

2020 South Dakota Legislature

Draft 928

Introduced by:

1 **An Act to revise certain provisions regarding reemployment assistance benefits in**
 2 **response to Coronavirus Disease 2019 and to declare an emergency.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 61-5-39 be AMENDED:

5 **61-5-39. Benefits charged against experience-rating accounts--Events for**
 6 **which account not chargeable--Erroneous payments.**

7 Each employer's experience-rating account shall be charged with all benefits
 8 chargeable, as provided in this title, except extended benefits paid as provided in §§ 61-
 9 6-49 to 61-6-66, inclusive, against wages paid for employment by the employer. However,
 10 no benefits paid on the basis of a period of employment may be charged to the experience-
 11 rating account of any employer, except as provided in § 61-5-41, if the claimant:

- 12 (1) Voluntarily separated without good cause attributable to the employer or the
 13 employment;
- 14 (2) Was discharged or suspended for misconduct connected with the employment, or
 15 for conduct mandated by religious belief which belief cannot be reasonably
 16 accommodated by the employer;
- 17 (3) Was discharged or suspended for inability or incompetence to successfully complete
 18 a ninety-day probationary period established between the employer and employee
 19 at the time of employment;
- 20 (4) Earned total base period wages of less than one hundred dollars with one employer;
- 21 (5) Is receiving benefits while in approved training authorized by § 61-6-21;
- 22 (6) Performed services while incarcerated in a custodial or penal institution and
 23 terminated ~~such the~~ employment because of ~~his the~~ claimant's transfer or release
 24 from the institution;
- 25 (7) Received benefits for unemployment directly caused by a major ~~natural~~ disaster
 26 declared by the president pursuant to section ~~410(a)~~ 401(a) of the Robert T.
 27 Stafford Disaster Relief and ~~Employment~~ Emergency Assistance Act, 42 U.S.C.
 28 ~~§ 5177~~ § 5121 et seq., if the individual would have been eligible for disaster

- 1 unemployment assistance with respect to that unemployment but for the receipt of
 2 reemployment assistance or unemployment insurance benefits;
- 3 (8) Received benefits for unemployment resulting directly from the reinstatement of
 4 another employee upon that employee's completion of service in the uniformed
 5 services as ~~provided~~ defined in 38 U.S.C. § 4303(13), ~~as of in effect on~~ January 1,
 6 2005, or the completion of state active duty by members of the National Guard who
 7 are activated pursuant to a call from the Governor as provided by law; ~~or~~
- 8 (9) Voluntarily separated to accompany a spouse who was reassigned from one military
 9 assignment to another; or
- 10 (10) Is unemployed as a direct result of an employer temporarily ceasing operations or
 11 instituting a reduction in force in response to Coronavirus Disease 2019 or because
 12 the claimant has been requested to isolate or quarantine as a result of Coronavirus
 13 Disease 2019 regardless of whether the claimant has tested positive for Coronavirus
 14 Disease 2019. Relief of charges under this subdivision may be granted for no more
 15 than the duration of any emergency relating to Coronavirus Disease 2019 as
 16 declared by the Governor.

17 However, no relief of charges applies if the department determines that an erroneous
 18 payment has been made because the employer, or an agent of the employer, was at fault
 19 for failing to respond timely or adequately to the department's request for information
 20 relating to the payment of benefits. For the purposes of this section, an erroneous
 21 payment is a payment that would not have been made but for the failure of the employer
 22 or the employer's agent to fully respond to the department's request pursuant to § 61-7-
 23 5.

24 **Section 2.** That § 61-5-41 be AMENDED:

25 **61-5-41. Proration among all employer experience-rating accounts of**
 26 **benefits paid but not charged to employer's experience-rating account.**

27 Benefits paid but not charged to the experience-rating account of any employer
 28 based on subdivisions 61-5-39(1) to ~~(9)~~(10), inclusive, shall be prorated among all the
 29 employer experience-rating accounts as follows:

30 One hundred percent of such noncharges for the preceding calendar year are divided
 31 by the total taxable payroll for the preceding calendar year. The ratio obtained is multiplied
 32 by each experience-rated employer's taxable payroll for the preceding year and the result
 33 of this computation is deducted from each employer's account balance. The deductions
 34 from each employer's account balance shall be credited to the pool account.

1 **Section 3.** That § 61-5-58 be AMENDED:

2 **61-5-58. Penalty for failure to timely pay contributions or submit reports.**

3 A penalty of twenty-five dollars per month, or fractional part of a month shall be
4 due and payable upon imposition of the penalty by the department, for failure to pay
5 contributions, or for failure to submit required reports on or before the due date for the
6 contributions or reports as fixed by the department unless the failure is the direct result
7 of an employer temporarily ceasing operations or instituting a reduction in force in
8 response to Coronavirus Disease 2019. However, no penalty for any one delinquent
9 contribution or report may exceed the sum of one hundred fifty dollars. Any penalty
10 collected pursuant to this section shall be paid into the employment security contingency
11 fund.

12 **Section 4.** That § 61-6-1 be AMENDED:

13 **61-6-1. Requirements for eligibility for benefits during week.**

14 An unemployed individual is eligible to receive benefits with respect to any week
15 only if the department finds that:

- 16 (1) The individual has registered for work at and thereafter has continued to report at
17 an employment office in accordance with rules promulgated by the department
18 pursuant to chapter 1-26. However, that the department may, by rule, waive or
19 alter either or both of the requirements of this subdivision as to individuals attached
20 to regular jobs and as to such other types of cases or situations with respect to
21 which the department finds that compliance with the requirements would be
22 oppressive, or would be inconsistent with the purposes of this title. No such rule
23 may conflict with this chapter;
- 24 (2) The individual has made a claim for benefits in accordance with the provisions of
25 § 61-7-1;
- 26 (3) The individual is able to work and is available for work in accordance with rules
27 promulgated by the department pursuant to chapter 1-26;
- 28 (4) Prior to any week for which the individual claims benefits the individual has been
29 unemployed for a waiting period of one week unless this requirement is specifically
30 waived by the Governor during a declared emergency; and
- 31 (5) The individual has, during the individual's base period, earned wages for insured
32 work equal to not less than the minimum amount required for benefit entitlement
33 in § 61-6-4.

- 1 **Section 5.** This Act is repealed on July 1, 2021.
- 2 **Section 6.** Whereas, this Act is necessary for the immediate preservation of the public peace,
3 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force
4 and effect from and after its passage and approval.

DRAFT

2020 South Dakota Legislature

Draft 929

Introduced by:

1 **An Act to revise certain provisions regarding contagious disease control and**
2 **enforcement and to declare an emergency.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 34-22-18.1 be AMENDED:

5 **34-22-18.1. Action for injunction to enforce department directive or order--**
6 **Confidential information.**

7 If the department has determined by medical or epidemiological information that
8 a person is infected with, or is reasonably suspected of having active tuberculosis, a
9 coronavirus respiratory syndrome, any middle east respiratory syndrome (MERS), severe
10 acute respiratory syndrome (SARS), smallpox, or viral hemorrhagic fevers, or any disease
11 or condition which is the subject of a declared public health emergency pursuant to § 34-
12 22-42, and that person presents a health threat to others, the department may commence
13 an action in circuit court, pursuant to chapters 15-6 and 21-8, for injunctive relief as
14 necessary to enforce any applicable department directive or order. The court shall treat
15 individually identifying information including the gender, age, ethnicity, race, national
16 origin, location, or identity of any person subject to the proceedings as strictly confidential
17 information. If necessary, identifying numbers or initials may be used to protect the
18 individually identifying information of the person.

19 **Section 2.** This Act is repealed on July 1, 2021.

20 **Section 3.** Whereas, this Act is necessary for the immediate preservation of the public peace,
21 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force
22 and effect from and after its passage and approval.

2020 South Dakota Legislature

Draft 930

Introduced by:

1 **An Act to revise the authority of the Governor in times of a disaster, act of terrorism,**
 2 **or emergency and to declare an emergency.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 34-48A-5 be AMENDED:

5 **34-48A-5. Authority of Governor in time of disaster, terrorist attack, or**
 6 **emergency.**

7 In the event of disaster, war, act of terrorism as defined in state law, or emergency
 8 that is beyond local government capability, the Governor:

- 9 (1) May assume direct operational control over all or any part of the emergency
 10 management functions within the state which may affect all or any portion of the
 11 state;
- 12 (2) May declare an emergency or disaster to exist in the stricken area and employ
 13 emergency management to assist local authorities to affect relief, evacuation, and
 14 restoration as deemed necessary to preserve life or other disaster or emergency
 15 mitigation, response, or recovery;
- 16 (3) May call upon and use any facilities, equipment, other nonmedical supplies, and
 17 resources available from any source, other than personal or private funds, in order
 18 to carry out the purposes of this chapter by contributing to the expense incurred in
 19 providing relief in such amounts as the Governor shall determine. However, nothing
 20 in this subdivision may be construed to authorize the taking of firearms, as defined
 21 in subdivision 22-1-2(16), without the consent of the owner;
- 22 (4) May suspend the provisions of any regulatory statute of this state prescribing the
 23 conduct of state business or the business of a local subdivision, or the orders or
 24 rules of any state agency, if strict compliance with the provisions of the statute,
 25 order, or rule would in any way prevent, hinder, or delay necessary action in
 26 managing a disaster, war, act of terrorism, or emergency, including fire, flood,
 27 earthquake, severe high and low temperatures, tornado storm, wave action, oil
 28 spill, or other water or air contamination, epidemic, blight, drought, pandemic,
 29 infestation, explosion, riot, or hostile military or paramilitary action, which is

- 1 determined by the Governor to require state or state and federal assistance or
2 actions to supplement the recovery efforts of local governments in alleviating the
3 damage, loss, hardship, or suffering caused thereby;
- 4 (5) May control the ingress and egress in a designated disaster or emergency area, the
5 movement of vehicles upon highways within the area, the movement of persons
6 within the area, and the occupancy of premises within the area;
- 7 (6) May procure, acquire, store, distribute, and dispense any pharmaceutical agents or
8 medical supplies located within the state as may be reasonable and necessary to
9 respond to the disaster, emergency, or act of terrorism;
- 10 (7) May appoint and prescribe the duties of such out-of-state health care providers as
11 may be reasonable and necessary to respond to the disaster, emergency, or act of
12 terrorism;
- 13 (8) May provide for the examination and safe disposal of any dead body as may be
14 reasonable and necessary to respond to the disaster, emergency, or act of
15 terrorism; and
- 16 (9) May provide for the protection, construction or reconstruction, repair, and
17 maintenance of public or private transportation facilities.

18 The powers granted to the Governor under this section shall remain in effect for a
19 period of six months and may be restored for one or more successive six-month periods
20 by declaration of the Governor that the conditions permitting such powers persist.

21 **Section 2.** This Act is repealed on July 1, 2021.

22 **Section 3.** Whereas, this Act is necessary for the immediate preservation of the public peace,
23 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force
24 and effect from and after its passage and approval.

2020 South Dakota Legislature

Draft 931

Introduced by:

1 **An Act to allow the secretary of education to waive the minimum number of hours**
 2 **required in a school term during a state of emergency and to declare an**
 3 **emergency.**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 **Section 1.** That § 13-26-1 be AMENDED:

6 **13-26-1. School fiscal year--Local board to set length of school term, day**
 7 **and week--Number of hours in school term--Exception.**

8 The school fiscal year shall begin July first and end June thirtieth. Each local school
 9 board shall set the number of days in a school term, the length of a school day, and the
 10 number of school days in a school week. The local school board or governing body shall
 11 establish the number of hours in the school term for kindergarten programs, which may
 12 not be less than four hundred thirty-seven and one-half hours. The number of hours in
 13 the school term for grades one through five may not be less than eight hundred seventy-
 14 five hours, exclusive of intermissions. The number of hours in the school term for grades
 15 six through twelve may not be less than nine hundred sixty-two and one-half hours,
 16 exclusive of intermissions. An intermission is the time when pupils are at recess or lunch
 17 and for grades six through twelve, the passing time between classes.

18 The minimum number of hours required in this section may be waived by the
 19 secretary if the Governor or the President of the United States declares a state of
 20 emergency and the affected school is located within the area to which the state of
 21 emergency is applicable. The Department of Education shall monitor emergency-related
 22 school closures and provide updates to the schools.

23 If a school closes because of a declared state of emergency, virtual or remote
 24 instruction may be counted toward the hours required by this section. The Department of
 25 Education shall provide guidance regarding that which constitutes virtual and remote
 26 instruction and establish guidelines for the use of virtual and remote instruction.

27 **Section 2.** This Act is repealed on July 1, 2021.

1 **Section 3.** Whereas, this Act is necessary for the immediate preservation of the public peace,
2 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force
3 and effect from and after its passage and approval.

DRAFT

2020 South Dakota Legislature
Draft 932

Introduced by:

1 **An Act to grant the secretary of health certain authority during a public health**
2 **emergency and to declare an emergency.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** The secretary of health may order the closure of or place reasonable restrictions
5 on the use of any public or private location, including a business, park, school, or other
6 location that promotes public gathering, if reasonably necessary to slow or prevent the spread
7 of communicable diseases during a public health emergency declared pursuant to § 34-22-42
8 or an emergency declared by the Governor pursuant to § 34-48A-5.

9 **Section 2.** This Act is repealed on July 1, 2021.

10 **Section 3.** Whereas, this Act is necessary for the immediate preservation of the public peace,
11 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force
12 and effect from and after its passage and approval.

2020 South Dakota Legislature

Draft 933

Introduced by:

1 **An Act to provide exemptions from certain requirements for the 2019-2020 school**
2 **year and to declare an emergency.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** For the 2019-2020 school year:

5 (1) Each school district is exempt from §§ 13-3-55 and 13-3-56;

6 (2) The requirements of the state accountability system, as set forth in §§ 13-3-62,
7 13-3-63, 13-3-64, and 13-3-65 are waived;

8 (3) Each school board is exempt from § 13-25-10; and

9 (4) Each eligible student is exempt from subdivision 13-65-6(4).

10 **Section 2.** Notwithstanding the provisions of § 13-27-3, the requirement that each child
11 receiving alternative instruction who is in grades four, eight, or eleven take a nationally
12 standardized achievement test of the basic skills is waived for the 2019-2020 school year.

13 **Section 3.** Whereas, this Act is necessary for the immediate preservation of the public peace,
14 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force
15 and effect from and after its passage and approval.

2020 South Dakota Legislature

Draft 934

Introduced by:

1 **An Act to revise certain driver licensing requirements to allow for an extension**
2 **during a statewide emergency or disaster and to declare an emergency.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** During a statewide emergency or disaster declared by the Governor under the
5 authority in chapter 34-48A, the secretary of public safety may order the extension of the
6 expiration date for an operator's license, motorcycle operator's license, restricted minor's
7 permit, motorcycle restricted minor's permit, or nondriver identification card for a period not
8 to exceed the duration of the Governor's emergency or disaster declaration plus an additional
9 ninety days. The extension applies notwithstanding the provisions of §§ 32-12-17.2, 32-12-
10 42, 32-12-42.1, and 32-12-42.2.

11 **Section 2.** During a statewide emergency or disaster declared by the Governor under the
12 authority in chapter 34-48A, the secretary of public safety may order the extension of the
13 expiration date for a commercial driver license or commercial learner's permit issued under
14 this chapter and otherwise eligible for renewal for a period not to exceed the duration of the
15 Governor's emergency or disaster declaration plus an additional ninety days. The extension
16 applies notwithstanding the provisions of §§ 32-12A-12, 32-12A-13, and 32-12A-30.

17 **Section 3.** This Act is repealed on July 1, 2021.

18 **Section 4.** Whereas, this Act is necessary for the immediate preservation of the public peace,
19 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force
20 and effect from and after its passage and approval.

2020 South Dakota Legislature

Draft 935

Introduced by:

1 **An Act to provide for the postponement of certain elections and to declare an**
2 **emergency.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** Notwithstanding any other provision of law, any election scheduled to be held
5 from April 14, 2020, through May 26, 2020, shall be postponed in the interest of public
6 health and safety. Any candidate deadline associated with the original election date shall
7 remain in place. The members of the governing body of the political subdivision holding
8 the election shall choose any Tuesday in June 2020 as the alternate election date.

9 If the governing body of the political subdivision chooses to hold the election on
10 the primary election date of June 2, 2020, the following provisions are required:

11 (1) The combined election is subject to approval by the county commission of any
12 county in which the political subdivision is located;

13 (2) Any expense from a combined election shall be apportioned in a manner agreed
14 upon by the governing body of the subdivision and the county commission of each
15 county in which the political subdivision is located; and

16 (3) Any other obligation arising under state law for either election shall be handled as
17 agreed upon by the governing body of the subdivision and the county commission
18 of each county in which the political subdivision is located.

19 The person in charge of the election shall use any and all reasonable means
20 necessary to notify any eligible voter in the jurisdiction regarding the postponement of an
21 election under this section. Upon the selection of an election date consistent with this
22 section, the person in charge of the election shall publish a notice of election once each
23 week for the two consecutive weeks prior to the election. A facsimile of the official ballot
24 shall be published in one of the two calendar weeks prior to each election. The notice and
25 ballot shall be published in the official newspaper of the jurisdiction.

26 For any election postponed under this section, any absentee voting period that
27 opened prior to postponement shall extend through 5:00 p.m. local time the day before
28 the new election date.

1 If further postponement is necessary due to public health concerns, the Governor
2 may postpone any election, except the general election, to a date no later than July 28,
3 2020. The Governor shall provide the alternate dates on which the election may be held.

4 **Section 2.** This Act is repealed on December 31, 2020.

5 **Section 3.** Whereas, this Act is necessary for the support of the state government and its
6 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
7 full force and effect from and after its passage and approval.

DRAFT

2020 South Dakota Legislature

Draft 936

Introduced by:

1 **An Act to provide emergency authority to counties in the event of a public health**
 2 **crisis and to declare an emergency.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** The governing body for each county may, by ordinance, provide for the declaration
 5 of a public health emergency within the county's jurisdiction outside the corporate limits of
 6 any municipality.

7 **Section 2.** That § 7-8-20 be AMENDED:

8 **7-8-20. General powers of county commissioners.**

9 In addition to others specified by law, the board of county commissioners shall
 10 have power:

- 11 (1) To institute and prosecute civil actions in the name of the county, for and on behalf
 12 of the county;
- 13 (2) To make orders respecting the care and preservation of all property belonging to
 14 the county and to sell any real property of the county when authorized by law ~~so to~~
 15 ~~do~~;
- 16 (3) To levy a tax not exceeding the amount authorized by law, and to liquidate
 17 indebtedness;
- 18 (4) To audit the accounts of all officers having the care, management, collection or
 19 disbursement of any money belonging to the county or appropriated for its benefit;
- 20 (5) To construct and repair bridges; to open, lay out, vacate, and change highways; to
 21 purchase or acquire grounds for courthouse, jail, or other building sites, locate or
 22 relocate the courthouse on such sites; to establish election precincts in its county
 23 and appoint the judges of election; and, as a board of equalization, to equalize the
 24 assessment roll of its county in the manner provided by law;
- 25 (6) To furnish necessary blank books, blanks, and stationery for the county auditor,
 26 register of deeds, county treasurer, state's attorney, sheriff, and other elected or
 27 appointed county officers, to be paid out of the county treasury; also a fireproof

- 1 safe or vaults, when in its judgment the same shall be advisable, in which to keep
2 all the books, records, vouchers, and papers pertaining to the business of the board;
- 3 (7) To superintend the fiscal concerns of the county and secure their management in
4 the best possible manner;
- 5 (8) To regulate the transaction of business in alcoholic beverages and the use and
6 consumption of alcoholic beverages, to establish the number of on-sale licenses
7 which may be issued, to provide for reasonable classification of on-sale licenses and
8 fix the fees to be charged for the licenses consistent with the provisions of Title 35;
- 9 (9) To make ordinances prohibiting the sale or exhibition of any obscene matter;
10 however, no county resolution shall be effective in any incorporated area within said
11 county;
- 12 (10) To do and perform such other duties and acts as it is or may hereafter be required
13 to do and perform;
- 14 (11) To provide additional compensation to the county treasurer, county auditor, county
15 register of deeds, state's attorney, and sheriff. This compensation shall be in
16 addition to the salaries prescribed in §§ 7-7-9.1, 7-7-12, and 7-12-15;
- 17 (12) To provide office space, in addition to that provided in the county courthouse, for
18 state's attorneys, appointed officials of the county and other employees;
- 19 (13) To receive and administer grants, loans and assistance and to enter into
20 agreements for cooperative action, with or on behalf of any public agency or
21 nonprofit organization, to establish, promote and support community development;
- 22 (14) To enact ordinances to regulate and prevent the placing of ashes, dirt, garbage or
23 any offensive matter in any highway or public ground or in any body or stream of
24 water within the county, but outside of an incorporated municipality or outside of
25 the one mile limits of any incorporated municipality;
- 26 (15) To enact ordinances to regulate and compel the cleansing, abatement or removal
27 of any sewer, cesspool or any unwholesome or nauseous thing or place;
- 28 (16) To license and regulate transient merchants, hawkers, solicitors, peddlers, itinerant
29 vendors, and every person retailing tangible personal property or services, unless
30 such business is carried on exclusively within the boundaries of a municipality or is
31 carried on through home solicitation or from a fixed permanent location and place
32 of business in this state where such goods and services are offered on a continuing
33 basis;
- 34 (17) To enact by ordinance, for any portion of the county which is zoned, certain building
35 codes pursuant to § 11-10-5;

- 1 (18) To prohibit or restrict open burning, after consultation with local fire officials and
2 law enforcement officials, in order to protect the public health and safety; and
3 (19) To enact emergency and temporary ordinances to promote the health of the citizens
4 of the county and to suppress disease outside the corporate limits of any
5 municipality, provided that no ordinance may be in effect or enforced after July 1,
6 2021.

7 **Section 3.** This Act is repealed on July 1, 2021.

8 **Section 4.** Whereas, this Act is necessary for the immediate preservation of the public peace,
9 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force
10 and effect from and after its passage and approval.

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