizens and stakeholders in the fair housing arena. The e-mail announcements and communication activities were directly provided to individuals and entities on SDHDA's contact list. The contact list includes homebuilders, lenders, real estate brokers/agencies, community leaders, contractors, developers, local public and Indian housing authorities, local Rural Development officials, advocacy groups, and service organizations.

There were seven public meetings held prior to drafting of the Analysis of Impediments. Notice of the public meetings was published via a statewide press release, posted on SDHDA website, and sent via direct email. The meetings were held on the following dates and locations:

- July 24, 2017 in Pierre
- July 25, 2017 in Rapid City
- July 25, 2017 at Thunder Valley CDC located at Sharps Corner, Pine Ridge
- July 26, 2017 in Aberdeen
- July 26, 2017 in Watertown
- July 27, 2017 in Sioux Falls and
- July 27, 2017 in Yankton.

The seven public meetings resulted in 36 attendees representing community leaders, nonprofit service providers, Habitat for Humanity, affordable housing developers, public housing authorities, planning districts, community development organizations, Native American nonprofit organizations, USDA Rural Development, credit counseling agencies, homeless shelters, financial institutions and state legislators.

SDHDA also held a public input meeting on September 13, 2017, during the SDHDA annual housing conference in Pierre. This meeting, was designed to offer the public the opportunity to supply commentary on the state of fair housing in South Dakota as well

as provide feedback on the initial findings of the AI. This meeting outlined the results of the public meetings and on-line survey and the proposed action steps

The draft report was released for public review November 22, 2017, initiating a 30-day public review period. The draft AI report was available on the SDHDA website at <http://www.sdhda.org/> and an email notice was forwarded to the individuals who attended the public meetings held July 2017. The 30 day comment period ended December 22, 2017. No comments were received.

SECTION II. SOCIO-ECONOMIC CONTEXT

INTRODUCTION

This section presents general demographic, economic and housing information collected from: the U.S. Census Bureau, the Bureau of Economic Analysis, the Bureau of Labor Statistics and other resources, and the data were used to analyze a broad range of socioeconomic characteristics including population, race, ethnicity, disability, employment, poverty concentrations and housing trends. These data illustrate the underlying conditions that have helped shape housing market behavior and housing choice, as well as highlight potential impediments to fair housing choice.

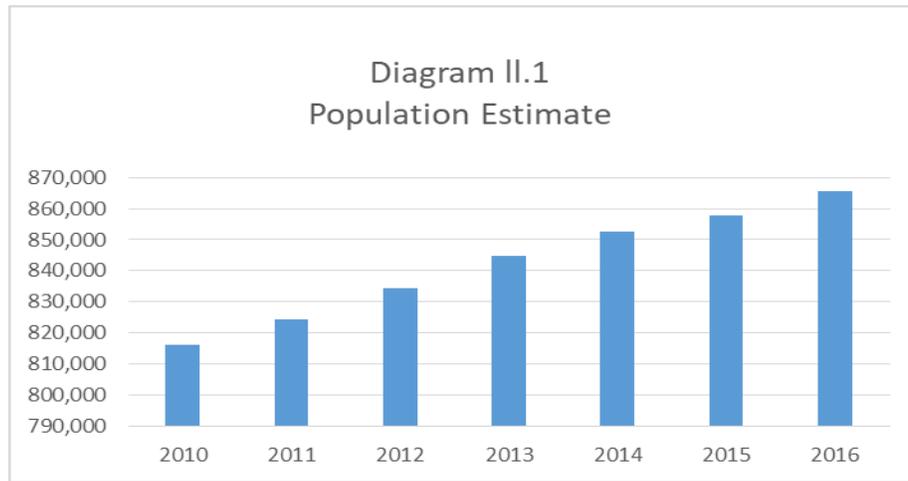
DEMOGRAPHICS

POPULATION DYNAMICS

The population in South Dakota has steadily increased over the last thirty years. From 1980 through 2016, population in the state grew from 690,768 to 865,454. Changes in population can be attributed to natural increases, or births minus deaths, as well as net migration, or the difference in persons moving to or from the state. In the 1980s net migration figures were negative, but since the 1990s both natural increase and net migration have been strongly positive, with the natural increase exceeding the net migration in both decades.

1980 Population	690,768
Natural Increase 80-90	8,092
Net Migration 80-90	-2,856
1990 Population	696,004
Natural Increase 90-00	35,283
Net Migration 90-00	23,557
2000 Population	754,844
Natural Increase 00-10	41,893
Net Migration 00-10	17,443
2010 Population	814,180
Natural Increase 10-16	29,986
Net Migration 10-16	21,288
2016 Population Estimate	865,454

In 2016, the U.S. Census Bureau released population estimates for the state ending July 1, 2016. As Diagram II.1 illustrates, the population in South Dakota rose steadily from 2010 to 2016 from 814,180 to 865,454.



Census estimates of population by year for the State of South Dakota are presented in Table II.2, at right. According to 2016 Census Bureau estimates, the total state population experienced an absolute change of 49,729 or 6.01 percent. This finding suggests that while population growth in the state has not been large, it has been steady over the last decade.

Year	2009 Estimate	% Increase
2010 Census	816,325	.
2011	824,398	0.99%
2012	834,441	1.22%
2013	844,922	1.26%
2014	852,561	0.90%
2015	857,932	0.63%
2016	865,454	0.88%
% Change 10 - 16	49,729	6.01%

Table II.3, at right, presents population data by age for the year 2015 for the State of South Dakota. In the state, most persons comprised the 35 to 54 age cohort group, with 205,489 persons, and the 5 to 19 age group cohort, with 171,635 persons. Fewest persons were in the groups aged under 5 with 59,992 persons.

Age	Total
Under 5	59,992
5 to 19	171,635
20 to 24	60,524
25 to 34	110,731
35 to 54	205,489
55 to 64	109,206
64 and Over	125,613
Total	843,190

Racial and Ethnic Composition

At the time that the 2015 census ACS was taken, the racial composition of South Dakota was predominantly white, and this group comprised 85.0 percent of the total population at 716,691 persons. The next most populous group was American Indian at 8.6 percent or 72,619 persons. In terms of ethnicity, the Hispanic population equated to 3.3 percent of the total population or 27,914 persons.

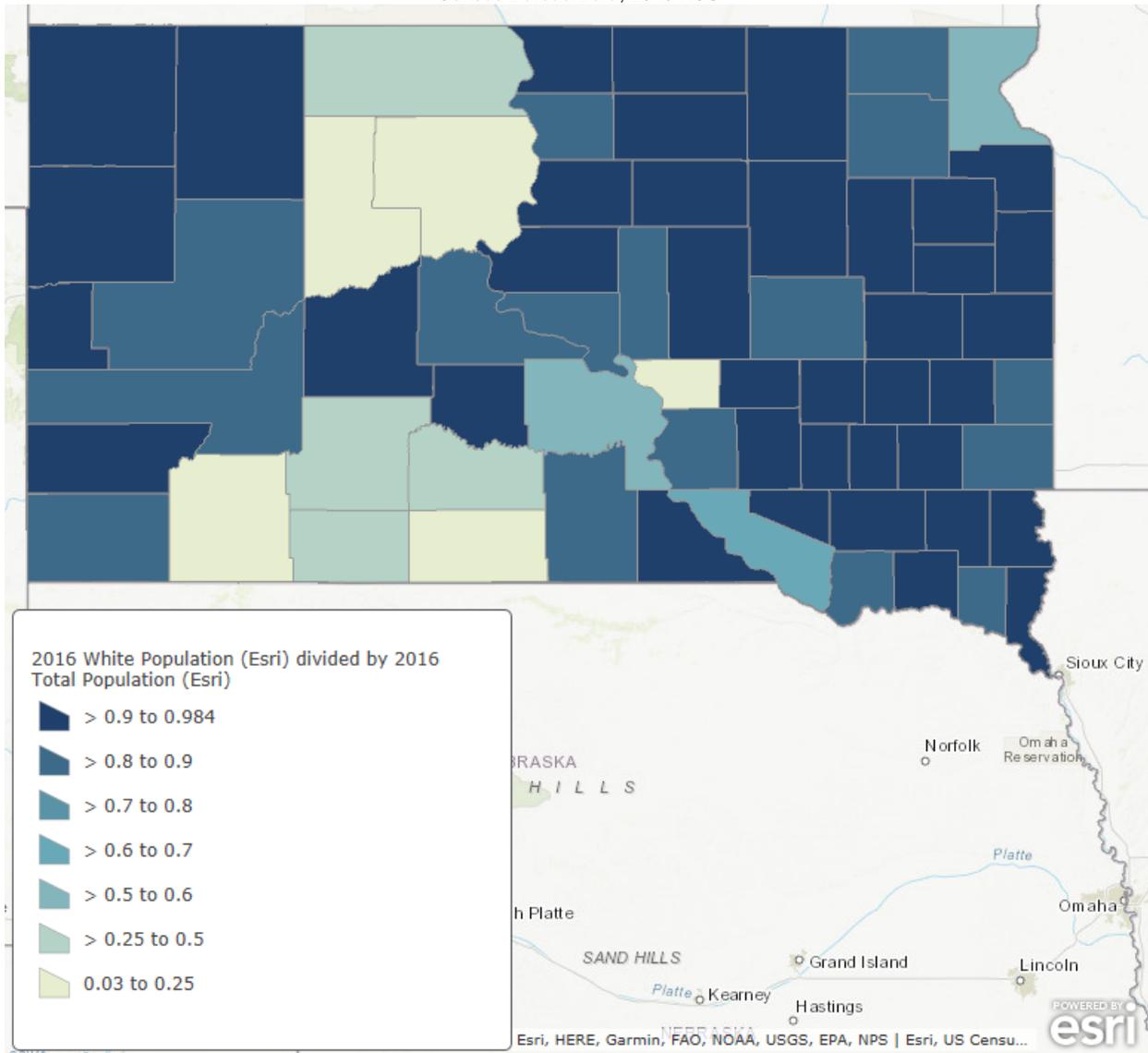
Table II.4 Population by Race State of South Dakota Census Bureau SF1 Data, 2015 ACS		
Race	Population	% of Total
White	716,691	85.0%
Black	13,133	1.6%
American Indian	72,619	8.6%
Asian	10,152	1.2%
Native Hawaiian/Pacific Islander	332	0.0%
Other	37,940	0.9%
Two or More Races	22,323	2.6%
Total	843,190	100.0%
Hispanic	27,914	3.3%

However, the geographic distribution of these racial and ethnic minorities was not even throughout the state. HUD defines a population as having a disproportionate share when the portion of that population is more than 10 percentage points higher than the jurisdiction average. For example, the statewide Native American population in South Dakota in 2015 was 8.6 percent. Therefore, any area that had a Native American population higher than 18.6 percent displayed a disproportionate share of the population. This analysis of racial distribution was conducted by calculating race as the percentage share of total population and then plotting the data on a geographic map of census tracts in South Dakota.

As Map II.1 illustrates, the eastern half of the state had many counties with a disproportionate share of the white population with the 90-98 percent white.

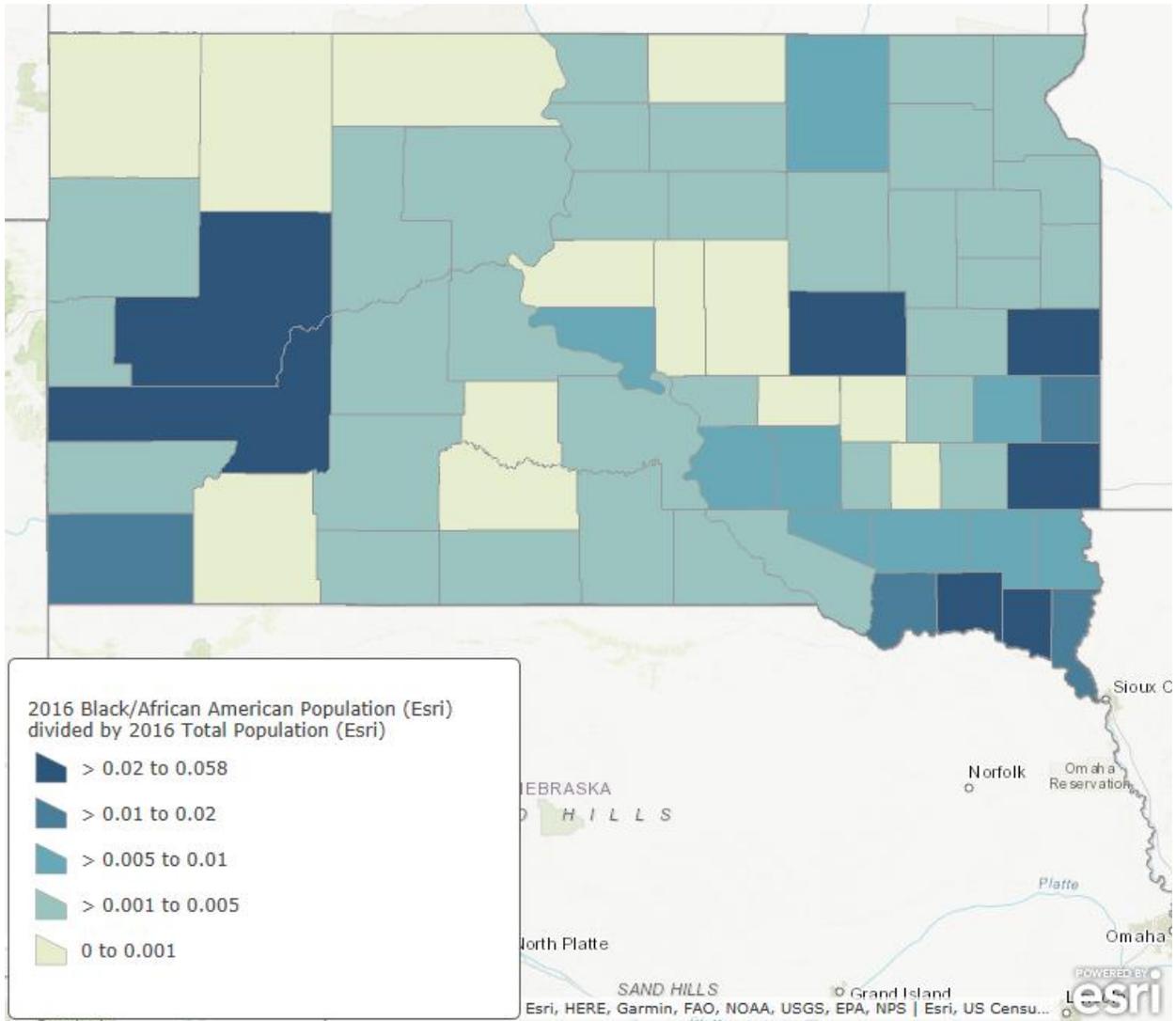
Map II.1
Percent White Population by Census Tract

State of South Dakota
Census Bureau Data, 2015 ACS



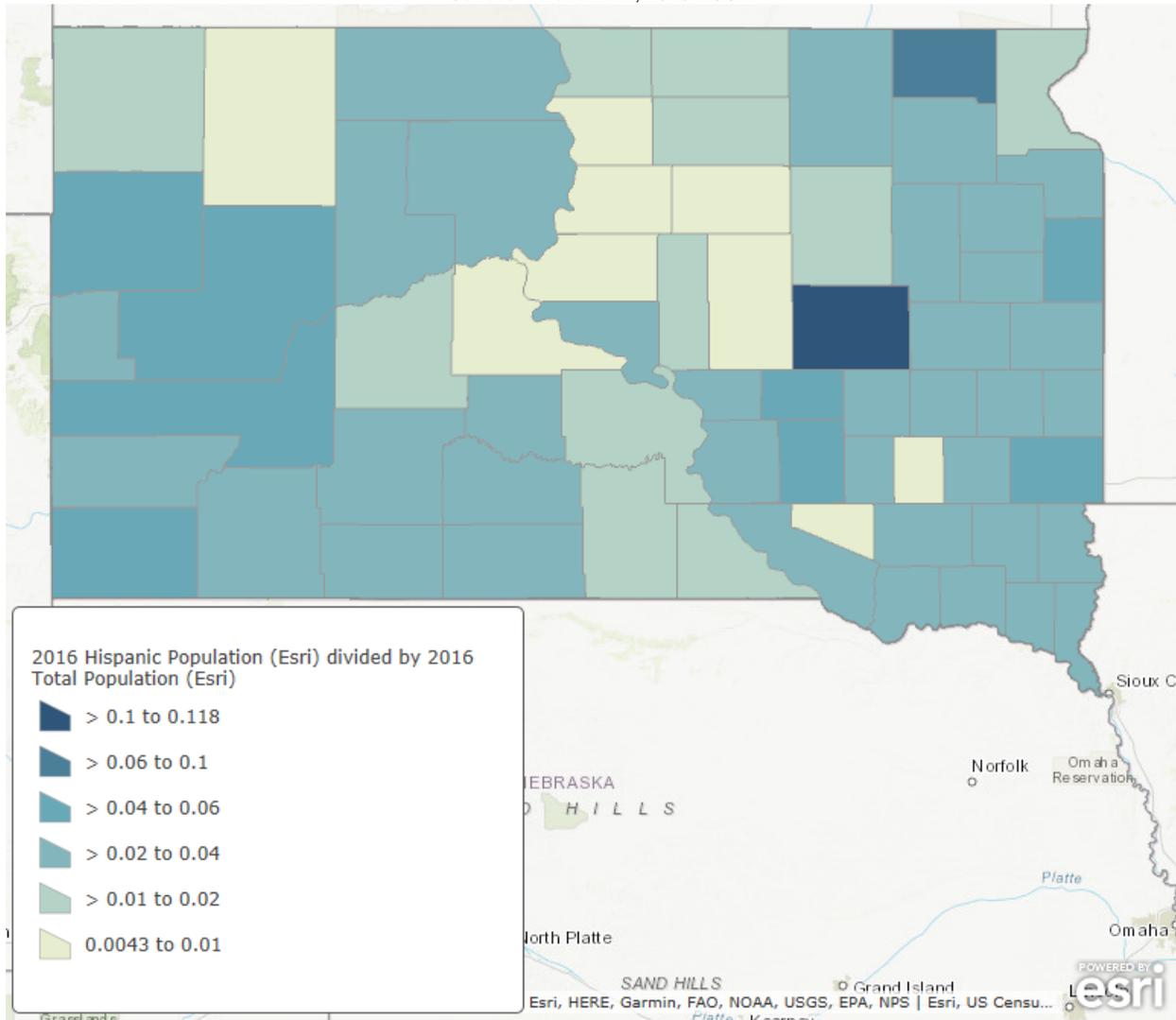
A similar evaluation was conducted for the black population in the state. This analysis revealed that there were no counties with a disproportionate share of the black population that exceeded 11.6 percent.

Map II.2
Percent Black Population by Census Tract
State of South Dakota
Census Bureau Data, 2015 ACS



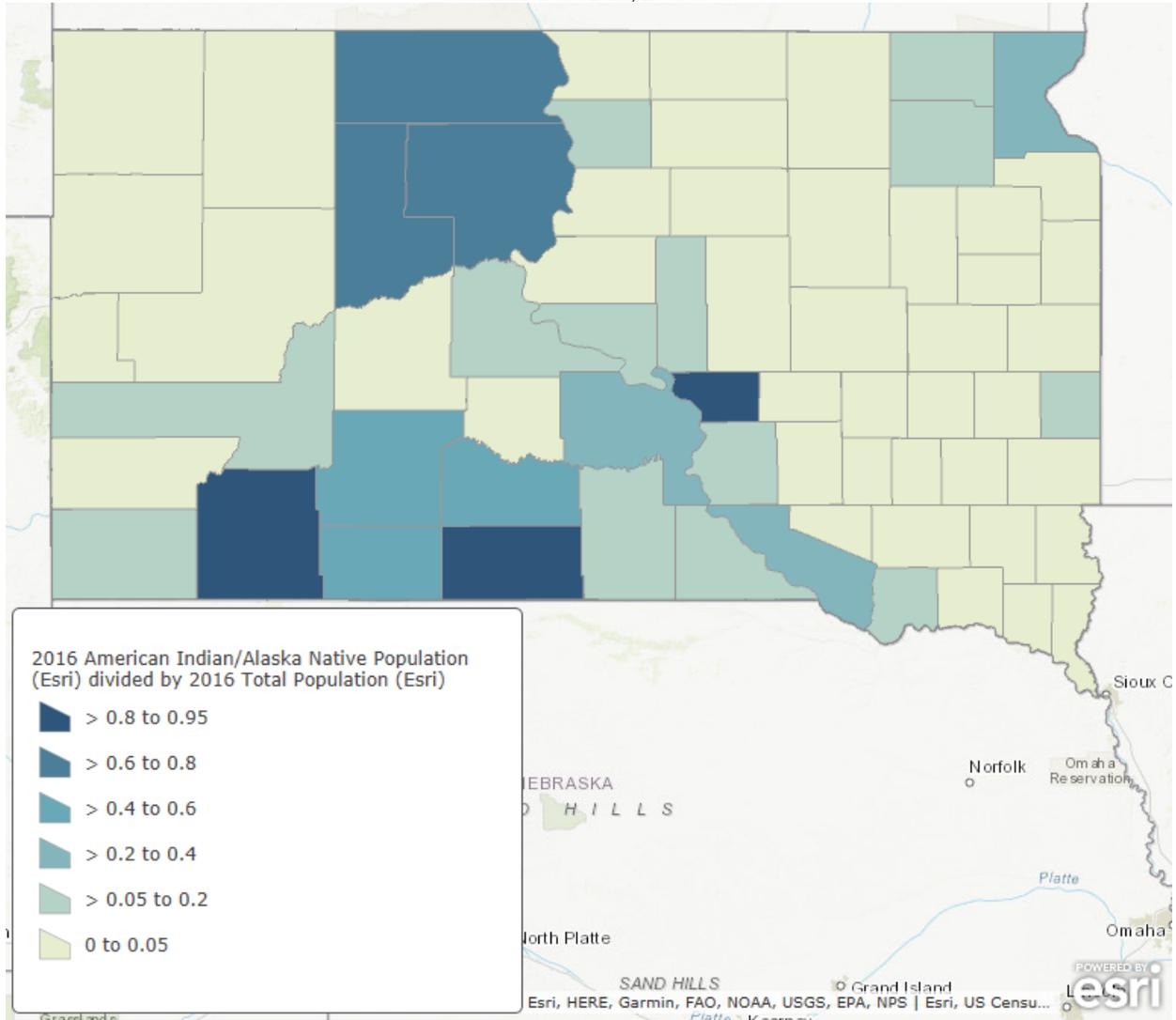
Analysis of the concentration of the Hispanic population at the time of the 2015 census ACS revealed no tracts in the state had a disproportionate share of the population greater than 13.3 percent, as shown in Map II.3, below.

Map II.3
Percent Hispanic Population by Census Tract
 State of South Dakota
 Census Bureau Data, 2015 ACS



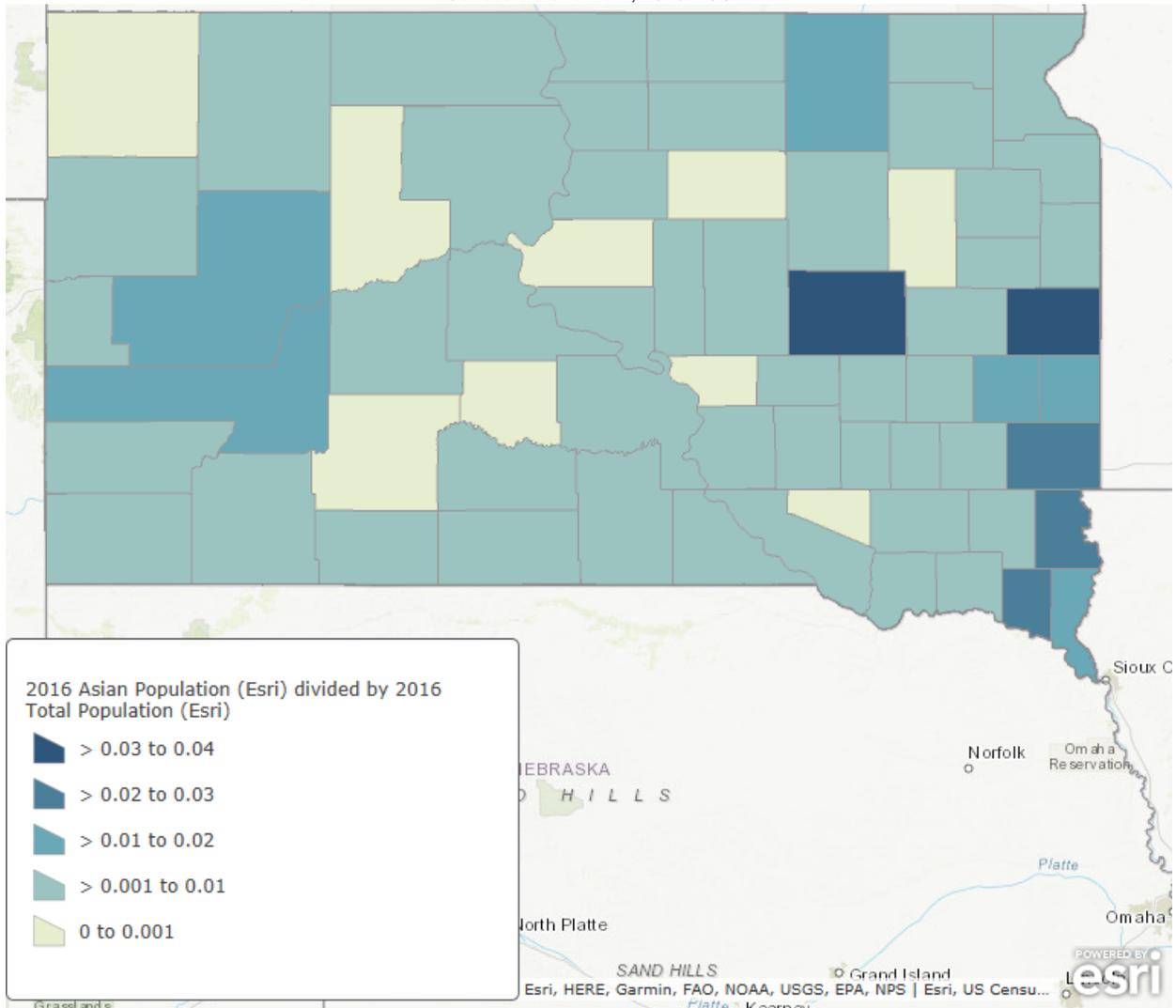
Map II.4 shows that the state had many disproportionate shares of the Native American population as of the 2015 census ACS. The concentration of this population in selected census tracts far exceeded the state average of 8.6 percent and actually comprised as much as 95.0 percent of the population in certain counties. However, as demonstrated by this map, these high concentration areas mainly corresponded with American Indian trust lands.

Map II.4
Percent American Indian Population by Census Tract
 State of South Dakota
 Census Bureau Data, 2015 ACS



Map II.5 presents the concentration of the Asian Population and shows that there were no disproportionate shares of this population in South Dakota that exceeded 11.2 percent.

Map II.5
Percent Asian Population by Census Tract
State of South Dakota
Census Bureau Data, 2015 ACS



DISABILITY STATUS

Disability is defined by the Census Bureau as a lasting physical, mental or emotional condition that makes it difficult for a person to conduct daily activities of living or impedes them from being able to go outside the home alone or to work. For all persons aged 5 years or older, the state had a disability rate of 11.94 percent, slightly lower than the 12.4 percent national rate at that time. Still, this figure represented 100,700 persons statewide living with a disability.

Age	Total
Under 5	666
5 to 17	7,167
18 to 64	51,278
Over 65	41,589
Total	100,700
Disability Rate	11.94%

ECONOMICS

LABOR FORCE AND EMPLOYMENT

Between 2009 and 2015, the labor force in South Dakota, defined as people either working or looking for work, rose from around 434,508 to 453,885, an increase of roughly 4.46 percent.

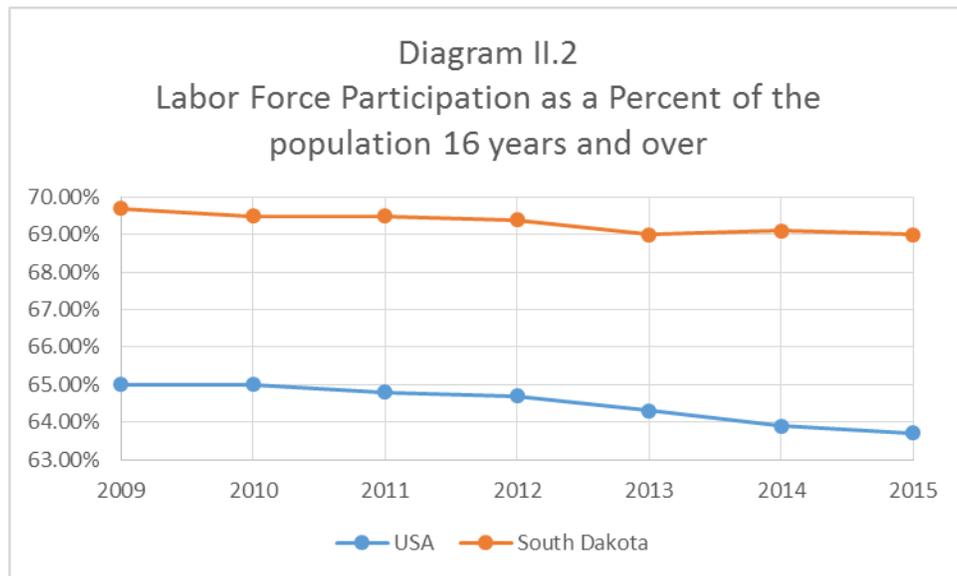
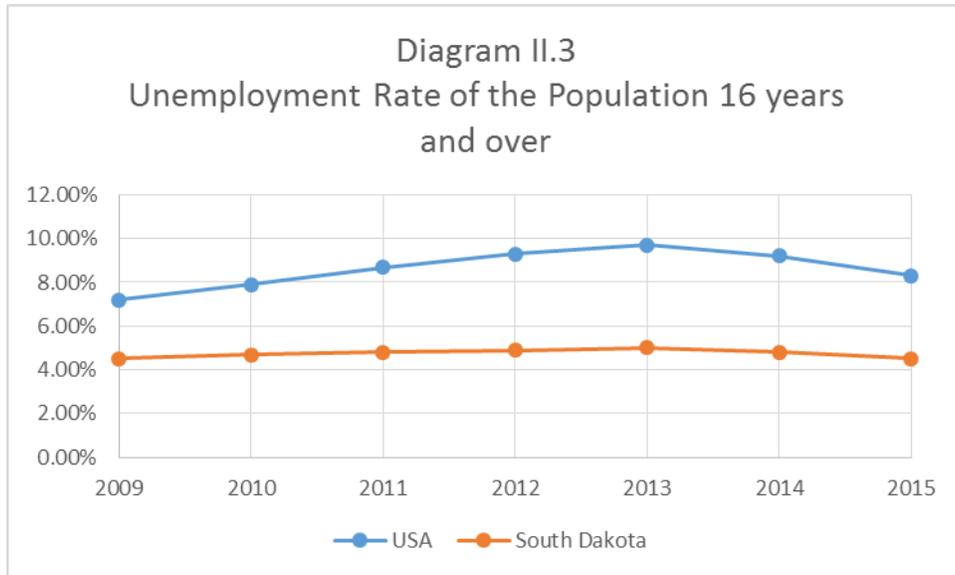
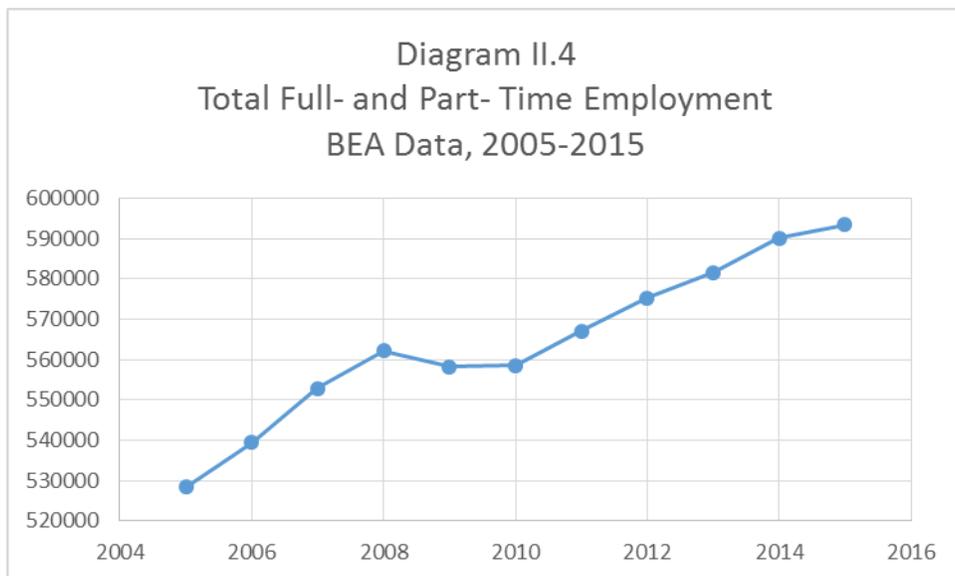


Diagram II.3 presents the unemployment rate in South Dakota and the U.S. from 2009 through 2015. In 2015, South Dakota’s unemployment rate stood at 4.5 percent, but this was significantly lower than the national rate of 8.3 percent.



FULL- AND PART-TIME EMPLOYMENT AND EARNINGS

The Bureau of Economic Analysis (BEA) provides an alternate view of employment: a count of both full- and part-time jobs. Thus, a person working more than one job can be counted more than once. As shown in Diagram II.4, below, the total number of full- and part-time jobs increased substantially from 2005 through 2015 from 528,338 jobs to 593,502 jobs.²

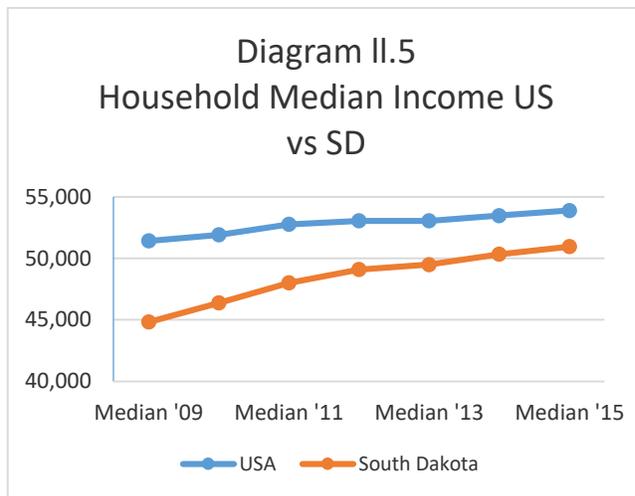


² Data are, in part, from administrative records, and the most current BEA data available were through 2016.

HOUSEHOLD AND FAMILY INCOME

Table II.6 presents the number of households in the State of South Dakota by income range. As shown, while a significant number of households in the state had incomes above \$50,000 or even \$100,000, 11.8 percent of the state had household incomes that were below \$15,000. This figure represented 38,809 households in the state. An additional 35,437 households or 22.5 percent of all households had incomes between \$15,000 and \$24,999. In total, 74,246 households or 22.5 percent of households in the state had incomes under \$25,000.

Income	Total	Percentage
Under 10,000	20,406	6.2%
10,000 - 14,999	18,403	5.6%
15,000 - 24,999	35,437	10.7%
25,000 - 34,999	36,985	11.2%
35,000 - 49,999	50,925	15.4%
50,000 - 74,999	65,458	19.8%
75,000 - 99,999	45,058	13.6%
100,000 – 149,999	37,407	11.3%
150,000 – 199,999	10,046	3.0%
Over 200,000	10,733	3.2%
Total	330,858	100.0%

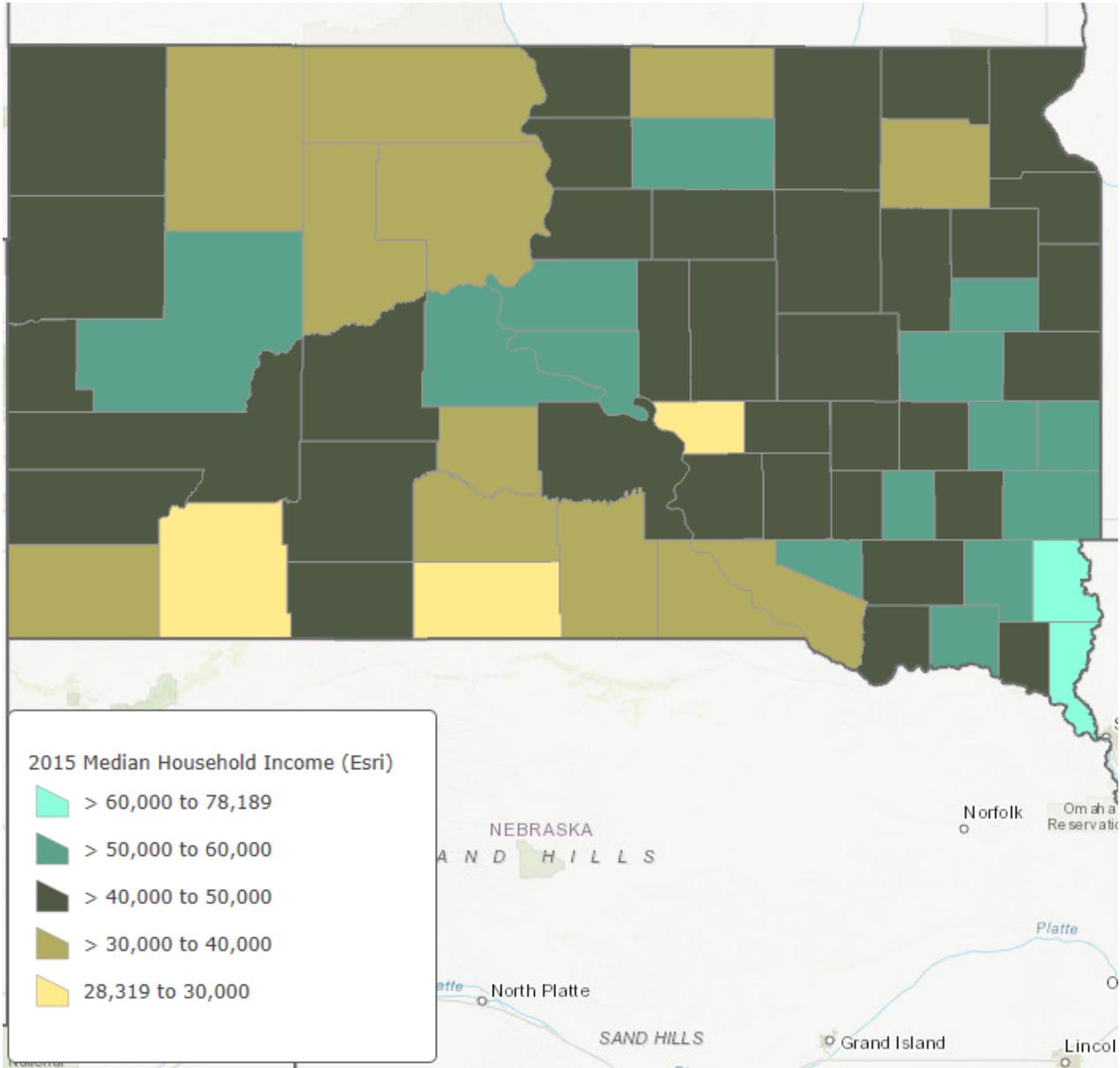


The household median income for South Dakota continues to increase at a rate greater than the nation. Over the six years from 2009 through 2015, the US household median income increased 4.79 percent, during this same time the household median income for South Dakota residents increased 13.67 percent.

Year	Median Income	
	USA	South Dakota
2009	51,425	44,828
2010	51,914	46,369
2011	52,762	48,010
2012	53,046	49,091
2013	53,046	49,495
2014	53,482	50,338
2015	53,889	50,957

Map II.6 following, shows household median income by county for 2015.

Map II.6
2015 Median Household Income
State of South Dakota



POVERTY

Census Bureau uses a set of income thresholds that vary by family size and composition to determine poverty status. If a family's total income is less than the threshold for their size, then that family, and every individual in it, is considered poor. The poverty thresholds do not vary geographically, but they are updated annually for inflation using the Consumer Price Index. The official poverty definition counts income before taxes and does not include capital gains and non-cash benefits, such as public

housing, Medicaid and food stamps. Poverty is not defined for people in military barracks, institutional group quarters or for unrelated individuals under age 18, such as foster children.

In South Dakota, the poverty rate in 2015 was 14.1 percent with 121,195 persons considered to be living in poverty, as noted in Table II.7. This rate was slightly lower than the national average at that time of 15.5 percent. Further, the state had 12,012 persons aged 65 or older living in poverty at that time.

Table II.7	
Poverty by Age	
State of South Dakota Census Bureau SF3 Data, 2015 ACS	
Age	Total
18 and Below	40,212
18 to 64	64,971
65 and Older	12,012
Total	121,195
Poverty Rate	14.1%

Additionally, poverty was not spread evenly throughout the State of South Dakota, as some census tracts had higher concentrations of poverty than others. The above map shows median household income by county.

In 2015, 52.0 percent of the people in South Dakota living in poverty were Native American, with 26.9 percent of the people living in poverty being African American. While South Dakota had the highest poverty rate regionally, it was ranked number 27 in the nation. For South Dakotans with a disability, 22.7 percent lived in poverty. Single women with children are more than twice as likely to live in poverty compared to any other household group, at 34.3 percent.

HOUSING

Data regarding the number of housing units counted in South Dakota for the years 2010 through 2016 are presented in Table II.8, at right. In total, the number of housing units in the state increased by 5.4 percent in this six-year time period and rose from 364,128 units to 383,838 units. However, as established previously, during this time the population grew more slowly and increased by only 6.01 percent. This finding suggests that housing production outpaced population growth in this time.

Table II.8	
Housing Units	
State of South Dakota Census Bureau Intercensal Estimates, 2010 – 2016	
Year	Total Units
2010	364,128
2011	366,147
2012	368,229
2013	371,552
2014	376,194
2015	380,188
2016	383,838
% Change	5.4%

More detailed information regarding the attributes of the housing stock is available from 2015 ACS 5yr data. Of the 372,328 housing units reported in South Dakota 72.3 percent were single-family units. An additional 8.8 percent of units were counted as mobile homes and 12.6 percent were apartments. These data are presented in Table II.9.

Table II.9		
Housing Units by Unit Type		
State of South Dakota		
Census Bureau SF3 Data, 2015 ACS		
Unit Type	Total	% of Total
Single-Family Unit	269,341	72.3%
Duplex	6,296	1.7%
Tri- or Four-Plex	12,510	3.4%
Apartments	51,293	12.6%
Mobile Homes	32,754	8.8%
Boat, RV, Van, Etc.	134	0.0%
Total	372,328	100.0%

The 372,328 housing units reported in the 2015 ACS can also be examined by tenure status. A total of 330,858 units were occupied housing units, and, of these, 68.1 percent were owner-occupied and 31.9 percent were renter-occupied. The portion of owner-occupied units was slightly higher than the national average of 63.9 percent at that time. A total of 41,470 housing units were vacant, as shown in Table II.10.

Table II.10	
Housing Units by Tenure	
State of South Dakota	
Census Bureau SF3 Data, 2015 ACS	
Tenure	Total
Occupied Housing Units	330,858
Owner-Occupied	225,219
Renter-Occupied	105,639
Vacant Housing Units	41,470
Total Housing Units	372,328

VACANT HOUSING UNITS

As shown in Table II.11, the vacant housing stock represented 41,470 units or 11.1 percent of the total housing stock. Data on the disposition of these vacant units indicate that about 15.0 percent were for rent, 8.8 percent were for sale, 6.9 percent were rented or sold but unoccupied, and 35.0 percent were for seasonal, recreational, or occasional use. However, 33.9 percent of the vacant housing stock was counted as “other vacant” units; this term refers to units that are not for sale or rent and tend to contribute to blight.

Table II.11		
Housing Units by Disposition		
State of South Dakota		
Census Bureau SF3 Data, 2015 ACS		
Disposition	Total	% of Total
For Rent	6,229	15.0%
For Sale	3,650	8.8%
Rented or Sold, Not Occupied	2,866	6.9%
For Seasonal, Recreational, or Occasional Use	14,541	35.0%
For Migrant Workers	105	0.25%
Other Vacant	14,079	33.9%
Total	41,470	100.0%

HOUSING PROBLEMS

The 2015 census ACS provided data relating to overcrowding, incomplete plumbing or kitchen facilities, and cost burdens.

Overcrowding is defined as having from 1.01 to 1.5 people per room per residence, with severe overcrowding defined as having more than 1.5 people per room. At the time that the 2015 census was taken, 5,438 or 1.6 percent of households were overcrowded and another 2,186 or 0.7 percent of units were severely overcrowded, shown in Table II.12. This housing problem was more common in renter households than owner households.

Table II.12				
Overcrowding and Severe Overcrowding				
State of South Dakota				
Census Bureau SF3 Data, 2015				
Household	No Overcrowding	Overcrowding	Severe Overcrowding	Total
Owner				
Households	222,702	2,088	429	225,219
Percentage	98.8%	0.932%	0.19%	100.0%
Renter				
Households	100,532	3,350	1,757	105,639
Percentage	95.1%	3.2%	1.6%	100.0%
Total				
Households	323,234	5,438	2,186	330,858
Percentage	97.7%	1.6%	0.7%	100.0%

Incomplete plumbing and kitchen facilities are another indicator of potential housing problems. According to the Census Bureau, a housing unit is classified as lacking complete plumbing facilities when any of the following are not present: piped hot and cold water, a flush toilet, and a bathtub or shower. Likewise, a unit is categorized as deficient when any of the following are missing from the kitchen: a sink with piped hot and cold water, a range or cook top and oven, and a refrigerator.

At the time of the 2015 census ACS, a total of 1,985 units or 0.6 percent of all households in South Dakota were lacking complete plumbing facilities. These data are presented in Table II.13, at right.

Table II.13	
Housing Units with Incomplete Plumbing Facilities	
State of South Dakota	
Census Bureau SF3 Data, 2015	
Facilities	Total
Plumbing Facilities	
Complete Plumbing Facilities	328,873
Lacking Complete Plumbing Facilities	1,985
Total Households	330,858
Percent Lacking	0.6%

Table II.14 shows the number of housing units with incomplete kitchen facilities in South Dakota. A slightly higher percentage of units were found to have incomplete kitchen facilities as compared to plumbing facilities in the state with 3,308 units or 1.0 percent of total units counted in this category.

Table II.14	
Housing Units with Incomplete Kitchen Facilities	
State of South Dakota Census Bureau SF3 Data, 2015	
Facilities	Total
Kitchen Facilities	
Complete Kitchen Facilities	327,550
Lacking Complete Kitchen Facilities	3,308
Total Households	330,858
Percent Lacking	1.0%

The third type of housing problem reported in the 2015 census ACS is cost burden. Cost burden is defined as gross housing costs that range from 30.0 to 50.0 percent of gross household income; severe cost burden is defined as gross housing costs that exceed 50.0 percent of gross household income. For homeowners, gross housing costs include property taxes, insurance, energy payments, water and sewer service, and refuse collection. If the homeowner has a mortgage, the determination also includes principal and interest payments on the mortgage loan. For renters, this figure represents monthly rent and selected electricity and natural gas energy charges.

Table II.15 shows that in the State of South Dakota, 5.7 percent of households had a cost burden and 18.2 percent of households had a severe cost burden. These figures compared very favorably to the national average of 6.99 percent and 26.9 percent at that time, respectively. Roughly 6.4 percent of homeowners with a mortgage experienced a cost burden and 16.5 percent experienced a severe cost burden, while 7.6 percent of renters had a cost burden and 29.3 had a severe cost burden.

Table II.15					
Cost Burden by Tenure					
State of South Dakota Census Bureau SF3 Data, 2015 ACS					
Households	Less Than 30.0%	30% - 35%	Above 35%	Not Computed	Total
Owner With a Mortgage					
Households	98,544	8,264	21,093	336	128,237
Percent	76.8%	6.4%	16.5%	0.26%	100.0%
Owner Without a Mortgage					
Households	85,417	2,480	8,187	898	96,982
Percent	88.2%	2.5%	8.4%	0.93%	100.0%
Renter					
Households	56,943	8,079	30,832	9,785	105,639
Percent	53.9%	7.6%	29.3%	9.2%	100.0%
Total					
Households	240,904	18,823	60,112	11,019	330,858
Percent	72.8%	5.7%	18.2%	3.3%	100.0%

People who experience a severe cost burden are at risk of homelessness. For example, cost-burdened renters who experience one financial setback are likely to have to choose between rent and food or rent and healthcare for their family. Similarly, such homeowners with a mortgage and just one unforeseen financial constraint, such as

temporary illness, divorce or the loss of employment, may be forced to face foreclosure or bankruptcy. Furthermore, households that no longer have a mortgage yet still experience a severe cost burden may be unable to conduct periodic maintenance and repair of their home, contributing to dilapidation and blight. All three of these situations should be of concern to policy makers and program managers.

South Dakota Housing Development Authority administers federal and state financing programs to assist in development of affordable and workforce housing.

SUMMARY

The population in South Dakota increased from 816,325 to 865,454 or by 6.01 percent between 2010 and 2016. Some racial and ethnic populations were concentrated in select areas of the state; American Indian populations were concentrated, but these concentrations were exclusive to American Indian trust lands. At the time of the 2015 census ACS, the state had a disability rate of 11.94 percent, which was slightly lower than the 12.4 percent national rate. The disabled population was also concentrated in select areas of the state, particularly in American Indian trust lands.

The labor force in South Dakota, defined as people either working or looking for work, rose from around 434,508 to 453,885 between 2009 and 2015, an increase of roughly 4.46 percent. As a result of the increasing labor force and decreasing employment rate in 2015, the unemployment rate increased to 4.5 percent. In South Dakota, the poverty rate in 2015 was 14.1 percent with 121,195 persons considered to be living in poverty, and this group was concentrated primarily in the American Indian trust lands of the state.

The number of housing units in the state increased by 5.4 percent and rose from 364,128 units to 383,838 units between 2010 and 2016. Of the 372,328 housing units reported in the 2015 census ACS, about 72.3 percent were single-family units. A total of 330,858 units were occupied housing units, and, of these, 68.1 percent were owner-occupied and 31.9 percent were renter-occupied. The portion of owner-occupied units was slightly above the national average of 63.9 percent at that time. At the time that the 2015 census ACS was taken, 5,438 or 1.6 percent of households were overcrowded and another 2,186 or 0.7 percent of households were severely overcrowded. In South Dakota, 0.6 and 1.0 percent of all households were lacking complete plumbing or kitchen facilities, respectively, at that time. Additionally, 5.7 percent of households had a cost burden and 18.2 percent of households had a severe cost burden in 2015.

SECTION III. LENDING PRACTICES

Since the 1970s, the federal government has enacted several laws aimed at promoting fair lending practices in the banking and financial services industries. A brief description of selected federal laws aimed at promoting fair lending follows:

The 1968 **Fair Housing Act** prohibits discrimination in housing based on race, color, religion or national origin. Later amendments added sex, familial status and disability. Under the Fair Housing Act, it is illegal to discriminate against any of the protected classes in the following types of residential real estate transactions: making loans to buy, build or repair a dwelling; selling, brokering or appraising residential real estate; or selling or renting a dwelling.

The **Equal Credit Opportunity Act** was passed in 1974 to prohibit discrimination in lending based on race, color, religion, national origin, sex, marital status, age, receipt of public assistance or the exercise of any right under the Consumer Credit Protection Act.

The **Community Reinvestment Act** was enacted in 1977 to require each federal financial supervisory agency to encourage financial institutions to help meet the credit needs of their entire community, including low- and moderate-income neighborhoods.

Under the **Home Mortgage Disclosure Act (HMDA)**, enacted in 1975 and later amended, financial institutions are required to publicly disclose the race, sex, ethnicity and household income of mortgage applicants by the census tract in which the loan is proposed, as well as outcome of the loan application. The analysis presented herein is from the HMDA data system. On July 21, 2011, the rule-writing authority of Regulation C was transferred to the Consumer Financial Protection Bureau (CFPB). This regulation provides public loan data.

HOME MORTGAGE DISCLOSURE ACT DATA ANALYSIS

The HMDA requires both depository and non-depository lenders to collect and publicly disclose information about housing-related loans and applications for such loans.³ Both types of lending institutions must meet a set of reporting criteria, as follows:

1. The institution must be a bank, credit union or savings association.
2. The total assets must exceed the coverage threshold.⁴
3. The institution must have had a home or branch office in a metropolitan statistical area (MSA).
4. The institution must have originated at least one home purchase loan or refinancing of a home purchase loan secured by a first lien on a one- to four-family dwelling.
5. The institution must be federally insured or regulated.

³ Data are considered "raw" because they contain entry errors and incomplete loan applications. Starting in 2004, the HMDA data made substantive changes in reporting. It modified the way it handled Hispanic data, loan interest rates, as well as the reporting of multifamily loan applications.

⁴ Each December the Federal Reserve announces the threshold for the following year. The asset threshold may change from year to year, based on changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers.

6. The mortgage loan must have been insured, guaranteed or supplemented by a federal agency or intended for sale to Fannie Mae or Freddie Mac.

For other institutions, including non-depository institutions, the reporting criteria are as follows:

1. The institution must be a for-profit organization.
2. The institution's home purchase loan originations must equal or exceed 10.0 percent of the institution's total loan originations, or more than \$25 million.
3. The institution must have had a home or branch office in an MSA or have received applications for, originated or purchased five or more home purchase loans, home improvement loans, or refinancing mortgages on property located in an MSA in the preceding calendar year.
4. The institution must have assets exceeding \$10 million or have originated 100 or more home purchases in the preceding calendar year.

HMDA data represent most mortgage lending activity and are thus the most comprehensive collection of information regarding home purchase originations, home remodel loan originations and refinancing available.

HMDA information was collected for the State of South Dakota for 2016. During this time, a total of 37,533 loan applications were reported by participating institutions.

The owner-occupied home purchase transactions were evaluated since home purchases and access to the ability to enter into homeownership are the focus of this particular analysis.

After the owner-occupied home purchase loan application is submitted, the financing institution makes one of several decisions:

- "Originated" indicates that the loan was made by the lending institution.
- "Approved but not accepted" notes loans approved by the lender, but not accepted by the applicant.
- "Application denied by financial institution" defines a situation wherein the loan application failed.
- "Application withdrawn by applicant" means that the applicant closed the application process.
- "File closed for incompleteness" means that the loan application process was closed by the institution due to incomplete information.
- "Loan purchased by the institution" indicates that the previously originated loan was purchased on the secondary market.

These outcomes were used to determine application denial rates presented herein. Altogether, there were 37,533 loan applications and 5,356 loan application denials for a denial rate of 14.27 percent.

HMDA data was used to determine denial rates by gender, which evidences females experiencing higher denial rates. In 2016, 22,036 loan applications were filed by male applicants with 16.1 percent being denied and 7,977 loan applications were filed by female applicants with 18.2 percent being denied.

Denial rates calculated by race and ethnicity of the loan applicants is presented in Table III.1. As shown therein, most minority racial and ethnic applicants had higher denial rates than white applicants. American Indian applicants had the highest denial rate at 36.09 percent, compared to 15.98 percent for white applicants. Black and Hispanic applicants also had high denial rates at 26.05 percent and 25.81 percent, respectively. It is important to note that the number of applications received from the minority racial and ethnic applicants was significantly lower than from white applicants, with 75.66 percent of the applications being received from white applicants.

Table III.1 Percent Denial Rates by Race State of South Dakota HMDA Data, 2016	
Race	Total
American Indian or Alaskan Native	36.09%
Asian	15.51%
Black	26.05%
White	15.98%
Not Applicable	6.17%
Hispanic (Ethnicity)	25.81%

Part of the HMDA data includes information about the reason for the denial, although financial institutions are not uniformly required to fill out this field. Nevertheless, the most frequently cited categories of denials were credit history and debt-to-income ratio, as shown in Table III.2, on the following page. It cannot be conclusively stated from these data alone that discriminatory lending in the home purchase market occurred, only that there is an institutional inequity in these denial rates. This problem could potentially be reduced through enhancing programs for consumers to better understand the importance of establishing good credit.

Table III.2
Owner-Occupied Home Purchase Loan Applications by Reason for Denial

State of South Dakota
HMDA Data, 2016

Denial Reason	American Indian or Alaskan Native	Asian	Black African American	White	Not Applicable	Information Not Provided	Native Hawaiian or Pacific Islander	Total
Collateral	12	1	3	342	0	57	3	418
Credit Application Incomplete	3	1	2	179	0	54	2	241
Credit History	51	9	10	644	2	74	8	798
Debt-to-income Ratio	33	10	8	564	5	63	5	688
Employment History	4	1	1	55	0	2	0	63
Insufficient Cash	0	2	2	88	0	14	0	106
Mortgage Insurance Denied	0	0	0	3	0	0	0	3
Other	8	4	4	215	3	26	2	262
Unverifiable Information	3	1	0	78	0	4	0	86
Total	114	29	30	2,168	10	294	20	2,665

SUMMARY

Home Mortgage Disclosure Act (HMDA) data was used to analyze denial rates in the state by race. Evaluated home purchase loan applications from 2016 showed that there were 37,533 loan applications and 5,356 application denials, for an average application denial rate of 14.27 percent. The HMDA data also showed that American Indian, black and Hispanic applicants experienced significantly higher rates of loan denials than white applicants, however, the number of applications from white applicants was 75.7 percent of the applications received.

This data does not indicate that discriminatory practices are occurring, however, it does indicate that additional education or technical assistance may be necessary for applicants to be successful in the home buying process.

SECTION IV. FAIR HOUSING AGENCIES AND PROGRAMS

The following narrative provides an enumeration of key agencies and organizations contributing to affirmatively furthering fair housing in South Dakota. It concludes with a review of the complaint process within each organization.

MAJOR FAIR HOUSING ORGANIZATIONS

THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The United States Department of Housing and Urban Development (HUD) oversees, administers and enforces the Fair Housing Act. HUD's regional office in Denver

oversees housing, community development and fair housing enforcement in South Dakota, as well as North Dakota, Montana, Utah, Wyoming, and Colorado. The Office of Fair Housing and Equal Opportunity (FHEO), within HUD's Denver office, enforces the federal Fair Housing Act and other civil rights laws that prohibit discrimination in housing, mortgage lending and other related transactions in South Dakota. HUD also provides education and outreach, monitors agencies that receive HUD funding for compliance with civil rights laws, and works with state and local agencies under the Fair Housing Assistance Program and Fair Housing Initiative Program, as described below.

FAIR HOUSING ASSISTANCE PROGRAM

In the U.S., many agencies receive funding directly from HUD as Fair Housing Assistance Programs (FHAP) recipients. FHAP recipients require an ordinance or law that empowers a state or local governmental agency to enforce the state or local fair housing laws; if HUD determines that the local entity can operate on a "substantially equivalent" level to federal agency enforcement activities, HUD contracts with that agency to process fair housing complaints and reimburses the jurisdiction on a per case basis. FHAP grants are given to public, not private, entities substantially equivalent state and local fair housing enforcement agencies.

To create a substantially equivalent agency, a state or local jurisdiction must first enact a fair housing law that is substantially equivalent to federal laws. In addition, the local jurisdiction must have both the administrative capability and fiscal ability to carry out the law. With these elements in place, the jurisdiction may apply to HUD in Washington D.C. for substantially equivalent status. The jurisdiction's law would then be examined, and the federal government would make a determination as to whether it was substantially equivalent to federal fair housing law.

When substantially equivalent status has been granted, complaints of housing discrimination are dually filed with the state (or local agency) and with HUD. The state or local agency investigates most complaints; however, when federally subsidized housing is involved, HUD will typically investigate the complaint. Still, the state or local agencies are reimbursed for complaint intake and investigation and are awarded funds for fair housing training and education.

FAIR HOUSING INITIATIVE PROGRAM

A Fair Housing Initiative Program (FHIP) participant may be a government agency, a private non-profit or a for-profit organization. FHIPS are funded through a competitive grant program that provides funds to organizations to carry out projects and activities designed to enforce and enhance compliance with fair housing laws. Eligible activities include education and outreach to the public and the housing industry on fair housing rights and responsibilities, as well as enforcement activities in response to fair housing complaints, including testing and litigation. The following FHIP initiatives provide funds and competitive grants to eligible organizations:

The Fair Housing Organizations Initiative (FHOI) provides funding that builds the capacity and effectiveness of non-profit fair housing organizations by providing funds

to handle fair housing enforcement and education initiatives more effectively. FHOI also strengthens the fair housing movement nationally by encouraging the creation and growth of organizations that focus on the rights and needs of underserved groups, particularly people with disabilities.

Grantee eligibility:

Applicants must be qualified fair housing enforcement organizations with at least two years of experience in complaint intake, complaint investigation, testing for fair housing violations, and meritorious claims in the three years prior to the filing of their application.

Eligible activities:

The basic operation and activities of new and existing non-profit organizations.

The Private Enforcement Initiative (PEI) offers a range of assistance to the nationwide network of fair housing groups. This initiative funds non-profit fair housing organizations to carry out testing and enforcement activities to prevent or eliminate discriminatory housing practices.

Grantee eligibility:

Fair housing enforcement organizations that meet certain requirements related to the length and quality of previous fair housing enforcement experience may apply for FHIP-PEI funding.

Eligible activities:

Conducting complaint-based and targeted testing and other investigations of housing discrimination, linking fair-housing organizations in regional enforcement activities, and establishing effective means of meeting legal expenses in support of fair housing litigation.

The Education and Outreach Initiative (EOI) offers a comprehensive range of support for fair housing activities, providing funding to state and local government agencies and non-profit organizations for initiatives that explain to the general public and housing providers what equal opportunity in housing means and what housing providers need to do to comply with the Fair Housing Act.

Grantee eligibility:

State or local governments, qualified fair housing enforcement organizations (those with at least two years of experience), other fair housing organizations, and other public or private nonprofit organizations representing groups of people protected by the Fair Housing Act may apply for FHIP-EOI funding.

Eligible activities:

A broad range of educational activities that can be national, regional, local or community-based in scope. Activities may include developing education materials, providing housing counseling and classes, convening meetings that bring together the housing industry with fair housing groups, developing technical materials on accessibility, and mounting public information campaigns. National projects that demonstrate cooperation with the real estate industry or focus on resolving the community tensions that arise as people expand their housing choices may be eligible to receive preference points.

The Administrative Enforcement Initiative (AEI) helps state and local governments who administer laws that include rights and remedies similar to those

in the Fair Housing Act, implement specialized projects that broaden an agency's range of enforcement and compliance activities. No funds are available currently for this program.

FY 2017 Notice of Funding Availability opened August 1, 2017, with deadline date of October 6, 2017, providing \$7,450,000 in funding for EOI, \$500,000 for FHOI and \$15,830,816 for PEI. Currently there are no organizations servicing South Dakota that are recipients of HUD funding for fair housing activities.

STATE AND LOCAL FAIR HOUSING ORGANIZATIONS

SOUTH DAKOTA DIVISION OF HUMAN RIGHTS

The South Dakota Division of Human Rights (DHR) is located in Pierre and exists to address issues of human rights in the state of South Dakota. Specifically, the mission of the DHR is to promote equal opportunity through the administration and enforcement of the Human Relations Act of 1972. The Act was designed to protect the public from discrimination in regard to race, color, creed, religion, sex, disability, ancestry or national origin in relation to employment practices, labor union membership, education, public accommodations, public services, and also housing accommodations and property rights. The Act also prohibits discriminating against someone who has filed a complaint with the Division of Human Rights, has testified on a matter before the Division or has assisted the Division in carrying out the purposes of the Act.

This law also created the South Dakota Commission of Human Rights. The Commission is comprised of five members who are appointed by the governor with Senate confirmation for four-year terms. The Division of Human Rights addresses administration issues in relation to enforcement of the Human Relations Act, offers technical assistance, accepts fair housing complaint in relation to violations of the Act, investigates complaints that are filed with the agency, and also attempts to settle complaints that are filed through conciliatory efforts.

COMPLAINT AND COMPLIANCE REVIEW

A myriad of federal laws provide the backbone for fair housing regulations in the U.S. While some laws have already been discussed previously in this report, a brief review of laws related to fair housing as presented on the HUD website is presented below.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, also known as the federal Fair Housing Act, as amended prohibits discrimination in the sale, rental and financing of dwellings and in other housing-related transactions based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability).

Title VI of the Civil Rights Act of 1964. Title VI prohibits discrimination on the basis of race, color or national origin in programs and activities receiving federal assistance.

Section 504 of the Rehabilitation Act of 1973. Section 504 prohibits discrimination based on disability in any program or activity receiving federal housing assistance.

Section 109 of Title I of the Housing and Community Development Act of 1974. Section 109 prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD's Community Development and Block Grant program.

Title II of the Americans with Disabilities Act of 1990. Title II of the Americans with Disabilities Act of 1990 prohibits discrimination based on disability in programs, services and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.

Architectural Barriers Act of 1968. The Architectural Barriers Act of 1968 requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped persons.

Age Discrimination Act of 1968. The Age Discrimination Act of 1968 prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

Title IX of the Education Amendments Act of 1972. Title IX prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance.

COMPLAINT PROCESS FOR THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

According to the HUD website, any person who feels their housing rights have been violated may submit a complaint to HUD via phone, mail or the Internet. A complaint can be submitted to HUD by contacting the local HUD office or filing a complaint online at http://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint.

In South Dakota, the contact information for the regional HUD office in Denver is:

Denver Regional Office of FHEO
U.S. Department of Housing and Urban Development
1670 Broadway
Denver, Colorado 80202-4801
(303) 672-5151
(800) 877-7353
TTY (303) 672-5248

There is also a field HUD office located in South Dakota in Sioux Falls:

Sioux Falls Field Office
4301 West 57th Street, Suite 101
Sioux Falls, SD 57108
(605) 330-4223

When a complaint is submitted, intake specialists review the information and contact the complainant in order to gather additional details and determine if the case qualifies as possible housing discrimination. Complaints that are specific to a state or locality that is part of HUD's FHAP organizations are referred to the appropriate parties who have 30 days to address the complaint. If HUD is handling the case, the formal complaint is sent to the complainant for review and is then sent to the alleged violator for review and response.

Next, the circumstances of the complaint are investigated through conducting interviews and examining relevant documents. During this time, the investigator attempts to rectify the situation through conciliation, if possible.

The case is closed if conciliation of the two parties is achieved or if the investigator determines that there was no reasonable cause of discrimination. If reasonable cause is found, then either a federal judge or a HUD Administrative Law Judge hears the case and determines damages, if any. A respondent may be ordered:

- To compensate for actual damages, including humiliation, pain and suffering.
- To provide injunctive or other equitable relief to make the housing available.
- To pay the Federal Government a civil penalty to vindicate the public interest. The maximum penalties are \$16,000 for a first violation and \$70,000 for an additional violation within seven years.
- To pay reasonable attorney's fees and costs.

COMPLAINT PROCESS FOR THE SOUTH DAKOTA HUMAN RIGHTS COMMISSION

The South Dakota Division of Human Rights (DHR) accepts complaints from within South Dakota that are in violation of the Human Relations Act. A complaint can be filed at:

700 Governors Drive
Pierre, SD 57501
Phone: (605) 773-3681
Fax: (605) 773-4211

After a complaint is filed, the Division determines if the complaint is justified. If it finds justification, the Division seeks to settle a complaint through conference and conciliation. If conciliation is not reached and probable cause is found, then the complaint is presented at public hearing where the Commission issues final orders to correct discriminatory practices and prevent their recurrence.

ADDITIONAL RESOURCES

SOUTH DAKOTA CONSUMER PROTECTION OFFICE OF ATTORNEY GENERAL

The Division of Consumer Protection is a resource for important consumer information to help protect and advise consumers of their basic rights under consumer law. The division does not investigate fair housing violations, but does provide a resource for consumers in understanding fair housing and consumer protection laws.

Major responsibilities of the Division of Consumer Protection is:

- Investigate false, misleading, or deceptive trade practices,
- Enforce consumer laws designed to protect the public and legitimate business community,
- Advise consumers of their basic rights under consumer laws,
- Distribute consumer education materials such as the Landlord-Tenant Booklet,
- Assist in the preparation of legislation designed to protect consumers,
- Participate in multi-jurisdictional actions with other state and federal law enforcement agencies, and
- Advise consumers of complaints on file against specific companies.

If individuals are unable to resolve their complaints they can file a complaint with the Division of Consumer Protection by either completing a complaint form online or by sending it to the Office of Attorney General at:

Office of Attorney General
Division of Consumer Protection
1302 E Hwy 14 Suite 3
Pierre SD, 57501

Email: consumerhelp@state.sd.us
Phone: (605) 773-4400
1-800-300-1986 (in-state only)
Fax: (605) 773-7163

FAIR HOUSING SOUTH DAKOTA

In February of 2015, South Dakota Housing Development Authority (SDHDA) contracted with Property Management Solutions to provide fair housing services on behalf of SDHDA for all areas of South Dakota, with the exception of Sioux Falls. In this role Property Management Solutions oversees the toll free number 1-877-832-0161, fielding calls related to fair housing, reasonable accommodations and tenant/landlord issues. Property Management Solutions also conducts trainings, participates in meetings and helps to disseminate educational materials relating to fair housing by participating as a vendor in various local events.

Since the beginning of this service in 2015 until July 2017, a total of 978 calls were received through the toll free line. Of these calls, 415 were classified as fair housing related and 563 were related to landlord/tenant issues. The goal of the ombudsman is to mediate and prevent as many complaints as possible from being sent to HUD for

formal action. A total of 36 calls were referred on to HUD's FHEO office and 41 calls were referred on to the SD Attorney General's Office of Consumer Protection.

Additional information is located on SDHDA's website - <https://www.sdhda.org/for-renters/fair-housing-and-your-rights>.

CITY OF SIOUX FALLS, FAIR HOUSING PROGRAM

Within the Human Relations office, the City of Sioux Falls administers their fair housing program which is to promote equal access by providing education, outreach, and technical assistance specially related to fair housing laws. Individuals may file a complaint by emailing a completed Intake Questionnaire which is found on their website or by completing an online submission.

The Commission on Human Relations promotes civil rights and enforces the law of equal opportunity for Sioux Falls residents in the areas of employment, housing, public services, public accommodations, financial institutions, insurance companies, labor organizations, and educational institutions in Sioux Falls.

Additional information can be found on their website - <http://siouxfalls.org/fairhousing> or by contacting their office at:

Fair Housing Awareness
Human Relations
224 West Ninth Street, Suite 101
P.O. Box 7402
Sioux Falls, SD 57117-7402

Phone: 605-367-8745
Fax: 605-367-8878
FairHousing@siouxfalls.org

SUMMARY

There are several organizations that play a role in fair housing in South Dakota: the U.S. Department of Housing and Urban Development, the South Dakota Division of Human Rights, the South Dakota Housing Development Authority, the City of Sioux Falls and the South Dakota Attorney General's Office of Consumer Protection. These entities exist to assist citizens of South Dakota to address fair housing complaints and to rectify fair housing disputes as well as to offer education and advocacy for the general public.

SECTION V. EVALUATION OF THE FAIR HOUSING PROFILE

The following narrative presents several perspectives about the status of the fair housing system in South Dakota, including national and state fair housing studies and cases, state Department of Justice fair housing cases, fair housing complaint data and results of the 2017 South Dakota Fair Housing Survey.

RELATED NATIONAL AND STATEWIDE FAIR HOUSING STUDIES

NATIONAL FAIR HOUSING STUDIES AND ARTICLES

United States Department of Housing and Urban Development (HUD) has many resources and publications including reports, executive summaries, case studies and guidebooks that focus on fair housing issues. Publications and case studies completed since 2012 have been focused on discrimination based on disabilities, families with children and same-sex marriages. Access to the publications and studies can be found on the HUD website - <https://www.huduser.gov/portal/taxonomy/term/39>.

As a result of the U.S. Supreme Court's Olmstead decision, an increasing number of individuals with disabilities are moving from nursing homes and other institutional settings into community-based settings. In addition, majority of existing discrimination complaints involve discrimination based on a disability. Based on these reasons it is anticipated discrimination based on disability will continue to be a concern as individuals continue to transition into community-based settings.

RECENT SOUTH DAKOTA SUITS FILED BY THE U.S. DEPARTMENT OF JUSTICE

The U.S. Department of Justice (DOJ) enacts lawsuits on behalf of individuals based on referrals from HUD. Under the Fair Housing Act, the DOJ may file lawsuits in the following instances:

- Where there is reason to believe that a person or entity is engaged in what is termed a "pattern or practice" of discrimination or where a denial of rights to a group of people raises an issue of general public importance;
- Where force or threat of force is used to deny or interfere with fair housing rights;
- Where people who believe that they have been victims of an illegal housing practice file a complaint with HUD or file their own lawsuit in federal or state court.

In December 2010, the Department of Justice settled a housing discrimination lawsuit against TK Properties, L.L.C. and one of its principals. The lawsuit alleged that they discriminated against three families who lived at Lakeport Village Apartments, a 48-unit apartment complex in Sioux Falls, SD, a property that TK Properties previously managed.

The United States' lawsuit alleged that defendants, through the actions of their employees, created a hostile housing environment for one African American family and two white families who associated with the African American family while they were tenants at Lakeport Village. The tenants eventually moved out as a result of the defendants' conduct.

FAIR HOUSING COMPLAINTS

COMPLAINTS FILED WITH THE SOUTH DAKOTA DIVISION OF HUMAN RIGHTS

The South Dakota Division of Human Rights (DHR) accepts complaints from within the state that are in relation to violations of the real property and housing section of the South Dakota Human Rights Act. Complaint data from 2010 through 2016 was downloaded from the DHR website and are presented below in Table V.1. However, these data only related to the number of complaints filed in the state between 2010 and 2016.

In total, four complaints regarding real property and housing, were filed with this agency between fiscal years 2010 and 2016.

The very low number of complaints filed with this agency during this time period could be attributed to the fact that DHR does not promote its organization as being the avenue to file fair housing complaints. The most common complaint is sexual harassment, retaliation, disability discrimination and race discrimination comprise about 90 percent of the Division's work and approximately 90 percent of the charges filed are employment related.

Year	Real Property and Housing
2010	0
2011	1
2012	0
2013	1
2014	0
2015	1
2016	1
Total	4

COMPLAINTS FILED WITH HUD

HUD maintains records of all complaints filed with the agency that represent violations of federal housing law. Over the January 2014 through December 2016 time period, HUD reported a total of 31 housing complaints from within the state, with 13 in 2014, 13 in 2015 and five reported in 2016. These data are presented in Table V.2, at right.

Year	Complaints
2014	13
2015	13
2016	5
Total	31

Table V.3 presents the complaint data by basis or the protected class status of the person alleged to have been aggrieved in the complaint. Complainants may cite more than one basis; hence the number of bases cited can exceed the total number of complaints. A total of 43 bases were cited in relation to the 31 complaints filed. The majority of the complaints were filed on the basis of disability, with 24 of the 43 bases cited referring to this class. An additional four complaints were filed on the basis of

familial status, three were filed on the basis of race discrimination, five were based on sex and seven were for retaliation.

Basis	2014	2015	2016	Total
Disability	12	9	3	24
Familial Status	1	2	1	4
Race	1	1	1	3
Sex	2	3	0	5
Retaliation	5	2	0	7
National Origin - Hispanic	0	0	0	0
Color	0	0	0	0
Harassment	0	0	0	0
Religion	0	0	0	0
Total Basis	21	17	5	43
Total Complaints	13	13	5	31

Housing complaints filed with HUD can also be examined by closure status. Of the 31 total complaints, the majority of the complaints, 11, were successfully conciliated. However, an additional nine complaints were found to have a no cause determination. These data are presented below in Table V. 4.

Closure Status	2014	2015	2016	Total
Conciliation successful	5	4	2	11
No cause determination	3	5	1	9
Election made to go to court	1	0	0	1
DOJ files suit	0	0	0	0
Complainant failed to cooperate	1	1	0	2
Complaint withdrawn by complainant without resolution	0	1	1	2
No closure	2	2	1	5
Complaint withdrawn after resolution	1	0	0	1
Dismissed for lack of jurisdiction	0	0	0	0
Total	13	13	5	31

DISCRIMINATION IN RENTAL ADVERTISING

Housing discrimination in the rental markets can be examined through the prevalence of discriminatory advertising for rental properties. As established previously, according to federal law it is illegal to prohibit sale, lease, rental, assignment, or sublease based on familial status, sex, national origin, color, religion, disability, or race and state law includes the additional classes of ancestry and creed. Consequently, it is also illegal to directly or indirectly advertise that the sale, lease, rental, assignment or sublease of housing is unwelcome or objectionable for any of the aforementioned protected classes.

This law does have an exception regarding sex in that an individual may advertise that they prefer a male or female renter if they reside in the dwelling or the dwelling permits no more than two families living independently. There is also an exception for housing that is designated for seniors; it is not illegal to advertise that potential tenants must be above a certain age if the housing is specifically designated for seniors.

FAIR HOUSING SURVEY

Additional evaluation of South Dakota’s fair housing profile was conducted via a survey of stakeholders in the state. The purpose of the 2017 South Dakota fair housing survey, a relatively more qualitative component of the analysis of impediments, was to gather insight into knowledge, experiences, opinions and feelings of stakeholders and interested citizens regarding fair housing, as well as to gauge the ability of informed and interested parties to understand and affirmatively further fair housing.

Just over 330 persons in the state completed the survey, which was conducted online. Individuals solicited for participation included representatives of: housing groups, minority organizations, disability resource groups, real estate and property management associations, banking entities, and other groups involved in the fair housing arena. Survey questions were used to assess the respondent’s knowledge of fair housing laws; awareness of barriers, policies or codes related to fair housing; and knowledge of fair housing violations.

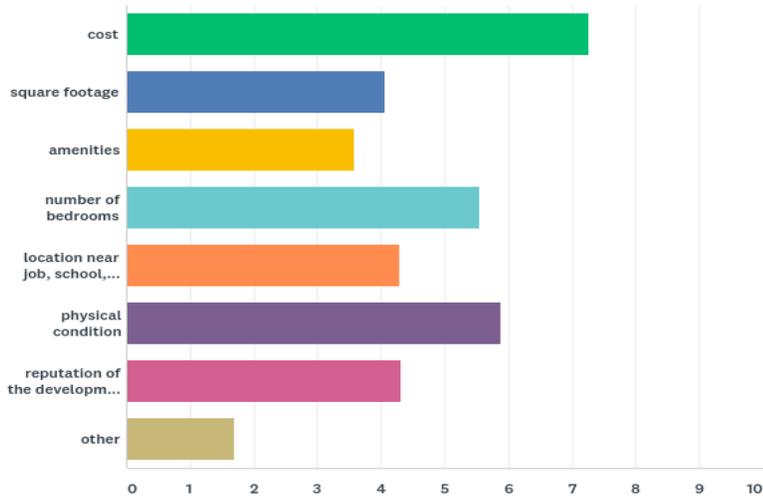
The first question in the survey asked for the respondent to identify who they were representing in the housing industry. Responses are presented in Table V.5 and show that the majority of respondents identified their role in the housing industry.

“INDIVIDUAL RESPONSES”

Individuals were asked what the most important items when looking for housing was. This was asked to gather information on if the public and the Housing authorities priorities were in line with each other. As the graph below shows Cost and Physical Condition are the leading aspects in searching for housing.

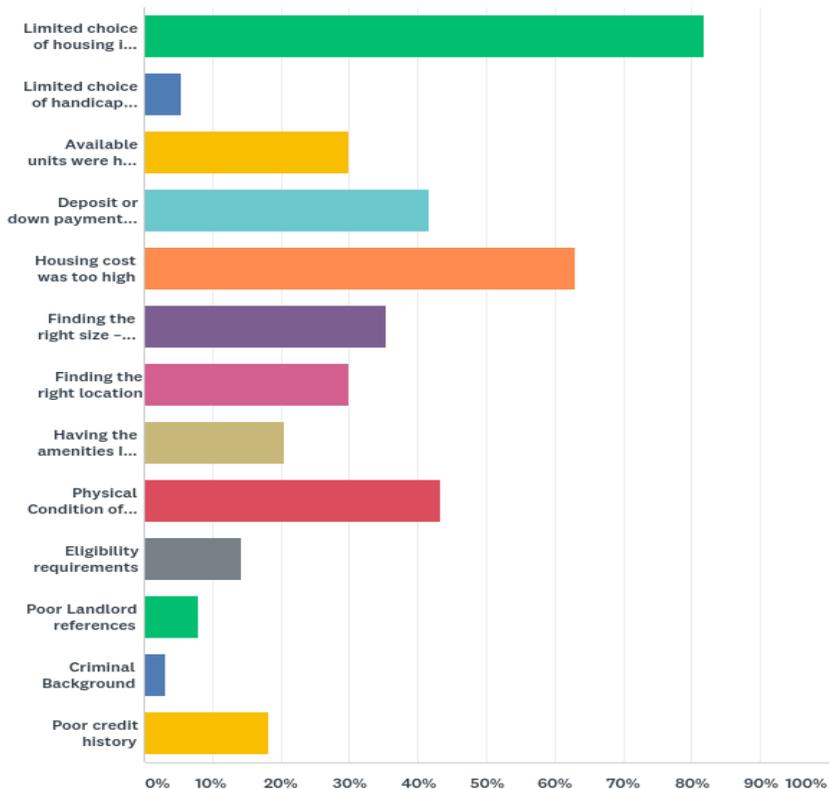
Role	Total
• Individual – I rent or own my residence	164
• Owner of rental property	14
• Housing Developer or Contractor	16
• Service agency or advocacy group	89
• Public Housing Authority	20
• Governmental agency	19
• Realtor	1
• Lender	6
• Left Blank	2
Total	331

Please rank in order of importance (#1 most important) the following items as it pertains to your housing.



When asked what the largest obstacle to obtaining housing the Individuals responded with Limited Choice of Housing, Housing Cost, and Physical Condition.

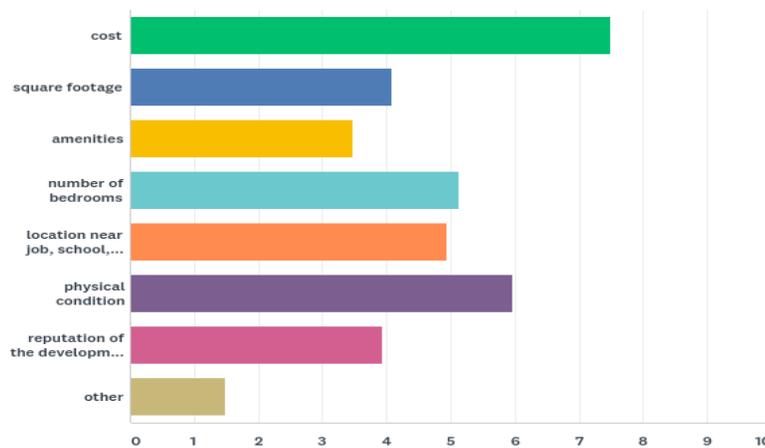
What was the biggest obstacle to obtaining your residence? Check all that apply.



“DEVELOPER AND RENTAL OWNER”

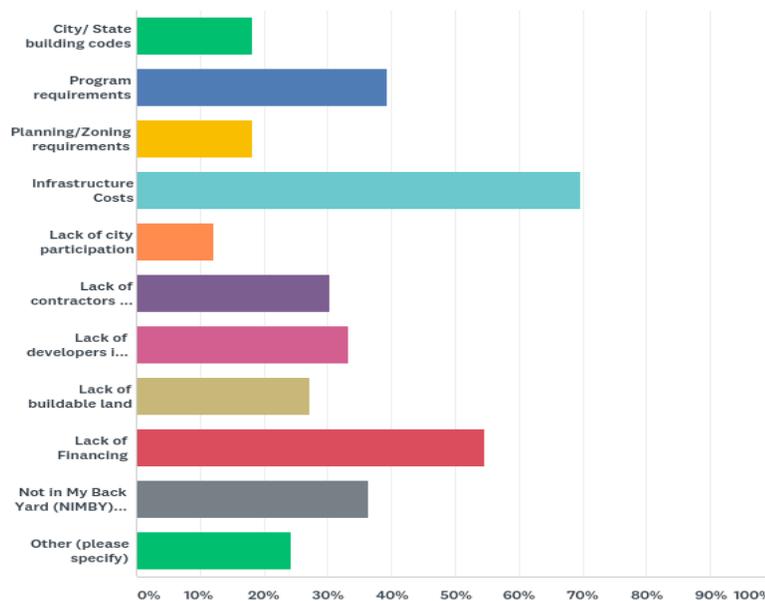
The development side of housing agreed with the Individuals that Cost and Physical Condition were the most important items to them. The graph below also shows that Developers care more for location then the polled individuals.

Please rank in order of importance (#1 most important) the following items you feel are most important for housing you develop or own.



The barriers that exist in the development and construction of housing tended to lean to costs. Infrastructure Costs and Financing were the top two with Program Requirements and “Not in My Back Yard” coming in third and fourth.

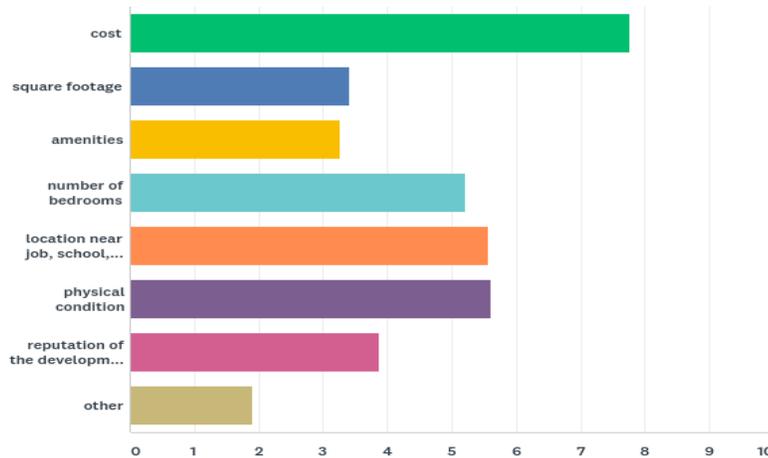
In your opinion, what barriers exist in your community when developing housing? Check all that apply.



“PHA / ADVOCACY”

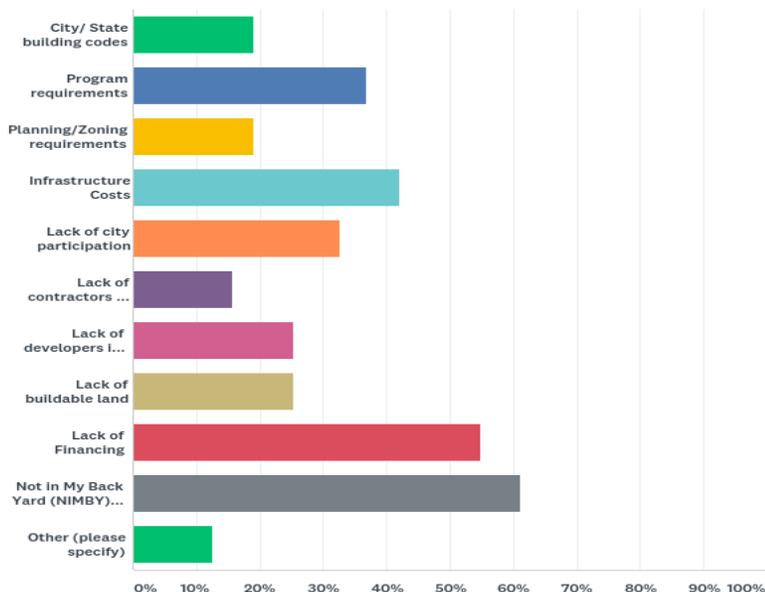
When asking the Public Housing Authorities (PHAs) and Advocacy groups again we found that Cost and Physical Condition were at the top of the list for what is most important. Though unlike the previous two, PHAs had Location tied with Physical Condition for second place.

Please rank in order of importance (#1 most important) the following items you feel are most important for the households you assist.



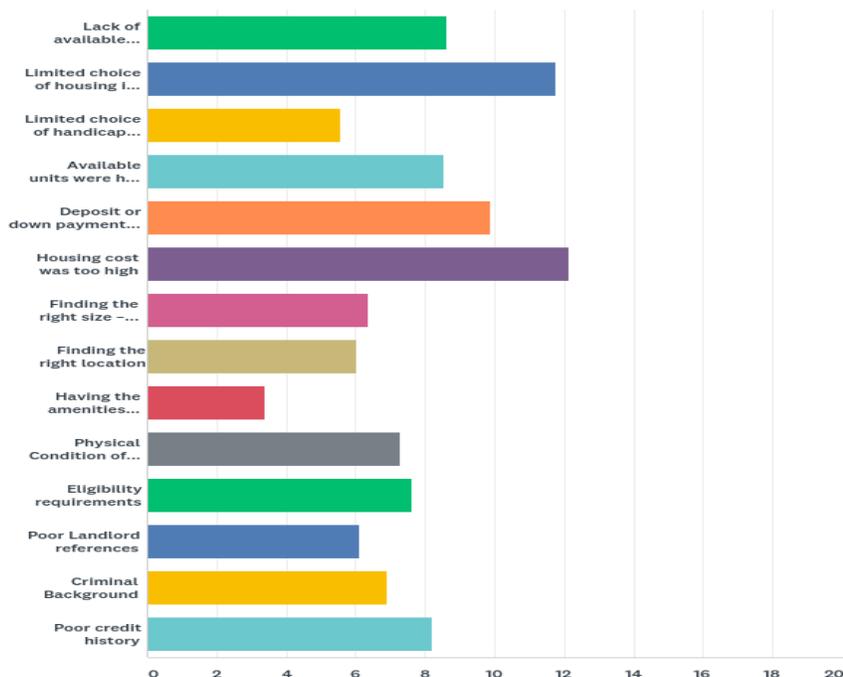
For PHA developments we found that “Not in My Back Yard” was a large contributor followed closely by Financing.

In your opinion, what barriers exist in your community when developing housing? Check all that apply.



We also asked PHAs about the obstacles that arise when helping households. Again, Housing Cost was number one followed by Limited Choice in the Price Range and Deposit/Down Payment was Too High.

For the households you assist, what barriers do they experience most often - ranking with #1 being the biggest obstacle.



We asked all three categories whether they knew what fair housing was and if they would like to learn more. The responses seen in Table V.6 below shows that a majority would like to learn more even if they already know what fair housing is.

Questions	Responses	
	Yes	No
Fair Housing knowledge and classes		
Individual		
Do you know what Fair housing is?	70.54%	29.46%
Would you like to learn more?	44.53%	55.47%
Developer / Owner		
Do you know what Fair housing is?	87.88%	12.12%
Would you like to learn more?	58.06%	41.94%
PHA		
Do you know what Fair housing is?	97.85%	2.15%
Would you like to learn more?	57.14%	42.86%

SUMMARY

A review of national fair housing studies revealed that despite efforts to curb fair housing discrimination in the U.S., problems still exist in terms of discrimination against racial and ethnic minorities, familial status and discrimination against persons with disabilities. Statewide fair housing information demonstrated issues of familial status as well as disability discrimination and failure to meet accessibility standards.

A fair housing survey regarding the state of fair housing throughout South Dakota showed that some respondents have concerns about fair housing in their communities and that they are aware of barriers to affirmatively furthering fair housing, including discrimination in the rental markets and confusion of the availability of affordable housing as a fair housing issue. Some respondents also found fair housing laws difficult to understand and noted that additional outreach and education efforts regarding fair housing are needed in their communities.

SECTION VI. IMPEDIMENTS AND SUGGESTED ACTIONS

Provisions to affirmatively furthering fair housing are long-standing components of HUD's housing and community development programs. In exchange for receiving federal funds from HUD, the State of South Dakota certifies that it is affirmatively furthering fair housing. The requirements of such certification comprise the following elements:

1. Conduct an Analysis of Impediments to Fair Housing Choice;
2. Take actions to remedy impediments, if impediments are identified;
3. Maintain records of the analysis and actions taken.

The first element in the certification process noted above has resulted in the identification of selected impediments and specific actions that the State can consider to address these impediments. These items are outlined below.

IDENTIFIED IMPEDIMENTS TO FAIR HOUSING CHOICE AND SUGGESTED ACTIONS

The 2017 Analysis of Impediments for the State of South Dakota uncovered several impediments to fair housing choice. The key issues are presented below and are accompanied by appropriate actions the State considers implementing in order to alleviate these impediments, which were designed to offer greater housing choice to the protected classes frequently experiencing discrimination in the housing market, as noted above.

Impediment: Discrimination in the housing market

HUD complaint data, survey data and information from recent fair housing cases in the state show that fair housing discrimination in South Dakota does exist in the housing market. The most prominent examples found were discrimination in terms, conditions,

or privileges relating to rental, discriminatory refusal to rent, statements and notices and failure to make reasonable accommodation, particularly as these issues pertain to the protected classes of disabled and familial status.

Action: Reduce discrimination in the housing markets

Long Term: A number of actions should be continued with renewed energy in order to reduce identified discrimination problems in the housing market. To address non-compliance issues in regard to disability accommodations, effort should be made to better communicate to funded projects the importance of reasonable accommodation and also to multifamily properties the importance of compliance with design and construction standards. As for discriminatory advertising, endeavors should be made to remind printed media of the disallowed practices in advertising for housing.

Action Steps:

1. SDHDA will continue to review new multifamily construction and rehabilitation projects to ensure compliance with design and construction standards. During the architectural plan review in 2017, SDHDA will note the common concerns that are present and provide follow-up information to the architects and contractors as needed.
2. SDHDA will also create or find appropriate pamphlet material regarding reasonable accommodation for distribution or host a training opportunity. The information will be provided to multifamily developers, owners and managers to remind them of the importance of allowing reasonable accommodations.
3. SDHDA will evaluate providing additional fair housing training to specific population groups and more frequently throughout the year.

Impediment: Difficulties in the home purchase market

Fair housing problems were also identified in the home mortgage market through Home Mortgage Disclosure Act (HMDA) data including disproportionately high denial rates for selected minority racial and ethnic applicants, higher denial rates in low-income areas, and a disproportionate share of high interest rate loans extended to racial and ethnic minorities.

Action: Reduce denial rates and other problems in the home mortgage market

Long Term: Reducing problems in the home mortgage market should be addressed through education efforts and working to provide additional resources. For example, enhanced homebuyer education courses should be offered in order to better teach the importance of establishing and keeping good credit as well as the attributes of high interest rate loans and the problems associated with accepting less advantageous loan products.

Action Steps:

1. SDHDA will evaluate their website to determine if additional fair housing law and information, as it pertains to individuals looking for homeownership financing, is needed. In addition, SDHDA will evaluate the incorporation of renter's education or providing information to current renters of SDHDA financed properties providing tenants with information regarding homeownership, keeping good credit, the attributes of high interest rate loans, in addition to renter/landlord responsibilities and budgeting. SDHDA will provide information to management companies that they can provide to tenants or publically display in their multifamily housing development to share pertinent information or educational courses being offered.
2. SDHDA will review the HERO curriculum and use that to model renter's education material. SDHDA will also work with the State's Bankers' Association, SDHDA Homeownership Department and related entities to provide fair housing education materials at trainings, meetings or at a minimum provide material for their publications. The material will cover consumer rights, unfair lending practices and other relevant information.
3. SDHDA is a member of South Dakota Native American Homeownership Coalition (SDNAHOC) whose mission is to create opportunities so more Native Americans in South Dakota can achieve their dream of homeownership. In 2017, two Native American organizations were included as HERO providers, providing additional educational resources. These two agencies are Cheyenne River Housing Authority and Thunder Valley Development Corporation. SDHDA will continue to work with SDNAHOC to evaluate financing, education and development opportunities to support this mission.

Impediment: Lack of available housing units

Action: Production of new and preservation of existing housing units

Lack of affordable housing exacerbates housing discrimination. Many communities are experiencing a tight housing market, allowing landlords to be highly selective in tenant selections which may disguise some illegal discrimination. Tight housing markets sometimes relates to landlords not taking care of the physical condition of their housing unit. Lack of available housing units based on number of bedrooms is also problematic.

Continued access to funding is vital for development of new housing and rehabilitation of existing housing. Educational efforts are needed to understand the importance of affordable housing in every community. Sharing of success stories and documenting financial impact will assist in public support of both state and federal funding. SDHDA will also evaluate new funding sources to determine if they would be appropriate for developing additional housing in South Dakota.

SDHDA will continue to work with local governments and organizations to assist in rehabilitation of existing housing units, code enforcement and ability to change ownership of vacant and abandoned homes in rural communities.

Development of new housing is expensive and costs continue to outpace increases in income. Housing development in rural areas is often more difficult due to lower income and higher development costs due to remoteness and lack of contractors and suppliers. In this area we see it is much more likely for a vacant house to be decrepit than be available for resale. The distance for contractors to travel, lower profit margin and less market demand make rural areas low development areas. Other potential rural concerns could be in the certification of contractors for funding programs such as HUD 184 or inspectors for USDA Rural Development financing. Housing development in rural areas typically requires involvement of individuals who are not involved in housing on a daily basis. SDHDA will continue to provide technical support, training and potentially additional resources and services to assist in development of housing in rural communities.

The middle fifty percent of household incomes are often in a limbo where their income is too much to qualify for vouchers and housing assistance, yet not enough to support their family at full market rents. This is compounded with the family size trending larger than past populations, increasing the need for larger four plus bedroom housing units.

Long Term: Increasing availability of affordable and habitable housing units provides individuals and families with choices allowing them the ability to find housing units that are suitable and affordable.

Action Steps:

1. Financial Resources - SDHDA will continue to evaluate the effectiveness of its financial resources with the goal of increasing production of affordable housing and search for opportunity for additional funding to help alleviate the vulnerable position of underserved households seeking housing opportunity.

a. Support continued funding and expansion of all federal and state funded housing finance programs. The state of South Dakota currently provides funding for the Housing Opportunity Fund (HOF). HOF provides flexibility in the type of housing and programs provided in addition to the income levels being served. This program is widely known by the general public, but currently does not have a dedicated funding source for future allocations. SDHDA will complete the following:

- Work with other state agencies, the Governor's Office and legislators to provide support of the program by demonstrating program success.
- Provide documentation of success stories and program impact on South Dakota and share with state and federal legislators, advocacy groups and other interested parties documenting the importance of all housing finance programs.
- Currently 70% of the Housing Opportunity Funds are targeted to rural areas – continue to support and encourage rural areas to access the available funds.

b. Evaluate South Dakota Housing Development Authority financing programs – HOME, Housing Tax Credit, Housing Opportunity Fund, Housing Trust Fund, and Community Housing Development Program for program requirements that may have a negative impact to the overall development or operating costs.

- Review prior funding rounds to determine what components developers typically incorporate into their developments, review development costs over the last three years, and evaluate differences found within the developments.
- Review current allocation plans for housing programs for potential changes, what is federally required, what is SDHDA imposed, what has a financial payback that warrants the upfront cost, etc.
- Work with housing developers to evaluate housing programs for potential changes – development characteristics, cost limitations, incentives for development of units with more bedrooms, etc.
- Draft revisions to allocation plans and provide for public comment period.
- Monitor effectiveness of changes incorporated.
- Consider set-aside of funds or program changes that effectively support housing development in rural areas.

Begin process for FY 2018 with changes effective for 2018 application cycle. The 2018 – 2022 Consolidated Plan will be created the beginning of 2018 along with creation of new two-year allocation plans for the stated housing finance programs.

c. Evaluate South Dakota Housing Development Authority’s financing programs for homeownership activities such as down payment assistance, closing cost, and development subsidy; partner with other agencies providing similar assistance to ensure there is no duplication of services; but expand opportunities when and where needed and available.

- Evaluate SDHDA homebuyer assistance programs provided through the Rental Housing Development and Homeownership departments.
- Modify programs as necessary for program effectiveness.
- Evaluate alternative funding sources that may be available to expand services.

d. Implement action steps generated through the 2017 Legislative Workforce Housing Study. Final committee meeting was held November 2017, with proposed legislative action steps. SDHDA will advocate for changes in systems or programs that are beneficial for development of more housing options across the state. Action steps will be determined in the fall of 2017, spring of 2018.

e. Governor’s House Program provides great opportunity for low cost housing. Expansion of the program would provide additional opportunities.

- Currently the Governor’s House is available for rental opportunities. Efforts are needed to ensure housing developers are aware of this opportunity, especially rural communities. Create templates and tool kits to help developers complete the process.
- Explore possibility of expanding rental housing opportunities for targeted areas or targeted professions.
- Explore possibility of increasing income and net worth limitations for homeowners.

- Explore physical expansion of the program to create similar low cost building opportunities for multifamily housing.

f. Development of housing units or financial assistance for moderate income individuals and households (80% - 120%). SDHDA currently has four financing programs that can assist with development of housing for moderate income – Community Housing Development Program for rental housing (up to 120% AMI), Housing Opportunity Funds for single family and rental housing (up to 115%), Construction Loan Guarantee Program for homeownership, and Housing Enhancement Loan Program (HELP). For homeownership financing, SDHDA also offers the First-time Homebuyer and Repeat Homebuyer programs providing low fixed rate financing along with down payment and closing cost assistance.

- Work with marketing department to bring awareness of current financing opportunities.
- Provide case studies or success stories evidencing how the programs can be used in various communities.
- Evaluate the possibility of utilizing other HUD financing programs, currently not administered by SDHDA, for rental housing, both affordable and market rate.

g. Rural areas - Housing development in rural areas is often more difficult to develop due to various reasons. SDHDA will consider the following:

- Evaluate the Housing Needs Study program to modify the program to potentially provide assistance to rural communities in creating a housing inventory and assessment, identifying available housing units, assess condition and formulate action plan.
- SDHDA management staff to review current vacant units in HUD or SDHDA assisted properties and begin process for tenant waivers as applicable, providing additional housing units to the community while financially assisting the development. Assisting in the process of finding new owners willing to retain the affordability of the housing units.
- Evaluate SDHDA housing programs to consider set-aside of funds allowing SDHDA staff to assist applicants with development of their housing in a non-competitive environment.

2. Code enforcement/rehabilitation – many communities are dealing with the question - what should they do with dilapidated and vacant single family homes in their community? While SDHDA has no jurisdiction over code enforcement, assistance can be provided in education and training.

- Contact South Dakota Municipal League to discuss current issues and concerns being addressed by communities regarding code enforcement.
- Inventory the communities that currently have code enforcement – are they willing to form partnerships with other communities or organizations to serve the purpose, share ideas, processes, etc.

- Governor’s Office of Economic development recently released their Bulldoze, Build and Beautify program – assist in promoting and providing assistance where possible and combined with SDHDA funding for development of new housing.
- Encourage communities to develop code inspection for their rental housing units. Work with planning districts to help create codes and train inspectors.
- Evaluate financing programs currently available for rehabilitation of the homes – are the programs effective? Can improvements be made to streamline the process? Ensure resources are shared with interested parties.
- Expand training opportunity of rehabilitation activities, sharing of information and best practices for developers.
- Mobile homes are affordable housing for many households. Consider rehabilitation funding for mobile homes.
 - Determine funding amount for this activity.
 - Establish parameters for rehabilitation activity.

3. Build capacity – Development of housing is not a simple task. Many rural communities do not have a housing developer in their community, nor do the local government or nonprofit agencies have the staff capacity, time or expertise to develop housing. Due to lack of profit margins, limited financial resources, contractors and supplies, developers are not eager to develop housing in rural areas.

- SDHDA will provide on an annual basis, developer workshops to help educate interested parties on housing development and available financing programs.
- SDHDA will evaluate the possibility of hiring a staff person to be a community housing developer – working with rural communities to unravel the mystery of housing development.
 - Discuss with other Housing Finance agencies.
 - Create job description.
 - Evaluate funding opportunities.
- SDHDA will create story maps to highlight successful housing programs, developments and partnerships, bringing together the many successes currently occurring across the state.
- SDHDA will create a resource guide outlining availability of financing programs.
- SDHDA consider changes to financing programs via set-aside of funding or modification of the application process to assist new developers with the process.
- SDHDA will evaluate the current housing needs study program to determine if modifications of the program are necessary to make it more effective.
 - Is it time to complete a second study in these communities?
 - Should the program be modified and use funding to assist communities in developing a housing inventory of their community?

Impediment: Lack of education

Action: Providing additional educational opportunities for homeowners, renters, service providers, advocacy groups, contractors and developers regarding budgeting, homeownership, renter/landlord responsibilities, fair housing, accessibility requirements, housing maintenance, limited English proficiency and other topics as deemed necessary

Lack of knowledge and education often hinders success for both renters and homeowners. Many individuals are aware of fair housing protections but don't clearly understand them or how to recognize or address potential discrimination when it occurs. In addition, many renters and homeowners have not been exposed to or learned basic life skills, budgeting, how to maintain their property or what is expected with landlord/tenant or lender/borrower relationships.

Through the public survey and public meetings it was noted that there is a want/need for additional education. Education for renter's responsibilities, maintaining your property, and fair housing were the topics of interest. General education is also needed to address - "not in my back yard" – which continues as another large impediment as discussed in both the public meetings and online survey.

Survey results indicated that most people know what fair housing is, but it was also recommended to continue providing training opportunities. Currently SDHDA hosts Fair Housing sessions annually in April across the state. Scheduling more of these sessions or alternative methods for education would be appreciated. A few organizations across the state provide classes on renter responsibilities and home maintenance. These classes are proving to be beneficial and it is encouraged to expand the opportunity for the classes. Awareness and education are ways to offset NIMBYism, spreading community success stories and developing awareness of what is affordable housing should help to alleviate the impediment.

All protected classes are expected to benefit from this activity but especially those who are most disproportionately impacted by discrimination, persons with disabilities households with familial status, and those of lower income.

Long Term: Increasing the opportunity for individuals and agencies to learn important aspects of housing to increase opportunity for success.

Action Steps:

1. Renter's education is important for housing success. SDHDA will evaluate existing renter education courses, determine how and when to incorporate this service and how to fund the service providers.

Renter's education is a relatively new curriculum that SDHDA would like to promote and provide for tenants receiving financial assistance through SDHDA. Currently the HERO (Homebuyer Education Resource Organization) which is a nonprofit organization works in a similar format for homebuyer education. SDHDA will partner with agencies who

currently provide rental education to finalize course content, partner with agencies to provide the course, determine availability of funding to provide the course and determine which programs will begin to incorporate this as a requirement to financial assistance.

2. Provide additional fair housing training targeted to specific population groups so the training can be more tailored, creation of more fair housing brochures tailored to specific populations groups and evaluate alternative methods of information sharing and/or additional fair housing trainings. Trainings may be provided for tenant groups, housing authority clients, human service agencies, multi-cultural organizations, realtors, lenders, in addition to other targeted groups.

Fair Housing education is provided locally and nationally with trainings that are both fee based or free of charge. SDHDA annually provides on-site fair housing trainings in various South Dakota locations during the month of April. Findings from the survey indicates additional training opportunities are wanted. SDHDA will evaluate expansion of this service providing more training opportunities both to the general public and also more specific to various service providers. SDHDA will honor our partnership with the City of Sioux Falls allowing the Fair Housing Training providing within the City of Sioux Falls to be completed by their staff. SDHDA will concentrate Fair Housing Training outside of Sioux Falls.

Fair Housing education will also be expanded by marketing efforts such as creating brochures and pamphlets that can be provided by partner agencies – both housing and service providers would provide this information to both tenants and clients. Basic fair housing information as well as South Dakota contacts, including the 1-800 number will be provided.

Evaluate opportunities to provide educational material for the SDHDA website and social media channels by creating interactive question and answer scenarios regarding fair housing.

3. Maintenance of the housing unit will reduce unexpected expenses and be beneficial for the renter/landlord relationship and for homeowners. SDHDA will evaluate how to incorporate maintenance education into both the home buying and renter process. Currently there are several organizations providing this training. SDHDA will work with partner agencies to encourage expansion of this education opportunity as necessary.

4. Not in My Back Yard (NIMBY) continues to be a concern for many communities in South Dakota. Education of what is affordable housing and its positive impacts for communities needs to be shared with the general public. Discussion of housing needs is occurring in almost every community in South Dakota, so the timing is right to provide additional positive information and finding ways to help communities address housing in a successful manner.

Success stories are one of the best ways to share relatable information. Sharing of success is important for public awareness for continued support of programs,

evidencing best practices that can be duplicated and showing the positive relationships between community and individual success and why involvement is important.

Impediment: Tenant selection criteria

Action: Working with landlords, management companies and service agencies to increase housing opportunities for individuals and families who are unable to meet specific tenant selection criteria

The final impediment is associated more with general concerns with and from local landlords and Limited English Proficiency in general. In tight rental housing markets, it is often more difficult to engage landlords in providing housing opportunities to individuals who may not meet the strict resident selection plans many landlords utilize.

Individuals and families who may have criminal backgrounds, poor credit history or poor landlord references, or who lack proficiency with the English language are often overlooked when rental housing markets are tight and vacancies are few. Rental housing is a commercial business and landlords like any other business owner want to be risk adverse.

Potential remedies are to create financial incentives, create partnerships with service providers and provide educational opportunities for landlords and potential tenants. Sharing information regarding success stories and discussing risk management can move forward to benefit the community. Communication in general can be hard, especially when a party is limited by their knowledge of a spoken language. When appropriate, making more readily available housing information in the most common languages will be beneficial.

In providing housing opportunities for all South Dakota citizens and working to address homelessness, stronger partnerships are needed by and between housing providers and service agencies.

Persons most likely to benefit from these actions are those with a disability, those who have limited English proficiency, Native Americans, African Americans and Hispanic ethnic households.

Long Term: Increasing availability of housing options for individuals and families who typically are unable to access appropriate housing units due to multiple reasons.

Action Steps:

1. Creation of a landlord risk mitigation program to provide financial security for landlords and management companies who are willing to work with service agencies in providing housing opportunities.

SDHDA Board of Commissioners approved funding for the Sustainable Housing Incentive Program to financially assist landlords willing to work with service providers to

ensure housing opportunities for individuals participating in service programs. SDHDA staff will have the program ready for full implementation by January 2018.

2. Continue dialogue and training opportunities to create relationships and partnerships in addressing housing opportunities working with public housing authorities, developers, service agencies and advocacy groups to ensure everyone has access to appropriate housing.

Coordinate training opportunities and meetings for housing providers to meet and partner with service providers, enhancing success of the HUD 811 program, Coordinated Entry, and various statewide programs such as the Drug, DUI and Veteran's Court program.

3. SDHDA will create policy and procedures regarding limited English proficiency. SDHDA as recipient of federal funds must take reasonable steps to provide LEP individuals meaningful access to programs, services and information regarding SDHDA programs.