

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

616Y0406

HOUSE BILL NO. 1069

Introduced by: Representatives Rhoden, Anderson, Bartels, Beal, Brunner, Campbell, Carson, Chase, Clark, Conzet, Dennert, Duvall, Glanzer, Gosch, Greenfield (Lana), Haggar, Haugaard, Heinemann, Jamison, Jensen (Kevin), Johns, Johnson, Kaiser, Karr, Kettwig, Latterell, Livermont, Marty, May, McPherson, Mickelson, Mills, Otten (Herman), Peterson (Kent), Peterson (Sue), Pischke, Qualm, Rasmussen, Rounds, Rozum, Schaefer, Schoenfish, Steinhauer, Tulson, Turbiville, Willadsen, Wollmann, York, and Zikmund and Senators Greenfield (Brock), Bolin, Cammack, Cronin, Curd, Ewing, Haverly, Jensen (Phil), Klumb, Kolbeck, Langer, Maher, Monroe, Netherton, Novstrup, Otten (Ernie), Partridge, Peters, Rusch, Soholt, Solano, Stalzer, Tapio, Tidemann, White, Wiik, and Youngberg

1 FOR AN ACT ENTITLED, An Act to repeal and revise certain provisions related to campaign
2 finance and to declare an emergency.

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

4 Section 1. That § 12-28-1 be repealed.

5 ~~—12-28-1. This chapter may be referred to as the "South Dakota Government Accountability~~
6 ~~and Anti-Corruption Act."~~

7 Section 2. That §§ 12-28-2 to 12-28-37, inclusive, be repealed.

8 Section 3. That § 12-27-1 be amended to read:

9 12-27-1. Terms used in this chapter mean:

10 (1) "Ballot question," any referendum, initiative, proposed constitutional amendment, or



- 1 other measure submitted to voters at any election;
- 2 (2) "Ballot question committee," a person or organization that raises, collects, or
3 disburses contributions for the placement of a ballot question on the ballot or the
4 adoption or defeat of any ballot question. A ballot question committee is not a
5 person, political committee, or political party that makes a contribution to a ballot
6 question committee. A ballot question committee is not an organization that makes
7 a contribution to a ballot question committee from treasury funds;
- 8 (3) "Candidate campaign committee," any entity organized by a candidate to receive
9 contributions and make expenditures for the candidate. Only one candidate campaign
10 committee may be organized for each candidate;
- 11 (4) "Candidate," any person who seeks nomination for or election to public office, ~~and~~
12 ~~for the purpose of this chapter a~~ A person is deemed a candidate if the person raises,
13 collects, or disburses contributions in excess of five hundred dollars; has authorized
14 the solicitation of contributions or the making of expenditures; or has created a
15 candidate campaign committee for the purpose of obtaining public office. ~~The person~~
16 ~~is also deemed a candidate if the person; or~~ or has taken all actions required by state law
17 to qualify for nomination for or election to public office;
- 18 (5) "Clearly identified," the appearance of the name, nickname, a photograph or a
19 drawing of a candidate or public office holder, or the unambiguous reference to the
20 identity of a candidate or public office holder;
- 21 (6) "Contribution," any gift, advance, distribution, deposit, or payment of money or any
22 other valuable consideration, or any contract, promise or agreement to do so; any
23 discount or rebate not available to the general public; any forgiveness of indebtedness
24 or payment of indebtedness by another person; or ~~the~~ any use of services or property

1 without full payment ~~made~~ or that is provided by any person, political committee, or
2 political party whose primary business is to provide ~~such~~ services or property, made
3 for the purpose of influencing:

- 4 (a) The nomination, election, or re-election of any person to public office; or
- 5 (b) The placement of a ballot question on the ballot or the adoption or defeat of
6 any ballot question ~~submitted~~.

7 The term does not include services provided by a person as a volunteer for or on
8 behalf of any candidate, political committee, or political party, including the free or
9 discounted use of a person's residence ~~or office~~. Nor does the term include the
10 purchase of any item of value or service from any political committee or political
11 party. A contribution does not include administration ~~and~~ or solicitation of a
12 contribution for a political action committee established by an organization ~~and~~ or
13 its associated expenses, nor the use of an organization's real or personal property
14 located on its business premises for such purposes. A contribution does not include
15 nominal use of a candidate's real or personal property or nominal use of resources
16 available at a candidate's primary place of business;

- 17 (7) "County office," any elected office at a county in this state;
- 18 (8) "Election," any election for public office; any general, special, primary, or runoff
19 election; and any election on a ballot question;
- 20 (9) ~~"Expenditure," includes: any purchase, payment, distribution, loan, advance, deposit,~~
21 ~~or gift of money or anything of value, made by any person for the purpose of~~
22 ~~influencing any election, office or ballot initiative, measure, or question; and The~~
23 ~~term includes a written contract, promise, or agreement to make an expenditure.~~
24 ~~However, the term "expenditure" does not include:~~

1 ~~(a) A communication appearing in a news story, commentary, or editorial or letter~~
2 ~~to the editor distributed through the facility of any broadcasting station,~~
3 ~~newspaper, magazine, or other periodical publication, unless the facility is~~
4 ~~owned or controlled by any political party, political committee, or candidate;~~

5 ~~(b) Any communication by a person made in the regular course and scope of the~~
6 ~~person's business or ministry or any communication made by a membership~~
7 ~~organization solely to members of the organization and the members' families;~~
8 ~~or~~

9 ~~(c) Any communication that refers to any candidate only as part of the popular~~
10 ~~name of a bill or statute;~~

11 ~~(10) "Expressly advocate," any communication ~~which~~ that:~~

12 (a) In context has no other reasonable meaning than to ~~urge~~ encourage the election
13 or defeat of one or more clearly identified candidates, or public office holders,
14 or the placement of a ballot question on the ballot or the adoption or defeat of
15 any ballot question ~~by use of~~ using explicit words of advocacy ~~of election or~~
16 ~~defeat. The following are examples of words that convey a message of express~~
17 ~~advocacy~~ such as: vote, re-elect, support, cast your ballot for, reject, and
18 defeat; or

19 (b) If taken as a whole and with limited reference to external events, such as the
20 proximity to the election, may only be interpreted by a reasonable person as
21 containing advocacy of the election or defeat of one or more clearly identified
22 candidates; or public office holders, or the placement of a ballot question on
23 the ballot or the adoption or defeat of any ballot question because:

24 (i) The electoral portion of the communication is unmistakable,

1 unambiguous, ~~and~~ or suggestive of only one meaning; and

2 (ii) Reasonable minds could not differ as to whether it encourages actions
3 to elect or defeat one or more clearly identified candidates; or public
4 office holders, or the placement of a ballot question on the ballot or the
5 adoption or defeat of any ballot question or encourages some other kind
6 of action;

7 (10) "Immediate family," a spouse of a candidate or public office holder; a person under
8 the age of eighteen years who is claimed by that candidate or public office holder or
9 that candidate's or public office holder's spouse as a dependent for federal income tax
10 purposes; or any relative within the third degree of kinship of the candidate or the
11 candidate's spouse, and the spouses of such relatives;

12 (11) "Independent expenditure," an expenditure, including the payment of money or
13 exchange of other valuable consideration or promise, ~~for a communication by a~~
14 ~~person, organization, political committee, or political party which is not a~~
15 ~~contribution and which:~~

16 ~~———— (a) Refers to a clearly identified candidate for state or local elective office or the~~
17 ~~placement of a ballot question on the ballot or the adoption or defeat of any~~
18 ~~ballot question; and~~

19 ~~———— (b) Is made without arrangement, cooperation, or consultation between any~~
20 ~~candidate or any authorized committee or agent of a candidate and the person~~
21 ~~making the expenditure or any authorized agent of that person, and is not~~
22 ~~made in concert with or at the request or suggestion of any candidate or any~~
23 ~~authorized committee or agent of the candidate; and~~

24 ~~———— (c) Satisfies at least one of the following standards: Contains express advocacy,~~

1 ~~or its functional equivalent, of the election or defeat of a clearly identified~~
2 ~~candidate for office; or is disseminated, broadcast or otherwise published~~
3 ~~within sixty days of the election sought by a candidate, mentions a candidate~~
4 ~~and targets the candidate's relevant electorate;~~

5 ~~————— The term "independent expenditure" does not include: a communication appearing~~
6 ~~in a news story, commentary, or editorial or letter to the editor distributed through the~~
7 ~~facilities of any broadcasting station, newspaper, magazine, or other periodical~~
8 ~~publication, unless such facilities are owned or controlled by any political party,~~
9 ~~political committee, or candidate; a communication by a person made in the regular~~
10 ~~course and scope of the person's business or ministry or any communication made by~~
11 ~~a membership organization solely to members of the organization and the members'~~
12 ~~families; or any communication that refers to any candidate only as part of the~~
13 ~~popular name of a bill or statute made by a person, organization, political committee,~~
14 ~~or political party to expressly advocate the election or defeat of a clearly identified~~
15 ~~candidate or the placement of a ballot question on the ballot or the adoption or defeat~~
16 ~~of any ballot question, but which is not made to, controlled by, coordinated with,~~
17 ~~requested by, or made upon consultation with a candidate, political committee, or~~
18 ~~agent of a candidate or political committee. The term does not include administration~~
19 ~~or solicitation or any contribution for a political action committee established by an~~
20 ~~organization and associated expenses, nor the use of an organization's real or~~
21 ~~personal property located on its business premises for such purposes. The term does~~
22 ~~not include any communication by a person made in the regular course and scope of~~
23 ~~the person's business or ministry or any communication made by a membership~~
24 ~~organization solely to any member of the organization and the member's family;~~

- 1 (12) ~~"In-kind contribution," the value of a good or service provided at no charge or for~~
2 less than its fair market value. The term does not include the value of services
3 provided by a person as a volunteer for or on behalf of any candidate, political
4 committee, or political party, including the free or discounted use of ~~any person's~~ the
5 volunteer's residence or office;
- 6 (13) "Legislative office," the Senate and the House of Representatives of the South
7 Dakota Legislature;
- 8 (14) "Loan," a transfer of money, property, guarantee, or anything of value in exchange
9 for an obligation, conditional or not, to repay in whole or part. ~~The outstanding~~
10 ~~amount of a loan not made in the ordinary course of business and at a usual and~~
11 ~~normal interest rate is a contribution until repaid;~~
- 12 (15) ~~"National political party," the organization which is responsible for the day-to-day~~
13 ~~operation of a political party at the national level, as determined by the Federal~~
14 ~~Election Commission;~~
- 15 ~~(16)~~ "Organization," any ~~business~~ corporation, limited liability company, nonprofit
16 corporation, limited liability partnership, limited partnership, partnership,
17 cooperative, trust except for a trust account representing or containing only a
18 contributor's personal funds, a business trust, association, club, labor union, or
19 collective bargaining organization; any local, state, or national organization to which
20 a labor organization pays membership or per capita fees, based upon its affiliation
21 and or membership; any trade or professional association that receives its funds from
22 membership dues or service fees, whether organized inside or outside the state; any
23 other entity organized in a corporate form under federal law or the laws of this state; ;
24 or any group of persons acting in concert ~~which~~ that is not defined as a political

1 committee or political party in this chapter;

2 ~~(17)~~(16) "Person," a natural person;

3 ~~(18)~~(17) "Political action committee," a any person or organization that raises, collects
4 or disburses contributions to influence the outcome of an election and who is
5 not a candidate, candidate campaign committee, ballot question committee, or
6 a political party. A political action committee is not any:

7 (a) Person ~~that~~ who makes a contribution to a political committee or political
8 party ~~from that person's own funds~~; or

9 (b) Organization that makes a contribution to a ballot question committee from
10 treasury funds;

11 ~~(19)~~(18) "Political committee," any candidate campaign committee, political action
12 committee, or ballot question committee;

13 ~~(20)~~(19) "Political party," any state or county political party qualified to participate in
14 a primary or general election, including any auxiliary organization of such
15 political party. An auxiliary organization is any organization designated as an
16 auxiliary organization in ~~the~~ a political party's bylaws or constitution except
17 any auxiliary organization that only accepts contributions to support volunteer
18 activities of the organization and does not make monetary or in-kind
19 contributions or any independent expenditures to any political committee;

20 ~~(21)~~(20) "Public office," any statewide office, legislative office, or county office;

21 ~~(21A)~~ "Qualified contribution," a contribution made by a natural person resident of the state
22 that is not, in the aggregate, in excess of two hundred and fifty dollars to a candidate
23 for legislative office or in excess of five hundred dollars to a candidate for statewide
24 office;

1 ~~(22)~~ "Recognized business entity," any:

2 ~~(a)~~ Domestic corporation, limited liability company, nonprofit corporation,
3 limited liability partnership, or cooperative duly registered with the secretary
4 of state as of the first day of January of the current calendar year, and which
5 is currently in good standing;

6 ~~(b)~~ Foreign corporation, limited liability company, nonprofit corporation, limited
7 liability partnership, or cooperative duly registered with the secretary of state
8 as of the first day of January of the current calendar year, and which is
9 currently in good standing; or

10 ~~(c)~~ Entity organized in a corporate form under federal law.

11 ~~The term "recognized business entity" does not include a political committee or~~
12 ~~political party or an organization which was established by or is controlled, in whole~~
13 ~~or in part, by a candidate, political committee, or agent of a candidate or political~~
14 ~~committee;~~

15 ~~(23)~~(21) "Statewide office," the ~~offices~~ office of Governor, lieutenant governor,
16 secretary of state, attorney general, state auditor, state treasurer, commissioner
17 of school and public lands, and public utilities commissioner;

18 ~~(23A)~~(22) "Treasury funds," funds of an organization ~~that were~~ not raised or collected
19 ~~from any other source~~ for the purpose of influencing a ballot question;

20 ~~(24)~~(23) "Volunteer," a any person who provides ~~person's own personal~~ services free
21 of charge.

22 Section 4. That § 12-27-7 be amended to read:

23 12-27-7. ~~No candidate for governor, or the candidate's campaign committee, may accept~~
24 ~~contributions from a person or political committee which in the aggregate from one source~~

1 ~~exceeds four thousand dollars during any calendar year, or contributions from a political party~~
2 ~~which in the aggregate from one source exceeds forty thousand dollars during any calendar year.~~

3 ~~— No candidate for attorney general or lieutenant governor, or the candidate's campaign~~
4 ~~committee, may accept contributions from a person or political committee which in the~~
5 ~~aggregate from one source exceeds two thousand dollars during any calendar year, or~~
6 ~~contributions from a political party which in the aggregate from one source exceeds twenty~~
7 ~~thousand dollars during any calendar year.~~

8 ~~— No candidate for secretary of state, state auditor, state treasurer, commissioner of school and~~
9 ~~public lands, or public utilities commissioner, or the candidate's campaign committee, may~~
10 ~~accept contributions from a person or political committee which in the aggregate from one~~
11 ~~source exceeds one thousand dollars during any calendar year, or contributions from a political~~
12 ~~party which in the aggregate from one source exceeds ten thousand dollars during any calendar~~
13 ~~year.~~

14 ~~— No candidate for statewide office may accept a contribution from a ballot question~~
15 ~~committee.~~

16 ~~— Funds received by a candidate or candidate's campaign committee by way of redemption of~~
17 ~~a democracy credit are considered a contribution from the person who assigned the democracy~~
18 ~~credit to the candidate. If a contributor is a person, no candidate for statewide office or the~~
19 ~~candidate's campaign committee may accept any contribution that in the aggregate exceeds four~~
20 ~~thousand dollars during any calendar year. A candidate campaign committee may accept~~
21 ~~contributions from any candidate campaign committee, political action committee, or political~~
22 ~~party. The limitation on any contribution from a person in this section does not apply to any~~
23 ~~contribution by the candidate ~~to the candidate's campaign committee~~ or the candidate's~~
24 ~~immediate family. A violation of this section is a Class 1 misdemeanor.~~

1 Section 5. That § 12-27-8 be amended to read:

2 12-27-8. ~~No~~ If the contributor is a person, no candidate for legislative or county office or the
3 candidate's campaign committee may accept ~~contributions from a person or political committee~~
4 ~~which in the aggregate from one source exceeds seven hundred and fifty dollars during any~~
5 ~~calendar year, or contributions from a political party which in the aggregate from one source~~
6 ~~exceeds five thousand dollars during any calendar year.~~

7 ~~— No candidate for legislative or county office may accept a contribution from a ballot~~
8 ~~question committee.~~

9 ~~— Funds received by a candidate or candidate's campaign committee by way of redemption of~~
10 ~~a democracy credit are considered a contribution from the person who assigned the democracy~~
11 ~~credit to the candidate~~ any contribution that in the aggregate exceeds one thousand dollars
12 during any calendar year. A candidate campaign committee may accept contributions from any
13 candidate campaign committee, political action committee, or political party.

14 The limitation on any contribution from a person in this section does not apply to any
15 contribution by the candidate ~~to the candidate's campaign committee~~ or the candidate's
16 immediate family. A violation of this section is a Class 1 misdemeanor.

17 Section 6. That § 12-27-9 be amended to read:

18 12-27-9. ~~No~~ If the contributor is a person or an organization, no political action committee
19 may accept any contribution ~~from a person, organization, political committee or political party~~
20 ~~which~~ that in the aggregate ~~from a single source~~ exceeds ~~two~~ ten thousand dollars during any
21 calendar year. A political action committee may ~~not~~ accept contributions from a ~~ballot question~~
22 ~~committee~~ any candidate campaign committee, political action committee, or political party. A
23 violation of this section is a Class 1 misdemeanor.

24 Section 7. That § 12-27-10 be amended to read:

1 12-27-10. ~~No~~ If the contributor is a person, no political party may accept any contribution
2 ~~from a person or political committee which~~ that in the aggregate ~~from a single source~~ exceeds
3 ~~five~~ ten thousand dollars during any calendar year. A political party may ~~not~~ accept
4 contributions from a ~~ballot question committee~~ any candidate campaign committee, political
5 action committee, or political party. A violation of this section is a Class 1 misdemeanor.

6 Section 8. That § 12-27-10.1 be repealed.

7 ~~—12-27-10.1. A candidate, person holding statewide or legislative office, agent of a candidate~~
8 ~~or a person holding statewide or legislative office, or an entity directly or indirectly established,~~
9 ~~financed, maintained, or controlled by or acting on behalf of one or more candidates or persons~~
10 ~~holding statewide or legislative office, may not solicit, receive, direct, transfer, or spend funds~~
11 ~~in connection with an election unless the funds are subject to the limitations, prohibitions, and~~
12 ~~reporting requirements of this chapter.~~

13 Section 9. That § 12-27-10.2 be repealed.

14 ~~—12-27-10.2. For the purpose of the contribution limits established by §§ 12-27-7, 12-27-8,~~
15 ~~12-27-9, and 12-27-10, all committees established, financed, maintained or controlled by the~~
16 ~~same corporation, labor organization, person, or group of persons, including any parent,~~
17 ~~subsidiary, branch, division, department, or local unit thereof, are affiliated and share a single~~
18 ~~contribution limit both with respect to contributions made and contributions received.~~

19 Section 10. That § 12-27-10.3 be repealed.

20 ~~—12-27-10.3. Any expenditure made by any person, group of persons, political committee,~~
21 ~~or other entity in cooperation, consultation, or concert, with, or at the request or suggestion of,~~
22 ~~a candidate, the candidate's authorized political committees, or the candidate's committee's~~
23 ~~agents, is considered to be a contribution to the candidate.~~

24 ~~—For the purposes of this section, candidate solicitation or direction of funds for or to a~~

1 ~~person, group of persons, political committee or other entity constitutes cooperation sufficient~~
2 ~~to render any subsequent expenditure by the person, group of persons, political committee, or~~
3 ~~other entity in support of that candidate or in opposition to that candidate's opponent to be~~
4 ~~considered a contribution to the candidate.~~

5 ~~— The financing of the dissemination, distribution, or republication, in whole or in part, of any~~
6 ~~broadcast or any written, graphic, or other form of campaign materials prepared by a candidate,~~
7 ~~the candidate's authorized committee, or an agent of either of the foregoing is considered a~~
8 ~~contribution for the purposes of contribution limitations and reporting responsibilities of the~~
9 ~~person group of persons, political committee or other entity making the expenditure. The~~
10 ~~candidate who prepared the campaign material does not receive or accept an in-kind~~
11 ~~contribution, and is not required to report an expenditure, unless the dissemination, distribution,~~
12 ~~or republication of campaign materials was done in concert or cooperation with or at the request~~
13 ~~or suggestion of the candidate. However, the following uses of campaign materials do not~~
14 ~~constitute a contribution to the candidate who originally prepared the materials:~~

15 ~~— (1) — The campaign material is disseminated, distributed, or republished by the candidate~~
16 ~~or the candidate's authorized committee who prepared that material;~~

17 ~~— (2) — The campaign material is incorporated into a communication that advocates the~~
18 ~~defeat of the candidate or party that prepared the material; or~~

19 ~~— (3) — The campaign material is disseminated, distributed, or republished in a news story,~~
20 ~~commentary, or editorial distributed through the facilities of any broadcasting station,~~
21 ~~newspaper, magazine, or other periodical publication, unless such facilities are~~
22 ~~owned or controlled by any political party, political committee, or candidate.~~

23 Section 11. That § 12-27-11 be amended to read:

24 12-27-11. No person, organization, candidate, political committee, or political party may

1 give or accept a contribution unless the name and residence address of the contributor is made
2 known to the ~~recipient of~~ person receiving the contribution. Any contribution, money, or other
3 thing of value received by a candidate, political committee, or political party from an unknown
4 source shall be donated to a nonprofit charitable organization. ~~No person, organization,~~
5 ~~candidate, political committee, or political party may accept from a person a contribution of~~
6 ~~more than five hundred dollars in the aggregate in a calendar year unless the occupation and~~
7 ~~current employer of that person disclosed to the recipient at the time the contribution is made.~~
8 A violation of this section is a Class 2 misdemeanor.

9 Section 12. That § 12-27-12 be amended to read:

10 12-27-12. No person or organization may make a contribution in the name of another person
11 or organization, make a contribution disguised as a gift, make a contribution in a fictitious
12 name, make a contribution on behalf of another person or organization, or knowingly permit
13 another to use that person's or organization's name to make a contribution. No candidate may
14 accept a contribution disguised as a gift. ~~This section does not prohibit a person from assigning~~
15 ~~a democracy credit to a participating candidate, pursuant to §§ 12-28-17, 12-28-18, and 12-28-~~
16 ~~20 and commission regulation, or prohibit a participating candidate from redeeming a~~
17 ~~democracy credit, pursuant to § 12-28-30 and commission regulation.~~ A violation of this section
18 is a Class 1 misdemeanor.

19 Section 13. That § 12-27-13 be amended to read:

20 12-27-13. ~~A contribution or receipt is considered to be converted to personal use if the~~
21 ~~contribution or amount is used to fulfill any commitment, obligation, or expense of a person that~~
22 ~~would exist irrespective of the candidate's election campaign, person's duties as a holder of~~
23 ~~elective office, or political committee's political activities, including but not limited to a home~~
24 ~~mortgage, rent, or utility payment; a clothing purchase; a noncampaign-related automobile~~

1 ~~expense; a country club membership; a vacation or other noncampaign-related trip; a household~~
2 ~~food item; a tuition payment; admission to a sporting event, concert, theater, or other form of~~
3 ~~entertainment not associated with an election campaign; and dues, fees, and other payments to~~
4 ~~a health club or recreational facility.~~

5 —Equipment, supplies, and materials purchased with contributions are property of the political
6 committee or political party, and are not property of the candidate or any other person.

7 Section 14. That § 12-27-15 be amended to read:

8 12-27-15. Any printed material or communication made, purchased, paid for, or authorized
9 by a candidate, political committee, or political party that expressly advocates for or against a
10 candidate, public office holder, ballot question, or political party shall prominently display or
11 clearly speak the following statement: "Paid for by (~~Name~~ name of candidate, political
12 committee, or political party)." ~~If the communication is made, purchased, paid for, or authorized~~
13 ~~by a political committee or political party, the communication shall also state whether or not the~~
14 ~~communication was authorized by or coordinated with any candidate and the name of any~~
15 ~~candidate who authorized the communication or with whom the communication was~~
16 ~~coordinated.~~ This section does not apply to buttons, balloons, pins, pens, matchbooks, clothing,
17 or similar small items upon which the inclusion of the statement would be impracticable. A
18 violation of this section is a Class 1 misdemeanor.

19 Section 15. That § 12-27-16 be amended to read:

20 12-27-16. The following apply to independent expenditures by persons and organizations
21 related to communications advocating for or against candidates, public office holders, ballot
22 questions, or political parties:

23 (1) Any person or organization ~~that makes~~ making a payment or promise of payment
24 totaling one hundred dollars or more, including an in-kind contribution, for ~~an~~

1 ~~independent expenditure~~ a communication that expressly advocates for or against a
2 candidate, public office holder, ballot question, or political party shall append to or
3 include in each communication a disclaimer that clearly and ~~conspicuously~~
4 forthrightly:

5 (a) Identifies ~~the name and address or website of~~ the person or organization
6 making the independent expenditure for that communication;

7 (b) States the address or website address of the person or organization;

8 (c) States that the communication is ~~an independent expenditure~~ independently
9 funded and not made in consultation ~~or coordination~~ with any candidate, ~~or~~
10 ~~any authorized committee or agent of the candidate~~ political party, or political
11 committee; and

12 (c) ~~If the (d)~~ If an independent expenditure is undertaken by an organization
13 ~~the communication not including a candidate, public office holder, political~~
14 ~~party, or political committee, the following notation~~ must also include a clear
15 ~~and conspicuous statement entitled~~ be included: "Top Five Contributors"
16 ~~followed by~~ Contributors," including a listing of the names of the five persons
17 making the largest contributions in aggregate to the organization during the
18 twelve months preceding that communication.

19 A violation of this subdivision is a Class 1 misdemeanor;

20 (2) Any person or organization ~~that makes~~ making a payment or promise of payment of
21 ~~for an independent expenditure aggregating~~ one hundred dollars or more ~~in any~~
22 ~~calendar year, including an in-kind contribution, for a communication described in~~
23 subdivision (1) shall file ~~by electronic transmission~~ a statement ~~with the secretary of~~
24 ~~state~~ within forty-eight hours of the time that the ~~payment or promise of payment is~~

1 organization shall report its donors utilizing a "last in, first out" accounting
2 method, reporting donors in reverse chronological order beginning with the
3 most recent of its donors or, if there are any prior payments or expenditures,
4 beginning with the most recent donor for which unattributed payments remain,
5 until the full amount expended for the independent expenditure is accounted
6 for. communication is disseminated, broadcast, or otherwise published;

7 (3) The statements required by this section shall include the name, street address, city,
8 and state of the person or organization and, any expenditures made for
9 communications described in subdivision (1) during that calendar year but not yet
10 reported on a prior statement, the name of each candidate, public office holder, ballot
11 question, or political party mentioned or identified in each communication, the
12 amount spent on each communication, and a description of the content of each
13 communication. For an organization, the statement shall also include the name and
14 title of the person filing the report, the name of its chief executive, if any, and the
15 name of the person who authorized the expenditures on behalf of the organization;

16 (4) For an organization whose majority ownership is owned by, controlled by, held for
17 the benefit of, or comprised of twenty or fewer persons, partners, owners, trustees,
18 beneficiaries, participants, members, or shareholders, the statement shall also identify
19 by name and address each person, partner, owner, trustee, beneficiary, participant,
20 shareholder, or member who owns, controls, or comprises ten percent or more of the
21 organization;

22 ~~An~~ For an organization shall also provide, supplemental statements, as defined in
23 subdivision ~~(2)~~(3), for any of its partners, owners, trustees, beneficiaries, participants,
24 members, or shareholders identified pursuant to subdivision (4) ~~which~~ that are owned

1 by, controlled by, held for the benefit of, or comprised of twenty or fewer persons,
2 partners, owners, trustees, beneficiaries, participants, members, or shareholders, until
3 no organization identified in the supplemental statements meets the ownership test
4 set forth in subdivision (4); and

5 (6) For purposes of this section, the term, communication, does not include:

6 (a) Any news article, editorial endorsement, opinion or commentary writing, or
7 letter to the editor printed in a newspaper, magazine, flyer, pamphlet, or other
8 periodical not owned or controlled by a candidate, political committee, or
9 political party;

10 (b) Any editorial endorsement or opinion aired by a broadcast facility not owned
11 or controlled by a candidate, political committee, or political party;

12 (c) Any communication by a person made in the regular course and scope of the
13 person's business or ministry or any communication made by a membership
14 organization solely to members of the organization and the members' families;
15 and

16 (d) Any communication that refers to any candidate only as part of the popular
17 name of a bill or statute.

18 Section 16. That chapter 12-27 be amended by adding a NEW SECTION to read:

19 Any political committee, organization, person, or political party that makes a payment or
20 promise of payment totaling one hundred dollars or more, including an in-kind contribution, for
21 a communication that clearly identifies a candidate or public office holder, but does not
22 expressly advocate the election or defeat of the candidate or public office holder, and that is
23 disseminated, broadcast, or otherwise published, shall file a statement with the secretary of state
24 disclosing the name, street address, city, and state of such political committee, organization,

1 person, or political party. The statement shall also include the name of the candidate or public
2 office holder mentioned in the communication, the amount spent on the communication, and
3 a description of the content of the communication. The statement shall be received and filed
4 within forty-eight hours of the time that the communication is disseminated, broadcast, or
5 otherwise published.

6 For the purposes of this section, the term, communication, does not include:

- 7 (1) Any news articles, editorial endorsements, opinion or commentary writings, or letter
8 to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical
9 not owned or controlled by a candidate, political committee, or political party;
- 10 (2) Any editorial endorsements or opinions aired by a broadcast facility not owned or
11 controlled by a candidate, political committee, or political party;
- 12 (3) Any communication by a person made in the regular course and scope of the person's
13 business or ministry or any communication made by a membership organization
14 solely to members of the organization and the members' families;
- 15 (4) Any communication that refers to any candidate only as part of the popular name of
16 a bill or statute;
- 17 (5) Any communication used for the purpose of polling if the poll questions do not
18 expressly advocate for or against a candidate, public office holder, ballot question,
19 or political party.

20 Section 17. That chapter 12-27 be amended by adding a NEW SECTION to read:

21 Any political committee, organization, person, or political party that makes a
22 communication as defined in § 12-27-17, which does not expressly advocate for or against a
23 candidate, public office holder, ballot question, or political party, shall append to or include in
24 each communication a disclaimer that:

- 1 (1) Identifies the political committee, organization, person, or political party making the
2 communication; and
- 3 (2) States the address or website address of the political committee organization, person,
4 or political party.

5 If the communication is an independent expenditure made by a person or organization, then
6 the disclaimer shall include the following: "This communication is independently funded and
7 not made in consultation with any candidate, political party, or political committee." If the
8 independent expenditure is undertaken by an organization not including a candidate, public
9 office holder, political party, or political committee, then the following notation must also be
10 included: "Top Five Contributors," including a listing of the names of the five persons making
11 the largest contributions to an organization during the twelve months preceding that
12 communication.

13 A violation of this section is a Class 1 misdemeanor.

14 Section 18. That § 12-27-20 be amended to read:

15 12-27-20. The state, an agency of the state, and the governing body of a any county,
16 municipality, or other political subdivision of the state may not expend or permit the
17 expenditure of public funds for the purpose of influencing the nomination or election of any
18 candidate, or for the petitioning of a ballot question on the ballot or the adoption or defeat of any
19 ballot question. This section may not be construed to limit the freedom of speech of any officer
20 or employee of the state or ~~such any political subdivisions~~ subdivision who is speaking in his
21 ~~or her~~ the officer's or employee's personal capacity. This section does not prohibit the state, its
22 agencies, or the governing body of any political subdivision of the state from presenting factual
23 information solely for the purpose of educating the voters on a ballot question. ~~This section does~~
24 ~~not prohibit the use of any type of state funds for the democracy credit fund or Democracy~~

1 ~~Credit Program pursuant to chapter 12-28:~~

2 Section 19. That § 12-27-21 be amended to read:

3 12-27-21. No candidate, political committee, or political party may accept any contribution
4 from any state, state agency, political subdivision of the state, foreign government, Indian tribal
5 entity as defined in the Federal Register Vol. 72, No. 55 as of March 22, 2007, federal agency,
6 or the federal government. ~~This section does not prohibit a candidate or candidate's campaign~~
7 ~~committee from redeeming or accepting a democracy credit pursuant to §§ 12-28-15 to 12-28-~~
8 ~~34, inclusive.~~ A violation of this section is a Class 1 misdemeanor.

9 Section 20. That § 12-27-22 be amended to read:

10 12-27-22. A campaign finance disclosure statement shall be submitted to the secretary of
11 state by the treasurer of each:

- 12 (1) Candidate or candidate campaign committee for any statewide or legislative office;
- 13 (2) Political action committee;
- 14 (3) Statewide, county, local, or auxiliary committee of any political party;
- 15 (4) Statewide ballot question committee;
- 16 (5) ~~Candidate~~ Any candidate or candidate committee for any statewide or legislative
17 office whose name appears on the primary ballot, but does not appear on the general
18 election ballot, shall submit a campaign finance disclosure statement, or termination
19 report, ~~which~~ that shall be received by the secretary of state by 5:00 p.m. on the
20 second Friday of August following ~~that~~ the primary election; and
- 21 (6) Statewide ballot question committee that does not meet the signature requirements
22 for placement of the ballot issue on the general election ballot, shall submit a
23 termination report to the secretary of state by 5:00 p.m. central time on the first
24 Monday in February following the year the statement of organization was submitted

1 to the secretary of state.

2 The statement shall be signed and submitted by the treasurer of the political committee or
 3 political party. The statement shall be received by the secretary of state and submitted by 5:00
 4 p.m. central time on the first Monday of February and shall cover the contributions and
 5 expenditures for the preceding calendar year. The statement shall also be received by the
 6 secretary of state and submitted by 5:00 p.m. central time on the second Friday prior to each
 7 primary and general election complete through the fifteenth day prior to that election. Each
 8 statewide ballot question committee shall submit a termination report by 5:00 p.m. central time
 9 no later than the first Monday in February following the year the ballot question was on the
 10 ballot. Any statement submitted pursuant to this section shall be consecutive and shall cover
 11 contributions and expenditures since the last statement submitted.

12 A violation of this section is a Class 1 misdemeanor.

13 ~~—(Text of section effective January 1, 2018) A campaign finance disclosure statement shall~~
 14 ~~be filed with the secretary of state by the treasurer of every:~~

15 ~~—(1) Candidate or candidate campaign committee for any statewide or legislative office;~~

16 ~~—(2) Political action committee;~~

17 ~~—(3) Political party; and~~

18 ~~—(4) Ballot question committee.~~

19 ~~—(5) Candidate or candidate committee for any statewide or legislative office whose name~~
 20 ~~appears on the primary ballot, but does not appear on the general election ballot, shall~~
 21 ~~submit a campaign finance disclosure statement, or termination report, which shall~~
 22 ~~be received by the secretary of state by 5:00 p.m. on the second Friday of August~~
 23 ~~following that primary election.~~

24 ~~—The statement shall be signed and filed by the treasurer of the political committee or~~

1 ~~political party. The statement shall be received by the secretary of state and filed by 5:00 p.m.~~
2 ~~each February first and shall cover the contributions and expenditures for the preceding calendar~~
3 ~~year. The statement shall also be received by the secretary of state and filed by 5:00 p.m. on the~~
4 ~~fifth Tuesday before each primary and general election complete through the fiftieth day prior~~
5 ~~to that election. The statement shall also be received by the secretary of state and filed by 5:00~~
6 ~~p.m. on the second Friday prior to each primary and general election complete through the~~
7 ~~fifteenth day prior to that election. The statement shall also be received by the secretary of state~~
8 ~~and filed by 5:00 p.m. on the fourth Friday after each primary and general election complete~~
9 ~~through second Friday after that election. If a candidate is seeking nomination at the biennial~~
10 ~~state convention, the candidate or the candidate campaign committee shall file a campaign~~
11 ~~finance disclosure statement with the secretary of state by 5:00 p.m. on the second Friday prior~~
12 ~~to any biennial state convention. Any statement filed pursuant to this section shall be~~
13 ~~consecutive and shall cover contributions and expenditures since the last statement filed.~~

14 ~~— The following are not required to file a campaign finance disclosure statement:~~

15 ~~— (1) — A candidate campaign committee for county office on February first following a year~~
16 ~~in which there is not an election for the office;~~

17 ~~— (2) — A political committee that regularly files a campaign finance disclosure statement~~
18 ~~with the Federal Election Commission or a report of contributions and expenditures~~
19 ~~with the Internal Revenue Service.~~

20 ~~— (3) — A statewide candidate whose is publicly seeking a nomination by that candidate's~~
21 ~~party convention prior to a primary election; and~~

22 ~~— (4) — An independent statewide candidate prior to a primary election.~~

23 ~~— A violation of this section is a Class 1 misdemeanor.~~

24 Section 21. That § 12-27-24 be amended to read:

- 1 12-27-24. A campaign finance disclosure statement shall include the following information:
- 2 (1) ~~Political~~ The political committee or political party name, street address, postal
3 address, city, state, zip code, daytime and evening telephone number, and e-mail
4 address;
- 5 (2) ~~Type~~ The type of campaign statement (pre-primary, pre-general, post-primary
6 nonwinner, year-end, amendment, supplement, or termination);
- 7 (3) ~~If a~~ For any ballot question committee, the ballot question number and whether the
8 committee ~~is~~ advocates for or against the ~~measure~~ ballot question;
- 9 (4) The balance of cash and cash equivalents on hand at the beginning of the reporting
10 period;
- 11 (5) The total amount of all contributions received during the reporting period;
- 12 (6) The total amount of all in-kind contributions received during the reporting period;
- 13 (7) The total of refunds, rebates, interest, or other income not previously identified
14 during the reporting period;
- 15 (8) The total of contributions, loans, ~~and~~ or any other receipts during the reporting
16 period;
- 17 (9) The total value of loans made to any person, political committee, or political party
18 during the reporting period;
- 19 (10) The total of expenditures made during the reporting period;
- 20 (11) The total amount of ~~all expenditures~~ any expenditure incurred but not yet paid. ~~An~~
21 Any expenditure incurred but not yet paid shall be reported on each report filed after
22 the date of receipt of goods or services until payment is made to the vendor. A
23 payment shall be listed as an expenditure when the payment is made;
- 24 (12) ~~The statement shall state the~~ cash balance on hand as of the close of the reporting

- 1 period;
- 2 (13) The total amount of contributions of one hundred dollars or less in the aggregate
3 from one source received during the reporting period;
- 4 (14) The name, residence address, city, and state of each person ~~contributing~~ making a
5 contribution of more than one hundred dollars in the aggregate during the reporting
6 period and the amount of the contribution. Any contribution from any political
7 committee or political party shall be itemized. Any contribution from a federal
8 political committee or political committee organized outside ~~this~~ the state shall also
9 include the name and ~~internet~~ website address of the filing office where campaign
10 finance disclosure statements are regularly filed for the committee. If ~~all of the~~ any
11 information required by the section is ~~not on file~~ unknown to the political committee
12 or political party, the political committee or political party may not deposit the
13 contribution;
- 14 (15) ~~The statement shall contain the same information for~~ Any in-kind contributions
15 contribution shall contain the same information as for monetary contributions, and
16 shall also include a description of the in-kind contribution;
- 17 (16) Upon the request of the treasurer, a any person making an in-kind contribution shall
18 provide all necessary information to the treasurer, including the value of the in-kind
19 contribution;
- 20 (17) Any monetary or in-kind contribution made by ~~the reporting~~ a political committee or
21 political party to any political committee, political party, or nonprofit charitable
22 organization shall be itemized;
- 23 (18) A categorical description and ~~the~~ amount of ~~the~~ any refunds, rebates, interest, sale of
24 property, or other receipts not previously identified during the reporting period;

- 1 (19) A categorical description and ~~the~~ amount of any funds or donations by any
2 organization to its political committee for establishing and administering the political
3 committee and for any solicitation costs of the political committee;
- 4 (20) The total balance of any loans owed by the political committee or political party;
- 5 (21) The balance of any loans owed by the political committee or political party, itemized
6 by lender's name, street address, city, and state, including the terms, interest rate, and
7 repayment schedule of each loan;
- 8 (22) The total balance of loans owed to the political committee or political party;
- 9 (23) The amount of ~~each~~ any loan made during the reporting period. ~~The;~~ the name, street
10 address, city, and state of the recipient of the loan;
- 11 (24) The balance of ~~each~~ any loan owed to the political committee or political party,
12 itemized by name, street address, city, and state;
- 13 (25) ~~The expenditures~~ Any expenditure made during the reporting period shall be
14 categorized. ~~Disbursements~~ as disbursements to consultants, advertising agencies,
15 credit card companies, ~~and~~ or similar firms ~~shall be,~~ itemized ~~into~~ by expense
16 categories. Any contribution made by the ~~reporting~~ political committee or political
17 party that is not in exchange for any item of value or service shall be itemized;
- 18 (26) ~~The expenditures~~ Any expenditure incurred but not yet paid during the reporting
19 period and to whom the expenditure is owed;
- 20 (27) The amount of ~~each~~ any independent expenditure, ~~as defined in this chapter,~~ made
21 during the reporting period, the name of the candidate, public office holder, or ballot
22 question related to the independent expenditure and a description of the independent
23 expenditure;
- 24 (28) The information contained in any statement provided ~~under~~ pursuant to § 12-27-19;

1 and

2 (29) A certification that the contents of the statement is are true and correct signed by the
3 treasurer of the political committee or political party.

4 ~~—(Text of section effective January 1, 2018) A campaign finance disclosure statement shall~~
5 ~~include the following information, regardless of whether it has previously been included in a~~
6 ~~timely contribution disclosure statement pursuant to § 12-27-24.1:~~

7 ~~—(1) Political committee or political party name, street address, postal address, city, state,~~
8 ~~zip code, daytime and evening telephone number, and e-mail address;~~

9 ~~—(2) Type of campaign statement (fifth Tuesday pre-primary, second Friday pre-primary,~~
10 ~~fourth Friday post-primary, fifth Tuesday pre-general, second Friday pre-general,~~
11 ~~fourth Friday post-general, mid-year, year-end, amendment, supplement, or~~
12 ~~termination);~~

13 ~~—(3) If a ballot question committee, the ballot question number and whether the committee~~
14 ~~is for or against the measure;~~

15 ~~—(4) The balance of cash and cash equivalents on hand at the beginning of the reporting~~
16 ~~period;~~

17 ~~—(5) The total amount of all contributions received during the reporting period;~~

18 ~~—(6) The total amount of all in-kind contributions received during the reporting period;~~

19 ~~—(7) The total of refunds, rebates, interest, or other income not previously identified~~
20 ~~during the reporting period;~~

21 ~~—(8) The total of contributions, loans, and other receipts during the reporting period;~~

22 ~~—(9) The total value of loans made to any person, political committee, or political party~~
23 ~~during the reporting period;~~

24 ~~—(10) The total of expenditures made during the reporting period;~~

1 ~~— (11) The total amount of all expenditures incurred but not yet paid, detailed in an itemized~~
2 ~~list. An expenditure incurred but not yet paid shall be reported on each report filed~~
3 ~~after the date of receipt of goods or services until payment is made to the vendor. A~~
4 ~~payment shall be listed as an expenditure when the payment is made;~~

5 ~~— (12) The statement shall state the cash balance on hand as of the close of the reporting~~
6 ~~period;~~

7 ~~— (13) The total amount of contributions of two hundred dollars or less in the aggregate~~
8 ~~from one source received during the calendar year;~~

9 ~~— (14) The name, residence address, city, and state of each person contributing a~~
10 ~~contribution of more than two hundred dollars in the aggregate during the calendar~~
11 ~~year and the amount of the contribution, as well as the occupation and name of~~
12 ~~employer of each person contributing a contribution of more than five hundred~~
13 ~~dollars in the aggregate during the calendar year. Any contribution from any political~~
14 ~~committee or political party shall be itemized. Any contribution from a federal~~
15 ~~political committee or political committee organized outside this state shall also~~
16 ~~include the name and internet website address of the filing office where campaign~~
17 ~~finance disclosure statements are regularly filed for the committee. If all of the~~
18 ~~information required is not on file, the political committee or political party may not~~
19 ~~deposit the contribution;~~

20 ~~— (15) The statement shall contain the same information for in-kind contributions as for~~
21 ~~monetary contributions, and shall also include a description of the in-kind~~
22 ~~contribution;~~

23 ~~— (16) Upon the request of the treasurer, a person making an in-kind contribution shall~~
24 ~~provide all necessary information to the treasurer, including the value of the~~

- 1 contribution;
- 2 ~~(17) Any monetary or in-kind contribution made by the reporting political committee or~~
- 3 ~~political party to any political committee, political party, or nonprofit charitable~~
- 4 ~~organization shall be itemized;~~
- 5 ~~(18) A categorical description and the amount of the refunds, rebates, interest, sale of~~
- 6 ~~property, or other receipts not previously identified during the reporting period;~~
- 7 ~~(19) A categorical description and the amount of funds or donations by any organization~~
- 8 ~~to its political committee for establishing and administering the political committee~~
- 9 ~~and for any solicitation costs of the political committee;~~
- 10 ~~(20) The total balance of loans owed by the political committee or political party;~~
- 11 ~~(21) The balance of loans owed by the political committee or political party, itemized by~~
- 12 ~~lender's name, street address, city, and state, including the terms, interest rate, and~~
- 13 ~~repayment schedule of each loan;~~
- 14 ~~(22) The total balance of loans owed to the political committee or political party;~~
- 15 ~~(23) The amount of each loan made during the reporting period. The name, street address,~~
- 16 ~~city, and state of the recipient of the loan;~~
- 17 ~~(24) The balance of each loan owed to the political committee or political party, itemized~~
- 18 ~~by name, street address, city, and state;~~
- 19 ~~(25) The expenditures made during the reporting period shall be categorized.~~
- 20 ~~Disbursements to consultants, advertising agencies, credit card companies, and~~
- 21 ~~similar firms shall be itemized into expense categories. Any contribution made by the~~
- 22 ~~reporting political committee or political party that is not in exchange for any item~~
- 23 ~~of value or service shall be itemized;~~
- 24 ~~(26) The expenditures incurred but not yet paid during the reporting period and to whom~~

1 the expenditure is owed;

2 ~~—(27) The amount of each independent expenditure, as defined in this chapter, made during~~
3 ~~the reporting period, the name of the candidate, public office holder, or ballot~~
4 ~~question related to the expenditure and a description of the expenditure;~~

5 ~~—(28) The information contained in any statement provided under § 12-27-19; and~~

6 ~~—(29) The statement shall include a certification that the contents of the statement is true~~
7 ~~and correct signed by the treasurer of the political committee or political party.~~

8 Section 22. That § 12-27-24.1 be repealed.

9 ~~—12-27-24.1. When a candidate campaign committee for any statewide or legislative office,~~
10 ~~political action committee, political party, or ballot question committee has accepted~~
11 ~~contributions in the aggregate of more than five hundred dollars in the calendar year, the~~
12 ~~treasurer of that political committee or political party is required to file a "timely contribution~~
13 ~~disclosure statement" by electronic transmission with the secretary of state. Further timely~~
14 ~~contribution disclosure statements must be filed each time new contributions accepted in that~~
15 ~~same calendar year from that same source exceed five hundred dollars in the aggregate. A timely~~
16 ~~contribution disclosure statement shall include the following:~~

17 ~~—(1) If the contributor is a person, the amount and date of the contribution in the aggregate~~
18 ~~as well as the person's full name, residence address including city and state,~~
19 ~~occupation and name of employer; or~~

20 ~~—(2) If the contributor is a political committee or political party, the amount and date of~~
21 ~~the contribution in the aggregate as well as the name of the political committee or~~
22 ~~political party and its registered street address including city and state.~~

23 ~~—A timely contribution disclosure statement shall be filed with the secretary of state by~~
24 ~~electronic transmission within five business days after the day of the receipt of the contribution.~~

1 ~~However, if a contribution is received within twenty days of a South Dakota primary, general,~~
2 ~~or special election, the filing shall be made within twenty-four hours of the time of the receipt~~
3 ~~of the contribution. A political committee or political party does not have to file a report within~~
4 ~~twenty-four hours of the receipt of a contribution received within twenty days of a special~~
5 ~~election if the political committee or political party has not made any expenditures in connection~~
6 ~~with that special election.~~

7 Section 23. That § 12-27-29.1 be amended to read:

8 12-27-29.1. In addition to any other penalty or relief provided under this chapter, the
9 secretary of state ~~or the ethics commission~~, after notice and opportunity for hearing pursuant to
10 chapter 1-26, may impose an administrative penalty for the failure to timely file any statement,
11 amendment, or correction required to be filed by this chapter. The administrative penalty is fifty
12 dollars per day for each violation not to exceed three thousand dollars. ~~However, if the~~ If any
13 violation is made by a county political party or auxiliary, the administrative penalty is ten dollars
14 per day for each violation not to exceed six hundred dollars. Any administrative penalty
15 collected pursuant to this section shall be deposited ~~in~~ into the state general fund.

16 Section 24. That § 12-27-35 be amended to read:

17 12-27-35. The attorney general shall investigate ~~violations and prosecute any violation of~~
18 ~~the provisions of this chapter and prosecute any violation thereof~~ relating to a legislative office,
19 statewide office, or statewide ballot question. In lieu of bringing a criminal action, the attorney
20 general may elect to file a civil action. In a civil action, in addition to other relief, the court may
21 impose a civil penalty in an amount not to exceed ten thousand dollars for each violation. Any
22 civil penalty recovered shall be paid to the state general fund. A civil action brought by the
23 attorney general shall be commenced in Hughes County, in the county where the person resides,
24 or in the county where the organization, political party, or political committee has its principal

1 office.

2 Section 25. That § 12-27-36 be amended to read:

3 12-27-36. The attorney general ~~and ethics commission~~ may, for the purpose of enforcing the
4 provisions of this chapter, inspect or examine any political committee or political party records
5 required to be maintained by this chapter. ~~It is a Class 1 misdemeanor for any~~ Any person
6 having charge, control, or possession of political committee or political party records ~~to neglect~~
7 who neglects or refuse refuses the attorney general ~~or ethics commission~~ reasonable access to
8 any records required to be maintained by this chapter ~~which~~ that are necessary to enforce the
9 provisions of this chapter is guilty of a Class 1 misdemeanor.

10 Section 26. That § 12-27-37 be amended to read:

11 12-27-37. The attorney general ~~and ethics commission~~ shall keep each record inspected or
12 examined confidential except when the records are used to enforce provisions of this chapter
13 associated with a criminal or civil action.

14 Section 27. That § 12-27-41 be amended to read:

15 12-27-41. Any statement required to be filed under this chapter may be filed by electronic
16 transmission in accordance with the methods approved by the secretary of state. To be timely
17 filed, any statement received by electronic transmission shall be legible and readable when
18 received by the means it was delivered.

19 ~~—(Text of section effective January 1, 2018)~~ Each statement required to be filed under this
20 ~~chapter by electronic transmission shall be filed in accordance with the methods approved by~~
21 ~~the secretary of state pursuant to the requirements of § 12-27-41.1. The treasurer of a candidate~~
22 ~~campaign committee for any statewide or legislative office, political action committee, political~~
23 ~~party, or ballot question committee is required to file by electronic transmission with the~~
24 ~~secretary of state the campaign finance disclosure statements required pursuant to § 12-27-22,~~

1 if the political committee or political party has received contributions in the aggregate of one
2 thousand dollars or more during the period covered by the statement. If a political committee
3 or political party is required by this chapter to file a statement by electronic transmission, the
4 secretary of state may not accept nor consider filed any statement that uses handwriting as input,
5 aside from a signature. Any statement or disclosure not required to be filed by electronic
6 transmission may be filed by electronic transmission in accordance with the methods approved
7 by the secretary of state.

8 Section 28. That § 12-27-41.1 be repealed.

9 ~~—12-27-41.1. The secretary of state shall ensure that political committee and political party~~
10 ~~treasurers need only a commonly used internet web browser to properly submit the campaign~~
11 ~~finance disclosure statements required pursuant to § 12-27-22, the timely contribution disclosure~~
12 ~~statements required pursuant to § 12-27-24.1, and any other campaign finance information~~
13 ~~required to be filed by electronic transmission by this chapter. The secretary of state shall~~
14 ~~develop a secure method for electronically signing statements. The methods provided to~~
15 ~~treasurers by the secretary of state to file by electronic transmission shall when feasible facilitate~~
16 ~~bulk itemized data submission using a standardized format prescribed by the secretary of state.~~
17 ~~The secretary of state shall provide training materials for filing required statements by electronic~~
18 ~~transmission.~~

19 ~~—The secretary of state may grant brief extensions with no penalty for filing by electronic~~
20 ~~transmission in the event of prolonged circumstances outside the control of the secretary of state~~
21 ~~or a treasurer that make electronic filing unfeasible.~~

22 Section 29. That § 12-27-42.1 be repealed.

23 ~~—12-27-42.1. The secretary of state shall make the information contained in the campaign~~
24 ~~finance disclosure statements and timely contribution disclosure statements that have been filed~~

1 by electronic transmission after January 1, 2018 available to the public in an open format that:

2 ~~— (1) — Is retrievable, downloadable, indexable, and electronically searchable by commonly~~
3 ~~used Internet search applications;~~

4 ~~— (2) — Is platform independent and machine readable;~~

5 ~~— (3) — Is available free of charge and without any restriction that would impede the non-~~
6 ~~commercial reuse or redistribution of the public record;~~

7 ~~— (4) — Employs a descriptive and uniform naming system; and~~

8 ~~— (5) — Retains the data definitions and structure present when the data was compiled, if~~
9 ~~applicable.~~

10 ~~— The secretary of state shall also provide to the public free of charge a bulk data download~~
11 ~~file of the contribution information contained in all campaign finance disclosure statements~~
12 ~~submitted after January 1, 2018, complete with annotation of amended information. This file~~
13 ~~shall be offered in an open, platform independent, and machine readable format that when~~
14 ~~appropriate displays information in an itemized and non-duplicated manner. The same shall be~~
15 ~~provided, but in a separate file, for the contribution information contained in all timely~~
16 ~~contribution disclosure statements submitted up to the present.~~

17 Section 30. That § 12-27-46 be repealed.

18 ~~— 12-27-46. For the purposes of this section, the term "gift" means any compensation, reward,~~
19 ~~employment, gift, honorarium, beverage, meal, food, or other thing of value made or given~~
20 ~~directly or indirectly to any person.~~

21 ~~— No lobbyist or employer of a lobbyist may make gifts to one person who is an elected state~~
22 ~~officer, legislative official or staffperson, or executive department official or staffperson~~
23 ~~aggregating more than one hundred dollars in a calendar year, nor may a lobbyist or employer~~
24 ~~of a lobbyist act as an agent or intermediary in the making of any such gift, or to arrange for the~~

1 ~~making of any such gift by any other person.~~

2 ~~—The value of gifts given to an immediate family member of any elected state officer,~~
3 ~~legislative official, or executive branch official shall be attributed to the officer or official for~~
4 ~~the purpose of determining whether the limit has been exceeded, unless an independent~~
5 ~~business, family, or social relationship exists between the donor and the family member, subject~~
6 ~~to approval by the commission in a manner to be promulgated by rule by the commission~~
7 ~~pursuant to its rulemaking authority under § 12-28-12.~~

8 ~~—No person may knowingly receive any gift which is made unlawful by this section. A~~
9 ~~violation of this section is a Class 1 misdemeanor.~~

10 Section 31. That § 2-12-1 be amended to read:

11 2-12-1. Any person who employs any other person to act as a lobbyist to seek the
12 introduction of legislation or to promote, oppose, or influence in any manner the passage by the
13 Legislature of any legislation affecting the special interests of any agency, individual,
14 association, or business, as distinct from those of the whole people of the state, or to act in any
15 manner as a lobbyist in connection with any such legislation, shall register the name of the
16 person so employed or agreed to be employed, with the secretary of state, to be included in a
17 directory of registered lobbyists as hereinafter provided. The lobbyist shall also register with the
18 secretary of state. Upon the termination of such employment prior to the adjournment sine die
19 of a legislative session, such fact shall be entered opposite the name of any person so employed,
20 either by the employer or employee.

21 ~~—(Text of section effective January 1, 2018) Names and addresses of lobbyists to be~~
22 ~~registered with secretary of state--Termination of employment. Any person who employs any~~
23 ~~other person to act as a lobbyist for the purpose of influencing state legislation, executive action,~~
24 ~~regulation, or governmental processes, shall register the name and address of the person so~~

1 ~~employed or agreed to be employed, with the secretary of state, to be included in a directory of~~
2 ~~registered lobbyists as hereinafter provided. The lobbyist shall also register with the secretary~~
3 ~~of state. The registration shall be completed electronically in a standardized and machine~~
4 ~~readable manner provided by the secretary of state. Upon the termination of such employment~~
5 ~~prior to the adjournment sine die of a legislative session, such fact shall be entered opposite the~~
6 ~~name of any person so employed, either by the employer or employee.~~

7 Section 32. That § 2-12-8.2 be amended to read:

8 2-12-8.2. No elected officer, ~~appointed officer, state agency or division director, or the~~
9 ~~highest paid aide, employee, or staff person reporting to any of the foregoing may be~~
10 ~~compensated to act or register as a lobbyist, other than a public employee lobbyist, during a~~
11 ~~period of two years~~ one year ~~after that person's~~ the officer's termination of service in the state
12 government. A violation of this section is a Class 1 misdemeanor.

13 Section 33. That § 2-12-9 be amended to read:

14 2-12-9. ~~It is a Class 5 felony to threaten, to harm, to offer or make~~ Any person who
15 threatens, harms, offers to make bribes of money or other inducements, ~~to offer offers or to give~~
16 gives gifts or other types of consideration; to any person for the purpose of obtaining
17 sponsorship or introduction of legislation, influencing the form of legislation, attempting to
18 influence any member of the Legislature to vote for or against any measure pending therein, or
19 for or against any candidate for any office to be elected or appointed by the Legislature,
20 attempting to influence any officer of either house of the Legislature in naming of members and
21 officers of committees, or in the performance of any of his duties, or attempting to influence or
22 control the action of any member in relation to any matter coming before the Legislature, or any
23 of its committees is guilty of a Class 5 misdemeanor.

24 Section 34. That § 2-12-11 be amended to read:

1 2-12-11. On or before July first of each year, each registered lobbyist and each employer of
 2 a registered lobbyist whose name appears in the directory in that year shall submit to the
 3 secretary of state a complete and detailed report of all costs incurred for the purpose of
 4 influencing legislation. The report shall be submitted in writing or electronically in a format
 5 prescribed by the secretary of state. However, the personal expenses of the lobbyist spent upon
 6 the lobbyist's own meals, travel, lodging, phone calls or other necessary personal needs while
 7 in attendance at the legislative session need not be reported. The completed reports shall be open
 8 to public inspection. The terms, costs, and expenses, as used in this section do not mean the
 9 compensation paid by the employer to the lobbyist.

10 Any lobbyist expense report filed pursuant to this section is exempt from the ten dollar filing
 11 fee prescribed in subdivision 1-8-10(2).

12 ~~If a~~ Any person has been who is authorized to act as a lobbyist on behalf of an employer
 13 pursuant to § 2-12-4, but ~~the lobbyist~~ does not conduct any lobbying activities pursuant to § 2-
 14 12-1 nor ~~acts~~ act in any manner as a lobbyist in connection with representing that employer, a
 15 ~~report~~ is not required to ~~be filed~~ file any report required under this chapter.

16 The secretary of state may impose an administrative penalty for the failure to timely file ~~the~~
 17 any report required by this section. The secretary of state may impose a penalty not to exceed
 18 one hundred dollars on a registered lobbyist or employer of a registered lobbyist for ~~each~~ any
 19 report that is not timely filed ~~not to exceed a total of one hundred dollars per report not timely~~
 20 ~~filed.~~ In accordance with this section Any administrative penalty collected pursuant to this
 21 section shall be deposited ~~in~~ into the general fund.

22 ~~(Text of section effective January 1, 2018) Expense reports to be filed with secretary of~~
 23 ~~state and available to public online--Administrative penalty for untimely report~~ On or before
 24 ~~July first of each year, each registered lobbyist and each employer whose name appears in the~~

1 ~~directory in that year shall submit to the secretary of state a complete and detailed report of all~~
2 ~~costs incurred for the purpose of influencing state legislation, executive action, regulation or~~
3 ~~governmental processes. The report shall be submitted electronically in a standardized and~~
4 ~~machine readable format prescribed by the secretary of state. However, the personal expenses~~
5 ~~of the lobbyist spent upon the lobbyist's own meals, travel, lodging, phone calls or other~~
6 ~~necessary personal needs while in attendance at the legislative session need not be reported. The~~
7 ~~completed reports shall be open to public inspection and available online to the public free of~~
8 ~~charge in an open format that is machine readable, downloadable and bulk downloadable,~~
9 ~~employs a descriptive and uniform naming system, and presents data in an itemized view if~~
10 ~~possible. The terms, costs, and expenses, as used in this section do not mean the compensation~~
11 ~~paid by the employer to the lobbyist.~~

12 ~~— Any lobbyist expense report filed pursuant to this section is exempt from the ten dollar filing~~
13 ~~fee prescribed in subdivision 1-8-10(2).~~

14 ~~— If a person has been authorized to act as a lobbyist on behalf of an employer pursuant to § 2-~~
15 ~~12-4, but the lobbyist does not conduct any lobbying activities pursuant to § 2-12-1 nor acts in~~
16 ~~any manner as a lobbyist in connection with representing that employer, a report is not required~~
17 ~~to be filed under this chapter.~~

18 ~~— The secretary of state may impose an administrative penalty for the failure to timely file the~~
19 ~~report required by this section. The secretary of state may impose a penalty on a registered~~
20 ~~lobbyist or employer of a registered lobbyist for each report not timely filed not to exceed a total~~
21 ~~of one hundred dollars per report not timely filed. Any administrative penalty collected pursuant~~
22 ~~to this section shall be deposited in the general fund.~~

23 Section 35. Whereas, this Act is necessary for the support of the state government and its
24 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in

1 full force and effect from and after its passage and approval.