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June 29, 2017

Honorable Shantel Krebs
Secretary of State
500 E. Capitol Avenue
Pierre, SD 57501

RECEIVED

JUN 29 2017

S.D. SEC. OF STATE

Dear Secretary Krebs,

This office received four versions of an initiated amendment regarding amending the South Dakota Constitution to change campaign finance and lobbying laws, create a government accountability board, and/or change certain initiative and referendum provisions. The initiated amendment requires a prison or jail cost estimate statement because the amendment contains various misdemeanor and felony penalties.

Enclosed is a copy of all versions of the initiated measure, in final form, that were submitted to this office. In accordance with SDCL 2-1-19, I hereby submit the Legislative Research Council's prison or jail cost estimate with respect to each version of this initiated amendment.

It is my understanding that the Attorney General's statement pursuant to 12-13-25.1 will be filed directly with you by the Office of the Attorney General.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Hancock". The signature is fluid and cursive, with a large initial "J" and "H".

Jason Hancock
Director

jml/skg

Enclosures

CC: The Honorable Marty Jackley, Attorney General

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

LEGISLATIVE RESEARCH COUNCIL

INITIATED AMENDMENT

AN INITIATED AMENDMENT TO THE SOUTH DAKOTA CONSTITUTION CHANGING
CAMPAIGN FINANCE AND LOBBYING LAWS, AND CREATING A GOVERNMENT
ACCOUNTABILITY BOARD. (VERSION #3)

This initiated measure to amend the South Dakota Constitution establishes five misdemeanor penalties and three felony penalties, to be punished as provided by law. If passed, the Legislature would be required to set the class levels for each of the penalties created. However, it is the opinion of the Legislative Research Council that the penalties in this initiated amendment are administrative penalties. The nature of these laws encourages regular compliance with the provisions to which they adhere. Hence, the impact on jail and prison populations is likely negligible.

Approved: 

Date: 6/29/17

Director, Legislative Research Council

JUN 19 2017

S.D. SEC. OF STATE

Section 1. This amendment shall be known as the South Dakota Voter Protection and Anti-Corruption Amendment.

Section 2. That the Constitution of the State of South Dakota be amended by adding a new Article to read as follows:

§1. Whereas the motto of the state of South Dakota is "Under God the People Rule" and whereas the Legislature inherently derives its power from the consent of the people, the people of South Dakota hereby find and declare that in order to protect the public trust:

- (1) Public officials, candidates, and lobbyists must be subject to robust ethics, conflict-of-interest, and anti-corruption laws;
- (2) A strong and independent citizen ethics commission is necessary to oversee and enforce those laws in the name of the people of South Dakota; and
- (3) The will of the people, especially when voiced to ensure the integrity, honesty, and accountability of their government, must be respected.

§2. The offenses of bribery and corrupt solicitation provided under Article III § 28 are felonies punishable as provided by law.

§3. A lobbyist may not knowingly give or offer to give a gift to an individual who they know or should know is a senior public servant. The prohibition under this section does not apply if the lobbyist is the spouse, fiancée, or fiancé of the senior public servant, or is, whether by blood or marriage, a child, parent, sibling, grandparent, grandchild, aunt, uncle, niece, or nephew of the senior public servant. A violation of this section is a misdemeanor punishable as provided by law.

§4. No public official may knowingly use state resources for improper personal gain. A violation of this section is a misdemeanor punishable as provided by law, but a violation of this section where a public official knowingly uses state resources for improper personal gain exceeding ten thousand dollars is a felony punishable as provided by law.

§5. A foreign government outside of the United States may not make a contribution or expenditure in connection with any state or local candidate election.

§6. A candidate or person holding elective office may not knowingly use a campaign contribution for personal use. A violation of this section is a felony punishable as provided by law.

§7. A labor union or corporation may not, directly or through an intermediary, make a campaign contribution to a candidate or political party.

§8. A candidate may not knowingly solicit, accept, or receive a campaign contribution within the South Dakota capitol building. A violation of this section is a misdemeanor punishable as provided by law.

§9. A senior public servant may not become a lobbyist, other than a public lobbyist for state or local government, while holding office as a senior public servant and for a period of two years after holding office as a senior public servant. A violation of this section is a misdemeanor punishable as provided by law.

§10. A lobbyist may not knowingly deliver a campaign contribution made by another individual or entity. A violation of this section is a misdemeanor punishable as provided by law.

As used in this section, "deliver" means to transport, carry, transfer, or otherwise transmit, either

physically or electronically. The prohibition in this section does not apply to a person who delivers a campaign contribution to the person's own campaign, or to the campaign of the person's immediate family member. This section may not be interpreted to prohibit any person from making a campaign contribution or from encouraging others to make a campaign contribution or otherwise to support or oppose a candidate.

§11. A judge shall avoid the appearance of bias, and shall disqualify himself or herself in any proceeding in which monetary or in-kind support related to the judge's election or retention creates an appearance of bias to a reasonable person.

§12. A candidate may not accept campaign contributions from a single source that, in total and per election cycle for the office sought, exceed:

- (1) \$500 for the office state representative, or for any local elective office other than state senator, including any county, municipal, or school district office;
- (2) \$750 for the office of state senator;
- (3) \$1,500 for the office of attorney general, lieutenant governor, commissioner of school and public lands, auditor, treasurer, secretary of state, or any other statewide elective office other than Governor; and
- (4) \$4,000 for the office of Governor.

Any limit prescribed in this section does not apply to a contribution made by a political party, or to a contribution made by the candidate or the candidate's spouse to the candidate's own campaign. The secretary of state shall by administrative rule adjust any dollar amount in this section for inflation after each general election.

§13. A political party may not accept campaign contributions from a single source that, in total and per calendar year, exceed five thousand dollars. For purposes of this section, a state political party and its affiliated local committees or subdivisions shall be treated as a single political party. The secretary of state shall by administrative rule adjust the dollar amount in this section for inflation after each general election.

§14. The Legislature shall regulate persons who are employed or otherwise gainfully compensated to act as a lobbyist to influence in any manner legislative, executive, or administrative action, and shall ensure that such persons promptly register with the state as lobbyists and disclose information that is pertinent to the public interest.

§15. (1) The people of South Dakota find and declare that the Legislature's State Government Accountability Board did not fully respond to the people's demand for strong and accountable ethics oversight, in that:

- (1) The Legislature exempted itself from oversight by that board; and
- (2) The oversight authority of that board was inadequate to protect the public trust.

Therefore, the people of South Dakota find and declare that they are best suited to create an ethics commission that can adequately protect the public trust, and hereby nullify the State Government Accountability Board created by the Legislature in 2017 in House Bill 1076 and in its place create a new State Government Accountability Board to serve as an independent citizen ethics commission.

The State Government Accountability Board is as an independent entity, notwithstanding any other provision of the Constitution of South Dakota, including Article II, that shall be conducted in a nonpartisan manner with integrity, honesty, and fairness. Any rule adopted, investigation conducted, or sanction imposed by the board is subject to judicial review consistent with the Constitution.