

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

661Y0377

SENATE STATE AFFAIRS ENGROSSED NO. **HB 1073** - 3/6/2017

Introduced by: Representatives Mickelson, Bartels, Bartling, Beal, Chase, Clark, Dennert, Haggar, Hawley, Heinemann, Howard, Jensen (Kevin), Johns, Kettwig, Latterell, Lust, McPherson, Otten (Herman), Peterson (Kent), Peterson (Sue), Qualm, Reed, Rhoden, Steinhauer, Stevens, Tieszen, Tulson, and Willadsen and Senators Otten (Ernie), Curd, Ewing, Greenfield (Brock), Heinert, Langer, Maher, Nelson, Netherton, Novstrup, Soholt, and Sutton

1 FOR AN ACT ENTITLED, An Act to revise and repeal certain provisions regarding gifts from
2 registered lobbyists to public officials.

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

4 Section 1. That chapter 2-12 be amended by adding a NEW SECTION to read:

5 Terms used in this Act mean:

6 (1) "Immediate family," the spouse or any minor children living at home;

7 (2) "Lobbyist," any person who is registered pursuant to § 2-12-1; and

8 (3) "Principal," any person or organization as defined in § 12-27-1 that employs or
9 otherwise compensates a lobbyist or authorizes a lobbyist to lobby on behalf of that
10 person or organization. A person's membership in or employment by an organization
11 that employs or compensates a lobbyist does not qualify such person as a principal.

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



1 No public official and no member of the immediate family of a public official may accept
2 from any lobbyist or principal any gifts with a cumulative value greater than one hundred dollars
3 during any calendar year. Beginning on January 1, 2019, and again on January first of each year
4 thereafter, the cumulative value applicable in this section shall be adjusted by the index factor
5 as provided in section 5 of this Act, and the adjusted cumulative value for the year shall be
6 published on the secretary of state's website. Any person who knowingly and intentionally
7 violates any provision of this section is guilty of a Class 1 misdemeanor.

8 Section 3. That chapter 2-12 be amended by adding a NEW SECTION to read:

9 For purposes of this Act, the term, public official, means:

- 10 (1) Any person holding a statewide office as defined in § 12-27-1, including any person
11 who has been elected or appointed but who has not yet assumed office;
- 12 (2) Any head of an agency in the executive branch, including any person who has been
13 appointed but who has not yet assumed office; or
- 14 (3) Any member or member-elect of the Legislature.

15 Section 4. That chapter 2-12 be amended by adding a NEW SECTION to read:

16 For purposes of this Act, the term, gift, means anything of value, including any object,
17 money, property, or service, that is given without compensation or remuneration. The term does
18 not include:

- 19 (1) Anything of value for which the recipient paid an equal or greater value;
- 20 (2) Any contribution to a political committee that is regulated by the Federal Elections
21 Commission or under chapter 12-27;
- 22 (3) Any service or event to assist a public official in the performance of official duties,
23 including any cost to educate or inform the public official on matters of public policy;
24 any advice, information, consultation, or communication regarding actual or

proposed legislation; any service to constituents or to promote the economic development of the state;

(4) Any food, entertainment, or beverage provided for immediate consumption;

(5) Anything of value exchanged between immediate family members;

(6) The cost of admission to any state-owned facility or state-sponsored industry or event, if provided by the sponsoring state agency, political subdivision, or publicly funded institution;

(7) Anything of value received due to membership in a group, the majority of whose membership is not comprised of public officials, if the object or other thing of value is also given to other members of that group or to other members who also serve as officers or directors of that group; or

(8) Any scholarship, prize, or financial support awarded or supported by a principal for a program related to education, and widely available and generally awarded to qualifying members of the public, the majority of whom are not comprised of public officials or the immediate family of public officials.

Section 5. That chapter 2-12 be amended by adding a NEW SECTION to read:

For the purposes of this Act, the index factor is the annual percentage change in the consumer price index for urban wage earners and clerical workers as published by the United States Department of Labor for the year before the year immediately preceding the year of adjustment.

Section 6. That § 12-27-46 be repealed.

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

1 ~~— No lobbyist or employer of a lobbyist may make gifts to one person who is an elected state~~
2 ~~officer, legislative official or staffperson, or executive department official or staffperson~~
3 ~~aggregating more than one hundred dollars in a calendar year, nor may a lobbyist or employer~~
4 ~~of a lobbyist act as an agent or intermediary in the making of any such gift, or to arrange for the~~
5 ~~making of any such gift by any other person.~~

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

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