

STATE OF SOUTH DAKOTA



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October 14, 2010

South Dakota Republican Party
Attention: Bob Gray
P.O. Box 1099
Pierre, SD 57501

South Dakota Democratic Party
Attention: Erin McCarrick
P.O. Box 1485
Sioux Falls, SD 57101-1485

Dear Mr. Gray and Ms. McCarrick:

In the interest of addressing concerns that have recently surfaced about the election, we are issuing this joint reminder of the applicable law. We would like to also emphasize our desire to work with both parties to ensure that South Dakota has a fair election process.

One area of inquiry and concern involves the offering of food in exchange for or to induce voting. Similar concerns were addressed in 1998 by our predecessors, then Attorney General Mark Barnett and US Attorney Karen Schreier. We are enclosing their opinion letter along with the supporting state and federal statutory authority. We concur with and adopt their legal analysis, including "that the law does not allow a person, political party or any other entity to offer any item of value in exchange for voting."

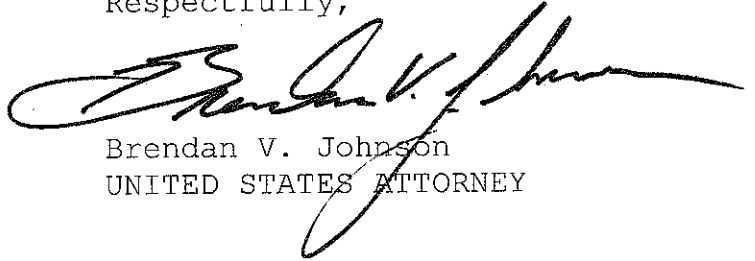
It remains our desire to work with both parties, and we are confident that both parties share in the common goal to have our election remain fair and in accordance with the laws promulgated by our Legislature and Congress.

Respectfully,



Marty J. Jackley
ATTORNEY GENERAL

Respectfully,



Brendan V. Johnson
UNITED STATES ATTORNEY

MJJ/lde
Enc.

cc: United States Senator John Thune
United States Senator Tim Johnson
Stephanie Herseth-Sandlin Campaign
Kristi Noem Campaign
Dennis Daugaard Campaign
Scott Heidepriem Campaign
Chris Nelson, Secretary of State

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

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MARK W. BARNETT
ATTORNEY GENERAL

LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL

April 14, 1998

Re: 1998 Election

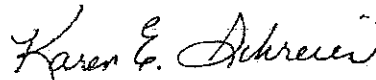
Dear County Auditors and Political Parties:

As the 1998 elections draw near, we thought it would be a good idea to once again remind everyone of some of the applicable laws regarding activity at or near polling places. At the last statewide election, complaints were received alleging that various polling places were offering food in exchange for or in conjunction with voting. As a result of those complaints, we issued a joint statement reminding folks that the law does not allow a person, political party, or any other entity to offer any item of value in exchange for voting. This law has not changed. It is important that everyone understand that the law does not require that the offering of a meal, money, gifts, or whatever, be in exchange for voting a certain way or for a certain party. Simply offering to provide these items of value, in exchange for showing up to vote, is clearly against the law.

We appreciate the efforts of the many volunteers who run our polling places. We are confident that all efforts will be put forth to run those polling places in accordance with the laws promulgated by our Legislature and Congress.

Sincerely,


MARK BARNETT
ATTORNEY GENERAL


KAREN SCHREIER
UNITED STATES ATTORNEY



South Dakota Codified Laws

12-26-15. Bribery of voter as misdemeanor--Acts constituting bribery. It is a Class 2 misdemeanor for any person, directly or indirectly, by himself or through any other person:

(1) To pay, lend, contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration, to or for any voter or to or for any other person, to induce such voter to vote or refrain from voting at any election or to induce any voter to vote or refrain from voting at such election for any particular person or to induce such voter to go to the polls or remain away from the polls at such election, or on account of such voter having voted, refrained from voting or having voted or refrained from voting for any particular person, or having gone to the polls or remained away from the polls at such election;

(2) To give, offer, or promise any office, place, or employment, or to promise to procure or endeavor to procure any office, place, or employment to or for any voter, or to or for any other person in order to induce such voter to vote or refrain from voting at such election for any particular person;

(3) To make any gift, loan, or promise, offer, procurement, or agreement as aforesaid to, for, or with any person in order to induce such person to procure or endeavor to procure the election of any person, or the vote of any voter at any election;

(4) To procure or engage, promise, or endeavor to procure, in consequence of any such gift, loan, offer, promise, procurement, or agreement, the election of any person or the vote of any voter at such election;

(5) To advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that the same or any part thereof shall be used in bribery at any election, or to knowingly pay or cause to be paid any money or other valuable thing to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

Source: SL 1891, ch 58, § 1; RPenC 1903, § 56; RC 1919, § 3648; SDC 1939, § 13.0920; SL 1982, ch 86, § 121.

Chapter 12-26

C**Effective: October 11, 1996**

United States Code Annotated Currentness
 Title 18. Crimes and Criminal Procedure (Refs & Annos)
 ⌘ Part I. Crimes (Refs & Annos)
 ⌘ Chapter 29. Elections and Political Activities
 → **§ 597. Expenditures to influence voting**

Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and

Whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote--

Shall be fined under this title or imprisoned not more than one year, or both; and if the violation was willful, shall be fined under this title or imprisoned not more than two years, or both.

CREDIT(S)

(June 25, 1948, c. 645, 62 Stat. 721; Sept. 13, 1994, Pub.L. 103-322, Title XXXIII, § 330016(1)(H), 108 Stat. 2147; Oct. 11, 1996, Pub.L. 104-294, Title VI, § 601(a)(12), 110 Stat. 3498.)

Current through PL 111-253 (excluding P.L. 111-203, 111-240, 111-242, and 111-249) approved 10-5-10

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