

STATE BOARD OF EDUCATION

RESOLUTION (i) AUTHORIZING THE EXECUTION, DELIVERY AND PERFORMANCE OF (A) A SIXTEENTH SUPPLEMENTAL INDENTURE OF TRUST, (B) AN EIGHTEENTH SUPPLEMENT TO LEASE PURCHASE AGREEMENT, (C) CERTAIN SUPPLEMENTS TO SUBLEASES WITH PARTICIPATING INSTITUTIONS, (D) A BOND PURCHASE AGREEMENT AND (E) A CONTINUING DISCLOSURE AGREEMENT FOR THE PURPOSES OF REFINANCING OR REFUNDING EXISTING BONDS; (ii) APPROVING THE PREPARATION AND USE OF A PRELIMINARY OFFICIAL STATEMENT AND AN OFFICIAL STATEMENT FOR THE VOCATIONAL EDUCATION PROGRAM REVENUE BONDS, SERIES 2014B, AND (iii) APPROVING CERTAIN RELATED MATTERS IN CONNECTION THEREWITH

Adopted November 17, 2014

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### RECITALS

WHEREAS, Rapid City Area School District No. 51-4 (the "*Rapid City School District*"), Sioux Falls School District No. 49-5 (the "*Sioux Falls School District*"), Watertown School District 14-4 (the "*Watertown School District*") and Mitchell School District No. 17-2 (the "*Mitchell School District*" and together with the Rapid City School District, Sioux Falls School District, and Watertown School District, the "*Participating Institutions*") are authorized pursuant to Title 13, South Dakota Codified Laws to operate post-secondary vocational technical education institutes under the general supervision of the State Board of Education (the "*Board*"); and

WHEREAS, the South Dakota Health and Educational Facilities Authority (the "*Authority*") is authorized pursuant to Chapter 1-16A, South Dakota Codified Laws, to issue bonds to finance the acquisition and improvement of post-secondary vocational technical education facilities for use by the Participating Institutions and the Board; and

WHEREAS, Title 1-16A and Title 13, South Dakota Codified Laws, permits the Board to lease purchase post-secondary vocational technical education facilities from the Authority and permits the Board to sublease such facilities to the Participating Institutions; and

WHEREAS, the Authority has established a program (the "*Program*") whereby the Board may lease purchase post-secondary vocational technical education facilities from the Authority and sublease such facilities to the Participating Institutions; and

WHEREAS, the Authority and the Board have heretofore entered into a Lease Purchase Agreement dated as of August 1, 1988 as supplemented by various Supplements through and including a Seventeenth Supplement to Lease Purchase Agreement dated as of June 1, 2014 (collectively, as so supplemented the "*Lease*") pursuant to which the Board is leasing with an option to purchase certain facilities the acquisition and/or improvement and equipping of which was financed or refinanced in part or in whole with the proceeds derived from the issuance and sale by the Authority of its Vocational Education Program Revenue Bonds, Series 1988 in the original principal amount of \$11,120,000 (the "*Series 1988 Bonds*"),

its Vocational Education Program Revenue Bonds, Series 1990 in the original principal amount of \$1,315,000 (the "*Series 1990 Bonds*"), its Vocational Education Program Revenue Bonds, Series 1992 in the original principal amount of \$8,785,000 (the "*Series 1992 Bonds*"), its Vocational Education Program Revenue Bonds, Series 1993 in the original principal amount of \$9,780,000 (the "*Series 1993 Bonds*"), its Vocational Education Program Revenue Bonds, Series 1997 in the original principal amount of \$10,365,000 (the "*Series 1997 Bonds*"), its Vocational Education Program Revenue Bonds, Series 1998A in the original principal amount of \$4,705,000 (the "*Series 1998A Bonds*"), its Vocational Education Program Revenue Bonds, Series 1999 in the original principal amount of \$7,135,000 (the "*Series 1999 Bonds*"), its Vocational Education Program Revenue Bonds, Series 2004 in the original principal amount of \$6,265,000 (the "*Series 2004 Bonds*"), its Vocational Education Program Revenue Bonds, Series 2007 in the original principal amount of \$8,805,000 (the "*Series 2007 Bonds*"), its Vocational Education Program Revenue Bonds, Series 2008 in the original principal amount of \$19,465,000 (the "*Series 2008 Bonds*"), its Vocational Education Program Revenue Bonds, Series 2010A and Series 2010B in the original principal amount of \$23,590,000 (collectively, the "*Series 2010AB Bonds*") its Vocational Education Program Revenue Bonds, Series 2010C in the original principal amount of \$12,605,000 (the "*Series 2010C Bonds*"), its Vocational Education Program Revenue Bonds, Series 2011A in the original principal amount of \$20,140,000 (the "*Series 2011A Bonds*"), and its Vocational Education Program Revenue Bonds, Series 2012A in the original principal amount of \$18,810,000 (the "*Series 2012A Bonds*"), its Vocational Education Program Revenue Bonds, Series 2014A in the original principal amount of \$1,790,000 (the "*Series 2014A Bonds*" and, collectively with the Series 1988 Bonds, Series 1990 Bonds, Series 1992 Bonds, Series 1993 Bonds, Series 1997 Bonds, Series 1998A Bonds, Series 1999 Bonds, Series 2004 Bonds, Series 2007 Bonds, Series 2008 Bonds, Series 2010AB Bonds, Series 2010C Bonds, Series 2011A Bonds, Series 2012A Bonds, and any parity bonds issued in the future, the "*Bonds*");

WHEREAS, the Authority issued the Series 1988 Bonds pursuant to an Indenture of Trust dated as of August 1, 1988 (the "*Original Indenture*") between the Authority and The First National Bank in Sioux Falls, as Trustee (the "*Trustee*"). The Authority issued the Series 1990 Bonds pursuant to the Original Indenture as amended and supplemented by the First Supplemental Indenture of Trust dated as of May 1, 1990 between the Authority and the Trustee (the "*First Supplemental Indenture*"). The Authority issued the Series 1992 Bonds pursuant to the Original Indenture as amended and supplemented by the Second Supplemental Indenture of Trust dated as of December 15, 1992 between the Authority and the Trustee (the "*Second Supplemental Indenture*"). The Authority issued the Series 1993A Bonds pursuant to the Original Indenture as amended and supplemented by the Third Supplemental Indenture of Trust dated as of August 1, 1993 between the Authority and the Trustee (the "*Third Supplemental Indenture*"). The Authority issued the Series 1993B Bonds pursuant to the Original Indenture as amended and supplemented by the Fourth Supplemental Indenture of Trust dated as of August 1, 1993 between the Authority and the Trustee (the "*Fourth Supplemental Indenture*"). The Authority issued the Series 1997 Bonds pursuant to the Original Indenture as amended by the Fifth Supplemental Indenture of Trust dated as of December 1, 1997 between the Authority and the Trustee (the "*Fifth Supplemental Indenture*"). The Authority issued the Series 1998A Bonds pursuant to the Original Indenture as amended and supplemented by the Sixth Supplemental Indenture of Trust dated as of May 1, 1998 between the Authority and the Trustee (the "*Sixth Supplemental Indenture*"). The Authority issued the Series 1999 Bonds pursuant to the Original Indenture as amended and supplemented by the Seventh Supplemental Indenture of Trust dated

as of June 1, 1999 between the Authority and the Trustee (the "*Seventh Supplemental Indenture*"). The Authority issued the Series 2004 Bonds pursuant to the Original Indenture as amended and supplemented by the Eighth Supplemental Indenture of Trust dated as of December 1, 2004 between the Authority and the Trustee (the "*Eighth Supplemental Indenture*"). The Authority issued the Series 2007 Bonds pursuant to the Original Indenture as amended and supplemented by the Ninth Supplemental Indenture of Trust dated as of November 1, 2007 between the Authority and the Trustee (the "*Ninth Supplemental Indenture*"). The Authority issued the Series 2008 Bonds pursuant to the Original Indenture as amended and supplemented by the Tenth Supplemental Indenture of Trust dated as of September 1, 2008 between the Authority and the Trustee (the "*Tenth Supplemental Indenture*"). The Authority issued the Series 2010AB Bonds pursuant to the Original Indenture as amended and supplemented by the Eleventh Supplemental Indenture of Trust dated as of July 1, 2010 between the Authority and the Trustee (the "*Eleventh Supplemental Indenture*"), as subsequently modified by certain Omnibus Amendments dated as of May 1, 2011 (the "*Omnibus Amendments*"). The Authority issued the Series 2010C Bonds pursuant to the Original Indenture as amended and supplemented by the Twelfth Supplemental Indenture of Trust dated as of November 1, 2010 between the Authority and the Trustee (the "*Twelfth Supplemental Indenture*"). The Authority issued the Series 2011A Bonds pursuant to the Original Indenture as amended and supplemented by the Thirteenth Supplemental Indenture of Trust dated as of August 1, 2011 between the Authority and the Trustee (the "*Thirteenth Supplemental Indenture*"). The Authority issued the Series 2012A Bonds pursuant to the Original Indenture as amended and supplemented by the Fourteenth Supplemental Indenture of Trust dated as of February 1, 2012 between the Authority and the Trustee (the "*Fourteenth Supplemental Indenture*"). The Authority issued the Series 2014A Bonds pursuant to the Original Indenture as amended and supplemented by the Fifteenth Supplemental Indenture of Trust dated as of June 1, 2014 between the Authority and the Trustee (the "*Fifteenth Supplemental Indenture*"). The Original Indenture as subsequently amended and supplemented from time to time is referred to herein as the "*Indenture*."

WHEREAS, pursuant to the Authority's Program in order to provide a credit against Lease Rentals owed by the Board under the Lease Purchase Agreement as heretofore amended and supplemented, (A) all Participating Institutions have heretofore entered into the Amended and Restated Facility Fee Tuition Collection and Deposit Agreement dated as of September 1, 2008 (the "*Collection Agreement*") with the Board, the South Dakota Treasurer (the "Treasurer") and The First National Bank in Sioux Falls, as Escrow Holder (the "*Escrow Holder*") providing for the collection of Facility Fees on a current basis (no less frequently than quarterly) and the deposit of such Facility Fees to the Tuition Subaccount (an account of the Treasurer's maintained with the Escrow Holder) and (B) the Facilities Fees and certain interest earnings (the "*Trust Fund Earnings*") on a statutorily created Technical Institutes Facilities Fund (the "*Technical Institutes Facilities Fund*") were pledged pursuant to a certain General Pledge and Escrow Agreement most recently amended as of February 1, 2012 (as so amended, the "*Pledge Agreement*") among the Authority, the Escrow Holder, the Board and the Treasurer;

WHEREAS, in connection with the issuance of the Series 2014A Bonds, and with the requisite consent of all Bondholders and consistent with Section 7 of Ch 93 of the Session Laws of 2014, the pledge of Trust Fund Earnings was terminated and the Trust Fund Earnings no longer constitute a part of the Program Revenues or the Trust Estate securing any of the Bonds (the "*Release*");

WHEREAS, executed counterparts or copies of the Original Indenture and all Supplemental Indentures described above, the Pledge Agreement, the Collection Agreement, all Supplements to the Lease described above and all related documents and instruments heretofore executed and delivered in connection with the Program are on file with the Board;

WHEREAS, pursuant to 1-16A-95, beginning on July 1, 2013, the issuance of any additional bonds, notes, or other obligations of the Authority which are payable out of receipts, rentals, and other payments made pursuant to lease purchase agreements with the Participating Institutions or the Board under the authority of chapter 13-39 shall be approved by the South Dakota Legislature before issuance; provided, however, this requirement, does not apply to the issuance of bonds for the purposes of refinancing or refunding existing bonds, notes, or other obligation;

WHEREAS, at the request of the Board, the Authority proposes to issue bonds in one or more series (the "*Series 2014B Bonds*") in an amount estimated to be necessary, together with other available funds for the purposes of refinancing or refunding the Series 2008 Bonds (the "*Refunded Bonds*");

WHEREAS, the Authority has provided the Board drafts of a Preliminary Official Statement, a Sixteenth Supplemental Indenture between the Authority and The First National Bank in Sioux Falls, an Eighteenth Supplemental Lease Purchase Agreement between the Authority and the Board and a Bond Purchase Agreement among the Board, the Authority and the Dougherty & Company LLC (together with any other investment banking firm approved by the Authority, the "*Underwriter*") (the "*Preliminary Official Statement*", the "*Sixteenth Supplemental Indenture*", the "*Eighteenth Supplement*" and the "*Bond Purchase Agreement*," respectively) in forms substantially similar to those used for the Program in past transactions, as modified, revised or supplemented in the manner herein provided or contemplated;

WHEREAS, the Refunded Bonds financed or refinanced certain projects (the "*Refinanced Projects*") which were leased by the Authority to the Board pursuant to the Lease and in turn subleased by the Board to the Participating Institutions pursuant to the respective Sublease Agreements between the Board and each Participating Institution (as amended and supplemented from time to time the "*Subleases*"), consisting in the case of the Refunded Bonds of a Sublease with the Mitchell School District (the "*Mitchell Sublease*") and a Sublease with the Watertown School District (the "*Watertown Sublease*");

WHEREAS, the Authority has advised the Board that the Series 2014B Bonds are expected to be issued in one or more series and shall be priced and sold within the following parameters: the principal amount of the Series 2014B Bonds shall not exceed \$26,000,000, the last stated maturity date of the Series 2014B Bonds will not be later than August 1, 2038, the Series 2014B Bonds will bear interest at rates resulting in a yield for arbitrage purposes not in excess of 5.00% per annum, the purchase price of the Series 2014B Bonds to be paid by the underwriter will be not less than 98% of the principal amount of the Series 2014B Bonds, and the underwriter's discount (as measured as a percentage of total proceeds of the Series 2014B Bonds) shall not exceed 0.55%;

WHEREAS, in furtherance of the foregoing, it shall be necessary for the Board and other parties to execute, deliver and approve, as applicable, (i) the Eighteenth Supplement, (ii) the Sixteenth Supplemental Indenture, (iii) a Twelfth Supplement to the Mitchell Sublease (the "*Mitchell Supplement*"), (iv) an Eleventh Supplement to the Watertown Sublease (the "*Watertown Supplement*"), (v) a Bond Purchase Agreement, and (vi) a Continuing Disclosure Agreement with respect to the Series 2014B Bonds; and

WHEREAS, drafts of the forms of the Eighteenth Supplement, the Sixteenth Supplemental Indenture, the Mitchell Supplement, and the Watertown Supplement, the Bond Purchase Agreement, and the Continuing Disclosure Agreement have been reviewed by and are on file with the Board;

**NOW THEREFORE, BE IT RESOLVED, by the South Dakota Board of Education as follows:**

#### THE PROGRAM

Section 1.1 This Board finds that it is desirable and expedient to further expand the Authority's Program as herein described and to simultaneously with the other parties thereto execute and deliver the Eighteenth Supplement, the Sixteenth Supplemental Indenture, the Mitchell Supplement, the Watertown Supplement, the Bond Purchase Agreement, and a Continuing Disclosure Agreement (as described in Section 2.3 hereof).

Section 1.2 This Board hereby determines that it is necessary and appropriate for the Authority to issue and sell its Series 2014B Bonds in one or more series in an aggregate principal amount not to exceed \$26,000,000 pursuant to the Sixteenth Supplemental Indenture for the purposes of refinancing and refunding the Refunded Bonds, including the application of proceeds as described herein and as described in the Preliminary Official Statement and other materials now on file with the Board.

Section 1.3 Based on the financial projections attached hereto and reviewed by the Board, the Board hereby determines pursuant to Section 1-16A-93 that the estimated receipts, rentals, and other payments, including appropriations by the South Dakota Legislature, student fee payments, and other balances and revenues pledged under the Indenture or any other agreement or arrangement with respect to the outstanding Bonds will not be less than one hundred three percent (103%) of the projected scheduled payments of principal and interest on all outstanding Bonds, which for purposes of this determination shall include the Series 2014B Bonds to be issued but shall exclude the Refunded Bonds. The Authority may conclusively rely upon the determinations of the Board.

Section 1.4 The President of the Board, any Vice President of the Board and the Secretary of the Department of Education (herein, the "*Secretary*" and, collectively with the President of the board and the Vice President of the Board, the "*Authorized Officers*") are hereby authorized and directed on behalf of this Board to do all things reasonably necessary and appropriate so that Series 2014B Bonds may be issued pursuant to the Sixteenth Supplemental Indenture in an amount sufficient to pay the redemption price plus accrued interest on the Refunded Bonds, to pay costs of issuance of the Series 2014B Bonds and to provide working

capital in an amount equal to the present value savings on debt service with respect to the Refunded Bonds. The Series 2014B Bonds shall be entitled to the benefit of the Eighteenth Supplement and the Subleases and to the benefit of any amounts on deposit and available in the Tuition Subaccount (as defined in the Indenture) on a parity with all other Bonds issued under the Indenture.

Section 1.5 Upon the issuance and sale of the Series 2014B Bonds by the Authority under the Sixteenth Indenture, the Board shall enter into the Eighteenth Supplement with the Authority and any other or further supplements or related documents as may be necessary to effectuate the purposes of this resolution, including the Mitchell Supplement and the Watertown Supplement. The Eighteenth Supplement shall be substantially in the form similar to previous Supplements to Lease executed in connection with the Program, and the Eighteenth Supplement, the Mitchell Supplement, and the Watertown Supplement (or such other, further supplements or related documentation) may be subject to such modifications, variations, insertions and other changes as may be reasonably necessary and appropriate in the judgment of the President of the Board and the Secretary to effectuate the Program consistent with State law, previously adopted policies of the Board and this resolution.

Section 1.6 This Board hereby approves the execution and delivery of the Bond Purchase Agreement, the Eighteenth Supplement, the Mitchell Supplement, and the Watertown Supplement, together with the Sixteenth Supplemental Indenture, and a Continuing Disclosure Agreement and any amendment or restatement of the Pledge Agreement to reflect the Release (collectively, referred to herein, together with any related documents as the "*Series 2014B Program Documents*"), which Series 2014B Program Documents shall provide as follows:

A. The Board shall lease the Refinanced Projects from the Authority pursuant to the Lease as supplemented by the Eighteenth Supplement, and the amount of Lease Rentals payable by the Board thereunder shall be in an amount sufficient so that on each date on which any payment is due with respect to any outstanding Series 2014B Bonds, there shall be on deposit in the Debt Service Fund for the Series 2014B Bonds (after taking into account the other Program Revenues available therefor which are required or permitted to be transferred under the Program Documents, the Pledge Agreement, and the Collection Agreement to the Debt Service Fund) an amount which is fully sufficient to pay the principal of and premium and interest on such Series 2014B Bonds on such payment date.

B. The Series 2014B Program Documents shall be executed in the name and on behalf of the Board by the President or the Secretary in substantially the form described herein, but with such changes therein, not inconsistent with law, as may be approved by the officer executing the same, which approval shall be conclusively evidenced by the execution thereof. Such changes may include changes requested by the purchaser of the Series 2014B Bonds or any rating services as a condition to a rating on the Series 2014B Bonds or other revisions authorized or contemplated hereby, including changes to effectuate the Program pursuant to State law and previously adopted policies of the Board.

Section 1.7 This Board hereby approves the sale of the Series 2014B Bonds by the Authority to the Underwriter pursuant to the Bond Purchase Agreement at the price, bearing interest at the rates and maturing on the dates to be approved by the Authority, subject to the limitations and conditions set forth herein in Section 1.10 hereof, and the Series 2014B Bonds may be sold in one or more series.

Section 1.8 The appointment by the Authority of Perkins Coie LLP as bond counsel and disclosure counsel in connection with the Series 2014B Bonds and the Program is hereby approved. All fees and expenses incurred in connection with the Series 2014B Bonds and the Program, including the Authority's fees and expenses, the underwriter's compensation provided for in the Bond Purchase Agreement, bond counsel fees and other costs of issuance shall be payable out of the proceeds of the Series 2014B Bonds or other amounts available to the Program, provided however that such fees and expenses shall be subject to the prior approval of the Secretary and to any further approvals as may be contemplated by the resolution of the Authority approving the Series 2014B Bonds.

Section 1.9 The Board hereby ratifies and confirms each of its covenants, agreements and pledges in the Lease, Subleases, Pledge Agreement (excerpt as modified by the Release) and Collection Agreement, including without limitation its covenant and agreement to seek appropriations in an amount sufficient to pay all Lease Rentals and other amounts as set forth in Section 4.07 of the Lease.

Section 1.10 The adoption of this Resolution by this Board is intended to and shall be the final and conclusive authorization of this Board for the execution, delivery and performance of the Series 2014B Program Documents and all related documents, instruments and certificates so long as (1) the Series 2014B Bonds are entitled to the benefit of Program Revenues; (2) the Series 2014B Bonds bear interest at rates resulting in a yield for arbitrage purposes not in excess of 5.00% per annum with a final stated maturity of no later than August 1, 2038; (3) the purchase price of the Series 2014B Bonds to be paid by the underwriter will be not less than 98.0% of the principal amount of the Series 2014B Bonds; (4) the underwriter's discount (as measured as a percentage of total proceeds of the Series 2014B Bonds) shall not exceed 0.55%; (5) bond counsel is of the opinion that the Series 2014B Program Documents are the legal, valid and binding obligations of the Board enforceable in accordance with their terms; and (6) an Authorized Officer and the Authority approve the form of the Series 2014B Program Documents for execution and delivery.

## OFFERING AND SALE OF BONDS

Section 2.1 The President of the Board, any Vice President of the Board and the Secretary (collectively, the "*Authorized Officers*") are hereby authorized and directed to prepare and furnish to the Trustee or Authority, certified copies of all proceedings and records of the Board relating to the power and authority of the Board to execute and deliver the Series 2014B Program Documents, and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including a general and non-litigation certificate, and such certified copies and certificates shall be deemed representations of the Board as to the facts stated therein. In the absence of the President of the Board or the Secretary, the Vice President or any other officer shall be authorized to execute and deliver all Series 2014B

Program Documents and to perform all other acts necessary to cause the Series 2014B Program Documents to be valid and binding pursuant to this Resolution, and a single signature of an Authorized Officer shall be sufficient in all cases to evidence the approval and binding nature of any document or instrument authorized hereby.

Section 2.2 The Board hereby authorizes the preparation and distribution of a Preliminary Official Statement in substantially the form currently on file with the Board. The Board also hereby authorizes the preparation and distribution of a final Official Statement relating to the Series 2014B Bonds and the Program and authorizes the Secretary of the Department of Education to certify as to the accuracy of the information therein relating to the Board, the School Districts and the Program.

Section 2.3 The Board hereby approves the draft form of Continuing Disclosure Agreement in a form substantially similar to the form included in the Preliminary Official Statement and agrees to comply with the requirements of Securities and Exchange Commission Rule 15c2-12 in connection with the Bonds.

Section 2.4 The Board hereby authorizes the Authority to make the determination as to whether the overall cost of borrowing associated with the Series 2014B Bonds will be reduced if municipal bond insurance is purchased with the proceeds of the Series 2014B Bonds.