

2020s South Dakota Legislature

Draft 1

Introduced by:

1 WHEREAS, on March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic
2 Security Act, Pub. L. No. 116-136 (the "CARES Act"); and

3 WHEREAS, pursuant to section 5001 of the CARES Act, div. A, Title V (the coronavirus
4 relief fund), the State of South Dakota received \$1,250,000,000 in federal funds that may
5 only be used to cover costs that: are necessary expenditures incurred due to the public health
6 emergency with respect to the Coronavirus Disease 2019 (COVID-19); were not accounted
7 for in the budget most recently approved as of March 27, 2020, for the State of South Dakota;
8 and were incurred during the period that begins on March 1, 2020, and ends on December
9 30, 2020; and

10 WHEREAS, \$74,790,653 of the coronavirus relief fund was spent in fiscal year 2020 in
11 accordance with the CARES Act for COVID-19 related expenditures; and

12 WHEREAS, \$110,322,152 of the coronavirus relief fund has been spent in fiscal year 2021
13 as of September 29, 2020, in accordance with the CARES Act for COVID-19 related
14 expenditures; and

15 WHEREAS, \$ 467,882,430 of the coronavirus relief fund is currently obligated for the
16 following items in accordance with the CARES Act:

Obligations	Estimates
18 SD Local Government COVID Recovery Fund	\$153,541,880
19 Re-employment Insurance Fund Projection	\$100,000,000
20 K-12 Grants	\$18,740,550
21 DOC - Correctional Officers & Parole Officers (10 months)	\$33,800,000
22 DSS - Human Services Center (10 months)	\$19,600,000
23 DPS - Highway Patrol & Motor Carrier (6 months)	\$10,000,000

1	DOC - Correctional Healthcare (10 months)	\$8,500,000
2	UJS - Court Service Officers (10 months)	\$8,100,000
3	Department of Tourism	\$15,000,000
4	State Government Laptops for Remote Work and Security	\$5,000,000
5	Public Universities/Colleges	\$5,000,000
6	Private Universities/Colleges	\$5,000,000
7	Legislature Chamber/Meeting Rooms Remote Access	\$650,000
8	Other State Government (\$50m-\$75m)	\$64,950,000
9	K12/Higher Ed COVID Testing (\$10m-\$20m)	\$20,000,000
10	Total	\$467,882,430; and

11 WHEREAS, \$597,004,765 of the coronavirus relief fund remains unexpended or
 12 unobligated as of September 29, 2020:

13 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Ninety-Fifth Special Legislature
 14 of the State of South Dakota, the House of Representatives concurring therein, that the
 15 Legislature concurs with the previously listed obligations of the coronavirus relief funds and
 16 the recommendation of the special interim committee created in SDCL 4-8A-2 during its fifth
 17 meeting of the 2020 interim held on September 30, 2020, on uses of the remaining
 18 unexpended or unobligated funds and urges the Governor to expend the remaining unspent
 19 and unobligated coronavirus relief funds as laid forth in this resolution; and

20 BE IT FURTHER RESOLVED, that \$400,000,000 of the remaining unspent and unobligated
 21 coronavirus relief funds be used for a small business COVID interruption grant program in
 22 accordance to the following provisions and in accordance with the CARES Act:

- 23 (1) Grants up to \$100,000 per qualifying business;
- 24 (2) Grant amounts calculated at less than \$750 will not be awarded;
- 25 (3) Each eligible business shall:
 - 26 (a) Be located in South Dakota;
 - 27 (b) Have had a reduction in business of at least twenty-five percent;

- 1 (c) Not have gross revenues exceeding \$38.5 million; and
2 (d) Certify to a going concern statement;
3 (3) Grant amounts shall be based on a cashflow from operations model for March
4 through August calculated as follows:
5 (a) "2019 cash flow from operations" is 2019 income (March through August)
6 less 2019 cash expenses (March through August, excluding depreciation,
7 amortization, and noncash expenses) less term debt principal payments
8 (March through August);
9 (b) "2020 cash flow from operations" is 2020 income (March through August)
10 less 2020 cash expenses (March through August, excluding depreciation,
11 amortization, and noncash expenses) less term debt principal payments
12 (March through August);
13 (c) "Federal aid" is any Paycheck Protection Program (PPP) funds or other
14 federal COVID grant funding received by the business in 2020; and
15 (d) "Reduction in business" is 2020 cash flow from operations less 2019 cash
16 flow from operations plus Federal aid;
17 (4) Applications proposed to open October 12, 2020, and close on October 23, 2020;
18 (5) Once all applications are received, grant awards shall be based on a pro-rata share
19 of available funds; and
20 (6) Under current federal law, all funds must be expended by December 30, 2020; and

21 BE IT FURTHER RESOLVED, that \$40,000,000 of the remaining unspent and unobligated
22 coronavirus relief funds be used for a small nonprofit business COVID interruption grant
23 program in accordance to the following provisions and in accordance with the CARES Act:

- 24 (1) Grants up to \$100,000 per qualifying business;
25 (2) Grant amounts calculated at less than \$750 will not be awarded
26 (2) Each eligible business shall:
27 (a) Be located in South Dakota;
28 (c) Have had a reduction in business of at least twenty-five percent;
29 (d) Not have gross revenues exceeding \$38.5 million; and
30 (e) Certify to a going concern statement;
31 (3) Grant amounts shall be based on a cashflow from operations model for March
32 through August calculated as follows:
33 (a) "2019 cash flow from operations" is 2019 income (March through August)
34 less 2019 cash expenses (March through August, excluding depreciation,

- 1 amortization, and noncash expenses) less term debt principal payments
2 (March through August);
- 3 (b) "2020 cash flow from operations" is 2020 income (March through August)
4 less 2020 cash expenses (March through August, excluding depreciation,
5 amortization, and noncash expenses) less term debt principal payments
6 (March through August);
- 7 (c) "Federal aid" is any Paycheck Protection Program (PPP) funds or other
8 federal COVID grant funding received by the business in 2020; and
- 9 (d) "Reduction in business" is 2020 cash flow from operations less 2019 cash
10 flow from operations plus Federal aid;
- 11 (4) Applications proposed to open October 12, 2020, and close on October 23, 2020;
- 12 (5) Once all applications are received, grant awards shall be based on a pro-rata share
13 of available funds; and
- 14 (6) Under current federal law, all funds must be expended by December 30, 2020; and

15 BE IT FURTHER RESOLVED, that \$10,000,000 of the remaining unspent and unobligated
16 coronavirus relief funds be used for a small business start-up grant program in accordance to
17 the following provisions and in accordance with the CARES Act:

- 18 (1) Grants up to \$100,000 per qualifying business;
- 19 (2) Each eligible business shall:
- 20 (a) Be located in South Dakota;
- 21 (b) Have registered with the Secretary of State or the Department of Revenue
22 between September 1, 2019 and June 1, 2020;
- 23 (b) Be open and operating on date of application;
- 24 (d) Demonstrate average monthly income during the period between March 1,
25 2020, and August 31, 2020, was less than 120% of average monthly income
26 prior to March 1, 2020; or that the business operated at a net loss (cash
27 basis) in at least three of the six months between March 1, 2020, and
28 August 31, 2020;
- 29 (e) Provide a certification that the business is a going concern;
- 30 (3) Grant amounts shall be up to twenty percent of the business's cash expenses
31 (March through August, excluding depreciation, amortization, and noncash
32 expenses) less any "Federal aid" which is defined as any Paycheck Protection
33 Program (PPP) funds or other federal COVID grant funding received by the business
34 in 2020;

- 1 (4) Applications proposed to open October 12, 2020, and close on October 23, 2020;
2 (5) Once all applications are received, grant awards shall be based on a pro-rata share
3 of available funds; and
4 (6) Under current federal law, all funds must be expended by December 30, 2020; and

5 BE IT FURTHER RESOLVED, that \$115,000,000 of the remaining unspent and unobligated
6 coronavirus relief funds be used for grants to community based health care providers or
7 personal service providers in accordance to the following provisions and in accordance with
8 the CARES Act:

- 9 (1) Each eligible provider shall provide services funded by the state through the
10 Medicaid program or other federal and state dollars through the Department of
11 Social Services, the Department of Corrections, or the Department of Human
12 Services;
- 13 (2) Each eligible provider shall be licensed in South Dakota as:
14 (a) Nursing homes or skilled nursing facilities, or both;
15 (b) Assisted living facility;
16 (c) Residential treatment facility for youth including group care, psychiatric
17 residential treatment, and independent living;
18 (d) Senior nutrition provider;
19 (e) In-home services for the elderly: nursing, private duty nursing,
20 homemaker, personal care, adult companion, respite;
21 (f) Adult day services;
22 (g) Assistive daily living services waiver providers (ADLS);
23 (h) Intellectual and developmental disabilities services – CHOICES Medicaid
24 waiver (community support providers/case management providers), Family
25 Support 360 Medicaid waiver, community training services, and
26 intermediate care facility for individuals with intellectual disabilities
27 (ICF/IID);
28 (i) Behavioral health including substance use disorder and mental health;
- 29 (3) Grant amounts shall be based upon "reduction in business" to any eligible provider
30 which is calculated as follows:
31 (a) "2019 net" is gross revenue, minus gross expenses, for March-September
32 2019;
33 (b) "2020 net" is gross revenue, minus gross expenses, for March-September
34 2020;

- 1 (c) "Federal aid" is any Paycheck Protection Program (PPP) funds or other
2 federal COVID grant funding received by the business in 2020;
3 (d) "Reduction in business" is 2020 net, minus 2019 net, plus federal aid;
4 (4) Applications proposed to open on October 12, 2020, and close on October 23,
5 2020;
6 (5) Once all applications are received, grant awards shall be based on a pro-rata share
7 of available funds;
8 (6) Following the initial award period, a second allocation of funds to applicants may
9 be considered if additional funds are available; and
10 (7) Under current federal law, all funds must be expended by December 30, 2020; and

11 BE IT FURTHER RESOLVED, that \$15,000,000 of the remaining unspent and unobligated
12 coronavirus relief funds be used for acute care in hospitals in accordance with the CARES Act;
13 and

14 BE IT FURTHER RESOLVED, that \$2,000,000 of the remaining unspent and unobligated
15 coronavirus relief funds be used for adult education and private nonaccredited education in
16 accordance with the CARES Act; and

17 BE IT FURTHER RESOLVED, that \$5,000,000 of the remaining unspent and unobligated
18 coronavirus relief funds be used for destination marketing organizations advertising in
19 accordance with the CARES Act; and

20 BE IT FURTHER RESOLVED, that \$10,000,000 of the remaining unspent and unobligated
21 coronavirus relief funds be used for housing assistance (rent, utilities, mortgage) in
22 accordance with the CARES Act; and

23

24 BE IT FURTHER RESOLVED, that the Governor is requested to report to the special interim
25 committee the status of the expenditures of the coronavirus relief fund by the tenth of each
26 month; and

27 BE IT FURTHER RESOLVED, that this resolution reflects the intent of the Legislature based
28 upon the current economic climate and the federal laws and guidance relating to expenditure
29 of relief funds and it is the intent of the Legislature that the Governor may exercise her
30 authority to adjust to changing economic conditions, to unexpected circumstances in the
31 administration of relief funds, or to changes in federal law or guidance; provided that the

1 Governor inform and seek the input of the special interim committee as to any such action;
2 and

3 BE IT FURTHER RESOLVED, that any changes in uses of the coronavirus relief fund be
4 reported to the special interim committee by the tenth of each month.

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