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2020 SD SCR 601 a	**Author:** Wiik **Version:** Adopted **Version Date:** 10/05/2020

95th Special Legislative Session

2020s South Dakota Legislature

Senate Concurrent Resolution 601

ENROLLED

An Act

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

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

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

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

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

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

Obligations	Estimates
SD Local Government COVID Recovery Fund	$153,541,880
Re-employment Insurance Fund Projection	$100,000,000
K-12 Grants	$18,740,550
DOC - Correctional Officers & Parole Officers (10 months)	$33,800,000
DSS - Human Services Center (10 months)	$19,600,000
DPS - Highway Patrol & Motor Carrier (6 months)	$10,000,000
DOC - Correctional Healthcare (10 months)	$8,500,000
UJS - Court Service Officers (10 months)	$8,100,000
Department of Tourism	$15,000,000
State Government Laptops for Remote Work and Security	$5,000,000
Public Universities/Colleges	$5,000,000
Private Universities/Colleges	$5,000,000
Legislature Chamber/Meeting Rooms Remote Access	$650,000
Other State Government	$64,950,000
K-12/Higher Ed COVID Testing	$20,000,000
Total	$467,882,430; and

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

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

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

1. Grants up to $100,000 per qualifying business;

2. Grant amounts calculated at less than $750 may not be awarded;

(3) Each eligible business shall:

(a) Be located in South Dakota;

(b) Have had a reduction in business of at least twenty-five percent;

(c) Not have gross revenues exceeding $38.5 million; and

(d) Certify to a going concern statement;

(4) Grant amounts shall be based on a cashflow from operations model for March through August calculated as follows:

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

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

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

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

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

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

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

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

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

(2) Grant amounts calculated at less than $750 may not be awarded;

(3) Each eligible business shall:

(a) Be located in South Dakota;

(b) Have had a reduction in business of at least twenty-five percent;

(c) Not have gross revenues exceeding $38.5 million; and

(d) Certify to a going concern statement;

(4) Grant amounts shall be based on a cashflow from operations model for March through August calculated as follows:

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

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

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

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

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

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

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

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

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

(2) Each eligible business shall:

(a) Be located in South Dakota;

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

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

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

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

(3) Grant amounts shall be up to twenty percent of the business's cash expenses (March through August, excluding depreciation, amortization, and noncash expenses) less any "federal aid" which is defined as any Paycheck Protection Program (PPP) funds or other federal COVID grant funding received by the business in 2020;

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

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

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

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

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

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

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

(b) An assisted living facility;

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

(d) A senior nutrition provider;

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

(f) An adult day services provider;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BE IT FURTHER RESOLVED, that this resolution reflects the intent of the Legislature based upon the current economic climate and the federal laws and guidance relating to expenditure of relief funds and it is the intent of the Legislature that the Governor may exercise her authority to adjust to changing economic conditions, to unexpected circumstances in the administration of relief funds, or to changes in federal law or guidance; provided that the Governor inform and seek the input of the special interim committee as to any such action; and

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

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