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AUG 01 2017

S.D. SEC. OF STATE

MARTY J. JACKLEY
ATTORNEY GENERALCHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

HAND DELIVERED

August 1, 2017

Hon. Shantel Krebs
Secretary of State
500 E. Capitol
Pierre, SD 57501RE: **Attorney General's Statements for two initiated measures**
(Increasing the State tobacco tax and creating a postsecondary
technical institute fund)

Dear Secretary Krebs,

This Office received two versions of initiated measures that the sponsor will seek to place on the November 2018 general election ballot. Enclosed is a copy of each of the initiated measures, 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 each measure. The titles are: "An initiated measure increasing the State tobacco tax and creating a postsecondary technical institute fund for the purposes of lowering student tuition and providing financial support to the State postsecondary technical institutes" (version #1); and "An initiated measure increasing the State tobacco tax and creating a postsecondary technical institute fund for the purposes of lowering student tuition and providing financial support to the State postsecondary technical institutes" (version #2).

By copy of this letter, I am providing copies of the Attorney General's Statements to the sponsor of the measures 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 of the House
Jason Hancock, Director of LRC

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Version 2

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INITIATED MEASURE

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ATTORNEY GENERAL'S STATEMENT

Title: An initiated measure increasing the State tobacco tax and creating a postsecondary technical institute fund for the purposes of lowering student tuition and providing financial support to the State postsecondary technical institutes.

Explanation:

This measure increases the State tax on tobacco products sold in the state. The tax on packs containing 20 cigarettes would increase \$1.00 per pack, and 25-cigarette packs would increase \$1.25 per pack. Tax on other types of tobacco products such as cigars, roll-your-own, and chewing tobacco would change from the current rate (35% of the wholesale price) and be increased to 55% of the wholesale price.

The measure also creates a postsecondary technical institute tuition reduction and workforce training fund that will be administered by the State Board of Technical Education, which oversees the State postsecondary technical institutes. Currently there are four: Lake Area Technical Institute, Mitchell Technical Institute, Southeast Technical Institute, and Western Dakota Technical Institute. The fund's purposes include lowering tuition and providing financial support for these technical institutes.

Under current law, the first \$30 million of tobacco tax revenue collected annually is deposited into the State general fund, and the next \$5 million is deposited into the existing tobacco prevention and reduction trust fund. This measure would require the next \$20 million to be deposited into the technical institute fund created by this measure.

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BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

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An Act to increase the tax on cigarettes and other tobacco products and to appropriate the revenues for the purposes of lowering student tuition at and providing funding to support the state's four post-secondary technical institutes.

10-50-3. A tax is imposed, whether or not a sale occurs, at the following rates on all cigarettes held in this state for sale by any person:

Class A, on cigarettes weighing not more than three pounds per thousand, ~~seventy-six~~ one hundred twenty-six and one-half mills on each cigarette.

Class B, on cigarettes weighing more than three pounds per thousand, ~~seventy-six~~ one hundred twenty-six and one-half mills on each cigarette.

Section 2. That § 10-50-52 be amended to read:

10-50-52. The first thirty million dollars in revenue collected annually pursuant to this chapter shall be deposited in the general fund. The next five million dollars in excess of thirty million dollars collected annually shall be deposited in the tobacco prevention and reduction trust fund and shall be used to implement the tobacco prevention and reduction program. The next twenty million dollars in excess of thirty-five million dollars collected annually shall be deposited in the postsecondary technical institute tuition reduction and workforce training fund created in section 4 of this Act. All revenue collected pursuant to this chapter in excess of ~~thirty-five~~ fifty-five million dollars shall be deposited in the general fund.

Section 3. That § 10-50-61 be amended to read:

10-50-61. In addition to the tax imposed by § 10-50-3, there is imposed, whether or not a sale occurs, a tax upon all tobacco products in this state and upon any person engaged in business as a licensed distributor or licensed wholesaler thereof, at the rate of ~~thirty-five~~ fifty-five percent of the wholesale purchase price of such tobacco products. Such tax shall be imposed at the time the distributor or wholesaler brings or causes to be brought into this state

tobacco products for sale; makes, manufactures, or fabricates tobacco products in this state for sale in this state; or ships or transports tobacco products to dealers in this state to be sold by those dealers. For the purposes of this chapter, wholesale purchase price is the price for which a manufacturer sells tobacco products to a licensed distributor or licensed wholesaler exclusive of any discount or other reduction.

Any licensed distributor or licensed wholesaler who has paid tax pursuant to this section and subsequently sells the tobacco products to another licensed distributor or licensed wholesaler for resale, or sells the tobacco products outside of this state, shall receive a credit for the tax paid pursuant to this section on such tobacco products.

Section 4. That the code be amended by adding a NEW SECTION to read:

There is hereby created the postsecondary technical institute tuition reduction and workforce training fund to be administered by the Board of Technical Education for the following purposes:

- (1) Lowering the cost of tuition and fees at the postsecondary technical institutes;
- (2) Providing scholarships;
- (3) Providing financial support for critical workforce training and curriculum;
- (4) Providing financial support for new and innovative partnerships between the postsecondary technical institutes and employers that create paid internships and apprenticeships for postsecondary technical institute students; and
- (5) Providing financial support for the expansion of technical training for students in public secondary schools who pursue career opportunities in technical trades;
- (6) Providing funding for maintenance, security and safety of buildings and grounds.

The board may accept and expend for the purposes of this section any funds obtained from appropriations and any other sources. Expenditures from this fund shall be appropriated through the normal budgeting process.