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June 15, 2017

RECEIVED

JUN 15 2017

S.D. SEC. OF STATE

Representative G. Mark Mickelson  
101 N. Main Ave., Ste. 321  
Sioux Falls, SD 57104

Dear Representative Mickelson:

Pursuant to SDCL 12-13-25, this office is required to review each initiated measure. Further, this office is required by SDCL 12-13-24 to determine if each initiated measure is written in clear and coherent manner in the style and form of other legislation and that it is worded so that the effect of the measure is not misleading or likely to cause confusion among voters. You are under no obligation to accept any of the suggestions contained in this letter. But please keep in mind the legal standards established in SDCL 12-13-24.

Attached is a copy of your proposed initiated measure to increase the tax on cigarettes and other tobacco products by one dollar with all our suggested style and form changes.

This letter constitutes neither an endorsement of your initiated measure nor a guarantee of its statutory sufficiency. It does constitute fulfillment of your responsibility pursuant to SDCL 12-13-25 to submit your draft to this office for review and comment. If you proceed with your initiated measure, please take care to ensure that your statements or advertising do not imply that this office endorses or approves your proposal.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Hancock". The signature is fluid and cursive, with a large initial "J" and "H".

Jason Hancock  
Director

JH:DO:ct

Enclosures

CC: The Honorable Shantel Krebs, Secretary of State  
The Honorable Marty Jackley, Attorney General

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

~~FOR AN ACT ENTITLED,~~ An Act to increase the tax on cigarettes and other tobacco products and to appropriate the revenues.

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~~ on all tobacco products in this state and ~~upon~~ on any person engaged in business as a licensed distributor or licensed wholesaler ~~thereof of tobacco products~~, at the rate of ~~thirty-five~~ fifty-five percent of the wholesale purchase price of ~~such the~~ tobacco products.

~~Such~~The 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 for sale~~ by those dealers. For the purposes of this chapter, the wholesale purchase price is the price ~~for which that~~ 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 the~~ 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 of:

- (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 ~~are pursuing pursue~~ career opportunities in technical trades; and

(6) Providing funding for maintenance, security, and safety of buildings and grounds.

The ~~department~~ 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.