State of South Dakota

EIGHTY-THIRD SESSION LEGISLATIVE ASSEMBLY, 2008

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SENATE BILL NO. 90

Introduced by: Senators Katus, Hanson (Gary), Hoerth, Jerstad, Maher, Napoli, Peterson (Jim), Schmidt (Dennis), and Two Bulls and Representatives Van Norman, Bradford, Kirkeby, Lucas, Nygaard, Sigdestad, and Thompson

1 FOR AN ACT ENTITLED, An Act to provide for voluntary limitations on campaign spending 2 for legislative office. 3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA: 4 Section 1. That chapter 12-27 be amended by adding thereto a NEW SECTION to read as 5 follows: 6 Terms used in this Act mean: 7 **(1)** "Election cycle," the period of time beginning thirty-one days following a general 8 election for the particular office and ending thirty days following the next general 9 election for that office; "Expenditure," any purchase, payment, distribution, loan, advance, deposit, or gift of 10 (2) 11 money by any person for the purpose of expressly advocating the election or defeat 12 of a candidate. An expenditure is made when the actual spending occurs or when 13 there is a contractual agreement requiring such spending and the amount is

determined. Expenditure does not include:

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1	(a)	Any news articles, editorial endorsements, opinion or commentary writings,
2		or letters to the editor printed in a newspaper, magazine or other periodical not
3		owned or controlled by a candidate or political party;
4	(b)	Any editorial endorsements or opinions aired by a broadcast facility not owned
5		or controlled by a candidate or political party;
6	(c)	Spending by persons, other than political parties, political committees and
7		small donor committees, in the regular course and scope of their business or
8		payments by a membership organization for any communication solely to
9		members and their families;
10	(d)	Any transfer by a membership organization of a portion of a member's dues
11		to a small donor committee or political committee sponsored by the
12		membership organization; or payments made by a corporation or labor
13		organization for the costs of establishing, administering, or soliciting funds
14		from its own employees or members for a political committee or small donor
15		committee.
16	Section 2. That chapter 12-27 be amended by adding thereto a NEW SECTION to read as	
17	follows:	
18	Any candidate for the Legislature may certify to the secretary of state that the candidate's	
19	candidate campaign committee will not exceed the following spending limits for the applicable	
20	election cycle: the average amount of expenditures by legislative candidates during the previous	
21	election cycle.	
22	Section 3. That chapter 12-27 be amended by adding thereto a NEW SECTION to read as	
23	follows:	
24	Any legislative candidate who accepts the campaign spending limits set forth in section 2	

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of this Act also agrees that the candidate's personal contributions to the candidate's own

- 2 campaign shall be counted as political party contributions and are subject to the aggregate limit
- 3 on such contributions set forth in § 12-27-10.
- 4 Section 4. That chapter 12-27 be amended by adding thereto a NEW SECTION to read as
- 5 follows:
- Each legislative candidate who chooses to accept the voluntary spending limit established
- 7 in section 2 of this Act shall file a statement to that effect with the secretary of state at the time
- 8 the candidate files a nominating petition as provided in § 12-6-4. Acceptance of the voluntary
- 9 spending limit is irrevocable except as provided in this section. If a legislative candidate accepts
- 10 the applicable spending limit and another candidate for the same office refuses to accept the
- spending limit, the accepting candidate has ten days in which to withdraw acceptance. The
- 12 accepting candidate has this option of withdrawing acceptance after each additional
- 13 nonaccepting candidate for the same office enters the race. Any candidate who, after accepting
- 14 the spending limit in accordance with this section, exceeds the spending limit is guilty of a Class
- 15 1 misdemeanor.
- Section 5. That chapter 12-27 be amended by adding thereto a NEW SECTION to read as
- 17 follows:
- The applicable contribution limits set forth in § 12-27-8 shall double for any legislative
- candidate who has accepted the applicable voluntary spending limit established in section 2 of
- 20 this Act if:
- 21 (1) Another candidate in the race for the same office has not accepted the voluntary
- spending limit; and
- 23 (2) The nonaccepting candidate has raised more than ten percent of the applicable
- voluntary spending limit.

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1 Section 6. That chapter 12-27 be amended by adding thereto a NEW SECTION to read as

- 2 follows:
- 3 Only those legislative candidates who have agreed to abide by the applicable voluntary
- 4 spending limit established pursuant to this Act may advertise their compliance. All other
- 5 candidates are prohibited from advertising, or in any way implying, their acceptance of
- 6 voluntary spending limits. A violation of this section is a Class 1 misdemeanor.