

2020s South Dakota Legislature

Draft 1

Introduced by:

1 **A CONCURRENT RESOLUTION, Directing expenditure of certain federal coronavirus**
2 **relief funds.**

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

5 WHEREAS, pursuant to section 5001 of the CARES Act, Div. A, Title V (the coronavirus
6 relief fund), the State of South Dakota received \$1,250,000,000 in federal funds that may
7 only be used to cover costs that: are necessary expenditures incurred due to the public health
8 emergency with respect to the Coronavirus Disease 2019 (COVID-19); were not accounted
9 for in the budget most recently approved as of March 27, 2020, for the State of South Dakota;
10 and were incurred during the period that begins on March 1, 2020, and ends on December
11 30, 2020; and

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

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

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

<u>Obligations</u>	<u>Estimates</u>
<u>SD Local Government COVID Recovery Fund</u>	<u>\$153,541,880</u>
<u>Re-employment Insurance Fund Projection</u>	<u>\$100,000,000</u>
<u>K-12 Grants</u>	<u>\$18,740,550</u>
<u>DOC - Correctional Officers & Parole Officers (10 months)</u>	<u>\$33,800,000</u>
<u>DSS - Human Services Center (10 months)</u>	<u>\$19,600,000</u>

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

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

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

21 BE IT FURTHER RESOLVED, that \$400,000,000 of the remaining unspent and unobligated
 22 coronavirus relief funds be used for a small business COVID interruption grant program in
 23 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 may not be awarded;
 26 (3) Each eligible business shall:

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

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

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

1 (a) "2019 cash flow from operations" is 2019 income (March through August)
2 less 2019 cash expenses (March through August, excluding depreciation,
3 amortization, and noncash expenses) less term debt principal payments
4 (March through August);

5 (b) "2020 cash flow from operations" is 2020 income (March through August)
6 less 2020 cash expenses (March through August, excluding depreciation,
7 amortization, and noncash expenses) less term debt principal payments
8 (March through August);

9 (c) "Federal aid" is any Paycheck Protection Program (PPP) funds or other
10 federal COVID grant funding received by the business in 2020; and

11 (d) "Reduction in business" is 2020 cash flow from operations less 2019 cash
12 flow from operations plus Federal aid;

13 (5) Applications proposed to open October 12, 2020, and close on October 23, 2020;

14 (6) Once all applications are received, grant awards shall be based on a pro-rata share
15 of available funds; and

16 (7) Under current federal law, all funds must be expended by December 30, 2020; and

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

20 (1) Grants up to \$100,000 per qualifying business;

21 (2) Each eligible business shall:

22 (a) Be located in South Dakota;

23 (b) Have registered with the secretary of state or the Department of Revenue
24 between September 1, 2019, and June 1, 2020;

25 (c) Be open and operating on date of application;

26 (d) Demonstrate average monthly income during the period between March 1,
27 2020, and August 31, 2020, was less than 120 percent of average monthly
28 income prior to March 1, 2020; or that the business operated at a net loss
29 (cash basis) in at least three of the six months between March 1, 2020, and
30 August 31, 2020; and

31 (e) Provide a certification that the business is a going concern;

32 (3) Grant amounts shall be up to twenty percent of the business's cash expenses
33 (March through August, excluding depreciation, amortization, and noncash
34 expenses) less any "federal aid" which is defined as any Paycheck Protection

1 Program (PPP) funds or other federal COVID grant funding received by the business
2 in 2020;

3 (4) Applications proposed to open October 12, 2020, and close on October 23, 2020;

4 (5) Once all applications are received, grant awards shall be based on a pro-rata share
5 of available funds; and

6 (6) Under current federal law, all funds must be expended by December 30, 2020; and

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

11 (1) Each eligible provider shall provide services funded by the state through the
12 Medicaid program or other federal and state dollars through the Department of
13 Social Services, the Department of Corrections, or the Department of Human
14 Services;

15 (2) Each eligible provider shall be licensed in South Dakota as:

16 (a) A nursing home or skilled nursing facility, or both;

17 (b) An assisted living facility;

18 (c) A residential treatment facility for youth including group care, psychiatric
19 residential treatment, and independent living;

20 (d) A senior nutrition provider;

21 (e) An in-home services provider for the elderly: nursing, private duty nursing,
22 homemaker, personal care, adult companion, respite;

23 (f) An adult day services provider;

24 (g) An assistive daily living services waiver provider (ADLS);

25 (h) An intellectual and developmental disabilities services provider – CHOICES
26 Medicaid waiver (community support providers/case management
27 providers), Family Support 360 Medicaid waiver, community training
28 services, and intermediate care facility for individuals with intellectual
29 disabilities (ICF/IID); or

30 (i) A behavioral health provider including substance use disorder and mental
31 health;

32 (3) Grant amounts shall be based upon "reduction in business" to any eligible provider
33 which is calculated as follows:

1 (a) "2019 net" is gross revenue, minus gross expenses, for March-September
2 2019;

3 (b) "2020 net" is gross revenue, minus gross expenses, for March-September
4 2020;

5 (c) "Federal aid" is any Paycheck Protection Program (PPP) funds or other
6 federal COVID grant funding received by the business in 2020;

7 (d) "Reduction in business" is 2020 net, minus 2019 net, plus federal aid;

8 (4) Applications proposed to open on October 12, 2020, and close on October 23,
9 2020;

10 (5) Once all applications are received, grant awards shall be based on a pro-rata share
11 of available funds;

12 (6) Following the initial award period, a second allocation of funds to applicants may
13 be considered if additional funds are available; and

14 (7) Under current federal law, all funds must be expended by December 30, 2020; and

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

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

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

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

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

30 BE IT FURTHER RESOLVED, that this resolution reflects the intent of the Legislature based
31 upon the current economic climate and the federal laws and guidance relating to expenditure

1 of relief funds and it is the intent of the Legislature that the Governor may exercise her
2 authority to adjust to changing economic conditions, to unexpected circumstances in the
3 administration of relief funds, or to changes in federal law or guidance; provided that the
4 Governor inform and seek the input of the special interim committee as to any such action;
5 and

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