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S.D. SEC. OF STATE

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MARTY J. JACKLEY
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HAND DELIVERED

July 31, 2017

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

RE: **Attorney General's Statement for initiated measure (prohibiting contributions to ballot question committees by non-residents, out-of-state political committees, and entities that are not filed with the Secretary of State)**

Dear Secretary Krebs,

This Office received a proposed initiated measure that the sponsor will seek to place on the November 2018 general election ballot. Enclosed is a copy of the initiated measure, in final form, that was submitted to this Office. In accordance with SDCL 12-13-25.1, I hereby submit the Attorney General's Statement with respect to the measure. The title is: "An initiated measure prohibiting contributions to ballot question committees by non-residents, out-of-state political committees, and entities that are not filed with the Secretary of State."

By copy of this letter, I am providing a copy of the Attorney General's Statement to the sponsor of the measure pursuant to SDCL 12-13-25.1.

Very truly yours,

A handwritten signature in black ink that reads "Marty J. Jackley".

Marty J. Jackley
ATTORNEY GENERAL

MJJ/PA/lde

Enc.

cc w/enc.: G. Mark Mickelson, Speaker
Jason Hancock, Director of LRC

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INITIATED MEASURE

ATTORNEY GENERAL'S STATEMENT

Title: An initiated measure prohibiting contributions to ballot question committees by non-residents, out-of-state political committees, and entities that are not filed with the Secretary of State.

Explanation:

This measure prohibits contributions to statewide ballot question committees by non-residents, by political committees organized outside South Dakota, and by any entity that is not filed as an entity with the Secretary of State for the four years prior to making a contribution. It requires the Secretary of State to impose a civil penalty on any ballot question committee that accepts a prohibited contribution. The civil penalty is double the amount of the contribution. The measure requires the Secretary of State to investigate alleged contribution violations prohibited by this measure.

Currently, there are state laws regulating other kinds of election-related contributions, disclaimers, and disclosures. Violations of these laws are classified as misdemeanors and are subject to criminal penalties. The measure allows a court to impose a civil penalty (up to \$5,000 per violation) in addition to the criminal penalty. Under the measure, the Secretary of State must investigate alleged violations of these particular election-related laws.

All civil penalties collected under this measure will be placed in the State general fund.

The measure is likely to be challenged on constitutional grounds.

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Be it enacted by the people of South Dakota:

An Act to prohibit contributions to ballot question committees by out-of-state residents, political committees, and entities and to establish civil penalties therefor.

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

Any contribution to a statewide ballot question committee by a person who is not a resident of the state at the time of the contribution, a political committee that is organized outside South Dakota, or an entity that is not filed as an entity with the secretary of state for the four years preceding such contribution is prohibited. If a statewide ballot question committee accepts a contribution prohibited by this section, the secretary of state shall impose a civil penalty equal to two hundred percent of the prohibited contribution after notice and opportunity to be heard pursuant to chapter 1-26. Any civil penalty collected pursuant to this section shall be deposited into the state general fund.

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

Any resident of South Dakota may report a violation of this Act, 12-27-12, 12-27-16(1), or 12-27-19 to the secretary of state, who shall investigate the alleged violation and determine whether a violation occurred. In addition to any criminal penalty imposed under 12-27-12, 12-27-16(1), or 12-27-19, the court may impose on any person, committee, or entity found in violation of 12-27-12, 12-27-16(1) or 12-27-19 a civil penalty of five thousand dollars per violation to be deposited in the state general fund.