

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT
NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY 2017

HOUSE BILL NO. 1192wa

**AN ACT TO INCREASE THE PERIOD OF TIME CERTAIN PERSONS MAY CONTRACT
WITH THIS STATE AFTER TERMINATION OF SERVICE.**

A prison/jail population cost estimate statement has been requested on amendment HB1192wa due to establishing a Class 1 misdemeanor in section 1.

This amendment requires an individual who serves as a board member, fiscal agent, officer or executive of a local service agency, school district, cooperative service unit, education service agency, or nonprofit education service agency to disclose any contract with the state that the individual was involved or is presently involved with or directly benefitted or is currently directly benefitting from. The amendment also requires the secretary of education, each member of the Board of Education, each employee of the Department of Education, and any other employee of state government to disclose any membership or participation in or any compensation received from certain consortia or organizations. Disclosures must be submitted quarterly to the Department of Education and must include the purpose and term of the contract or membership. A violation of this disclosure requirement is a Class 1 misdemeanor.

Currently, pursuant to SDCL 3-23-1 and 3-23-6, elected or appointed authority, board, or commission members and members of local service agencies, school districts, cooperative service units, education service agencies, or nonprofit education service agencies are prohibited from having an interest in or directly benefitting from a contract with the state which relates to the subject matter of the board on which they serve. Both statutes also prohibit members from having an interest in or deriving direct benefits from any contract for one year after the end of a member's term. Additionally, SDCL 3-23-2 through 3-23-4 and 3-23-7 through 3-23-8 set forth circumstances in which boards may authorize members to have an interest in or derive a benefit from a contract and requires these authorizations to be made public record and filed with the auditor general. The auditor general gathers all authorizations and presents them annually to the Government Operations and Audit Committee. Pursuant to SDCL 3-23-5 and 3-23-9, any member who knowingly violates these requirements is guilty of a Class 1 misdemeanor.

In order to determine the effect of this new penalty on prison and jail populations, we looked to the similar penalties that exist under SDCL 3-23-5 and 3-23-9. Because there have been no charges or convictions under either statute, it is the opinion of the LRC that this amendment will have little to no impact on prison and jail costs.

Approved: /s/ Jason Hancock Date: 2/22/17

Director, Legislative Research Council