

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

487Y0341

HOUSE BILL NO. 1089

Introduced by: Representatives Rhoden, Anderson, Bartels, Beal, Carson, Chase, Clark, Dennert, Duvall, Gosch, Haggard, Haugaard, Heinemann, Hunhoff, Jamison, Karr, Latterell, May, McPherson, Mickelson, Otten (Herman), Peterson (Kent), Peterson (Sue), Qualm, Reed, Rounds, Rozum, Tieszen, and Turbiville and Senators Maher, Ewing, Klumb, Kolbeck, Monroe, Novstrup, and Stalzer

1 FOR AN ACT ENTITLED, An Act to provide for greater transparency and accountability in
2 state government.

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

4 Section 1. That chapter 12-27 be amended by adding a NEW SECTION to read:

5 In addition to the penalties that may be imposed on a person after the hearing provided by
6 § 12-27-29.1, if the secretary of state finds that any person has willfully failed to perform any
7 duty imposed on that person by chapter 12-27, that person may be assessed an additional penalty
8 of up to five hundred dollars. Any administrative order assessing a penalty may be referred to
9 a state's attorney or the attorney general, who shall commence a civil action on behalf of the
10 secretary of state to collect the penalty. The secretary of state may refer willful or repeated
11 violations of any duty required under chapter 12-27 for prosecution by a state's attorney or the
12 attorney general.

13 Section 2. That chapter 12-27 be amended by adding a NEW SECTION to read:



Any person may file with the secretary of state a signed written complaint alleging a violation of the campaign finance requirements of chapter 12-27. The secretary of state shall review the facts alleged in the complaint and may initiate and conduct an investigation. If the secretary of state has cause to believe that a requirement of chapter 12-27 has been violated, the secretary of state may commence the contested case procedure in chapter 1-26 to remedy the violation or impose a civil penalty. The secretary of state may refer the complaint to the Division of Criminal Investigation for an investigation pursuant to chapter 23-3.

Section 3. That chapter 23-3 be amended by adding a NEW SECTION to read:

Any person may file a signed written complaint with the Division of Criminal Investigation alleging:

- (1) Fraud by an elected official, public officer, or public employee in the performance of any duty imposed by law on the elected official, public officer, or public employee;
- (2) Bribery in public office; or
- (3) A violation of the lobbyist gift ban.

The Division of Criminal Investigation shall review the facts alleged in the complaint and may initiate and conduct an investigation to determine if a law has been violated. If the Division of Criminal Investigation has cause to believe that a law has been violated, the division shall refer the matter to a state's attorney or the attorney general for prosecution.

Section 4. That chapter 23-3 be amended by adding a NEW SECTION to read:

However, if the investigation authorized by section 3 of this Act does not reveal sufficient facts to support a criminal prosecution, but the facts do reveal wrongdoing by the elected official, public officer or public employee, the Division of Criminal Investigation may refer the matter either to:

1 (1) The State Board of Internal Control for review of alleged wrongdoing by executive
2 branch officials, officers, and employees; or

3 (2) The Government Audit and Operations Committee for review of alleged wrongdoing
4 by legislators or legislative employees.

5 Section 5. That chapter 1-56 be amended by adding a NEW SECTION to read:

6 The board shall review and investigate any matter referred to it by the Division of Criminal
7 Investigation of the alleged wrongdoing by the executive branch official, public officer, or
8 public employee, and may conduct an investigation and recommend appropriate action
9 according to the board's authority under chapter 1-56.

10 Section 6. That chapter 2-6 be amended by adding a NEW SECTION to read:

11 The Government Operations and Audit Committee shall review and investigate any matter
12 referred to it by the Division of Criminal Investigation of the alleged wrongdoing by a legislator
13 or legislative employee and may recommend appropriate action to remedy the wrongdoing to
14 the Executive Board of the Legislative Research Council, the Legislature, or either house of the
15 Legislature.