



2024 South Dakota Legislature

House Bill 1189

Introduced by: **Representative Mulally**

1 **An Act to prohibit the use of public funds for campaigning or other partisan activity.**

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

3 **Section 1. That § 12-27-21 be AMENDED:**

4 **12-27-21.** No public body, public officer, individual in the employ of or contracted
 5 by the state or any political subdivision thereof, or candidate for public office may, directly
 6 or indirectly, direct, permit, receive, require, or facilitate the use of tax revenues or any
 7 other public resources for the purposes of a campaign or any other partisan activity,
 8 including:

9 (1) The payment of dues or membership fees for any kind of person, league, or
 10 association that, directly or indirectly, engages in a campaign or any other partisan
 11 activity;

12 (2) The use of public funds, facilities, rights of access, equipment, supplies, or
 13 trademarks to influence an election;

14 (3) The promotion, undertaking, or distribution of studies, surveys, analyses,
 15 descriptions, or other communications using public resources in a manner
 16 specifically calculated to induce support of, or opposition to, proposed legislation
 17 or ballot questions; or

18 (4) Any public administrative expense, or activity to allocate or designate portions of
 19 public employee income, to entities that engage in a campaign or any other
 20 partisan activity other than charitable organizations qualified as exempt from
 21 federal income tax under 26 U.S.C. § 501(c)(3), as of January 1, 2024.

22 No candidate or, political committee, or political party may accept any contribution
 23 from any state, state agency, political subdivision of the state, foreign government, Indian
 24 tribe, federal agency, or the federal government. A violation of this section is a Class-2 1
 25 misdemeanor. A subsequent offense within a calendar year is a Class 1 misdemeanor

1 For the purposes of this section, the term "campaign" includes any communication
2 or expenditure related to the pursuit of an elected or appointed office, any effort paid in
3 whole or in part by public revenues or revenues to coordinate or induce members of the
4 general public or any segment thereof to directly influence legislative activity; and any
5 attempt to directly influence legislative activity by communication with a member or
6 employee of a legislative body or with any government official or employee who may.

7 **Section 2. That a NEW SECTION be added to chapter 12-27:**

8 Any person who knowingly receives funds in violation of § 12-27-21 must pay full
9 restitution for the greater of the public cost or the market value of any misappropriated
10 resources. A knowing violation of § 12-27-21 is grounds for the discharge of an employee.

11 **Section 3. That a NEW SECTION be added to chapter 12-27:**

12 The provisions of § 12-27-21 do not limit public officials in the performance of the
13 officer's constitutional duties, and do not apply to:

14 (1) Communications among and between a member and a staff member of a legislative
15 body, or between an elected or appointed official and a legislator or a legislative
16 staff member;

17 (2) Comments by an elected official or communications from an elected official that
18 are designated for constituents;

19 (3) Appearances and communications by a public officer or employee, pursuant to a
20 request to appear before a public body to provide information;

21 (4) A public employee acting in an uncompensated personal capacity, undirected in
22 any manner by, and not purporting to represent the interests of, a public employer;
23 or

24 (5) An authorized employee of the office of the Supreme Court, Governor, lieutenant
25 governor, attorney general, secretary of state, auditor, treasurer, commissioner of
26 school and public lands, or any other principal department of the executive
27 department having responsibility to assess the impact of proposals which affect the
28 administration of government.