



AGENDA ITEM: 6

DATE OF MEETING: January 24, 2013

ACTION: _____

INFORMATION: X

LEGISLATIVE REPORT

BALLOT INITIATIVE MEASURES

Tracking Number: 12-0015

Title: Taxes to Fund California Public Universities and Community Colleges

Status: Cleared for Circulation

Circulation Date: April 15, 2013

Summary: This ballot initiative would raise vehicle license fees by 0.5% of vehicle market value, and impose new taxes on gasoline and diesel fuel (\$0.025 per gallon), alcoholic beverages (\$0.05-\$1.65 per gallon), and increase California's tobacco tax by \$0.25 per package of cigarettes. This initiative would allocate 80% of new revenues to UC and State Universities, and 20% to California Community Colleges to maintain state funding for higher education at or above 2009-2010 levels and student financial aid at or above 2010-2011 levels. It would cap student tuition and systemwide fees at 2009-2010 levels and create a joint commission to recommend cost efficiencies in higher education. This Initiative would generate approximately \$2.2 billion annually in additional tax revenues from increases in the various taxes and would require a summary estimate by the Legislative Analyst's Office and Director of Finance of fiscal impact on state and local government. Revenue collected from these additional taxes would be deposited in the Restore Public Postsecondary Education Fund. This initiative does not contain any backfill provisions to offset lost revenue as a result of the additional tobacco tax.

Tracking Number: 12-0018

Title: The California Residents College Accessibility and Affordability Act of 2014

Status: Pending Review by Attorney General's Office

Summary: This ballot initiative would increase California's tobacco tax by \$1.00 per package of cigarettes and require every dealer and wholesaler to pay a floor stock tax for each cigarette in his or her possession at that same rate. Revenues collected from this additional excise and floor stock tax would be deposited in the California Residents College Accessibility and Affordability Fund. The purpose of the fund is to expand and strengthen California's tuition assistance program to ensure that a public university education is accessible and affordable for California high school graduates. The initiative contains backfill language to protect the existing programs funded by tobacco tax revenue (the Cigarette and Tobacco Products Surtax Fund, the Breast Cancer Fund, the California Children and Families Trust Fund, and the General Fund). Any decrease in revenue to the existing tobacco funded programs directly resulting from the additional excise tax would be offset by generated revenues established in this initiative.

Initiative Coordinator
Office of the Attorney General
1300 I Street
Sacramento, CA 95814

RECEIVED

SEP 24 2012

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Subject: Request for Title and Summary for Proposed Initiative

To the Attorney General's Initiative Coordinator,

Pursuant to Election code §9001(a), if you would kindly prepare a title and summary of the attached proposed statewide ballot measure pursuant to Elections Code section 9002. The text of the measure herein entitled "College and University Funding and Accountability Act," a money order for \$200.00 payable to the State of California, my signed statements, pursuant to Elections Code §9608 and §9001(b), and the address at which I am registered to vote are included with this letter. I am the sole proponent involved. Thank you for your consideration and time.

Thank you,

[Handwritten Signature] 9/20/12

Jesse Lucas

09/05/12 10:06 AM
RN 12 11087 PAGE 1

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

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The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the Attorney General. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

TO THE HONORABLE SECRETARY OF STATE OF CALIFORNIA

Type: Roman
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smaller than
12-point

We, the undersigned, registered, qualified voters of California, residents of County (or City and County), hereby propose amendments to the Constitution of the State, the Education Code, and the Revenue and Taxation Code, relating to postsecondary education, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed constitutional amendments (full title and text of measure) read as follows:

SECTION 1. Section 10 is added to Article IX of the California Constitution,
to read:

Sec. 10. (a) The California Community Colleges, the California State University, and the University of California shall not charge tuition and mandatory systemwide fees that exceed the tuition and mandatory systemwide fees that were charged for the 2009–10 academic year, which amount shall be adjusted annually, on each August 1, for inflation using the United States Consumer Price Index.

(b) The amount of state funding appropriated each fiscal year for the California Community Colleges, the California State University, and the University of California shall be equal to or greater than both of the following:

(1) The per student state funding level established for the 2009–10 fiscal year, which shall be adjusted annually, on each August 1, for inflation using the United States Consumer Price Index.

(2) The per segment state funding level established for the 2009–10 fiscal year, which shall be adjusted annually, on each August 1, for inflation using the United States Consumer Price Index.

(c) Once established, student financial aid programs administered by the State shall not be eliminated and the amount of state funding appropriated each fiscal year for those programs in existence in the 2010–11 fiscal year shall be equal to or greater than both of the following:

(1) The per student state funding level established for each of these programs for the 2010–11 fiscal year, which shall be adjusted annually, on each August 1, for inflation using the United States Consumer Price Index.

(2) The overall state funding level established for each of these programs for the 2010–11 fiscal year, which shall be adjusted annually, on each August 1, for inflation using the United States Consumer Price Index.

SEC. 2. Section 11 is added to Article XIX of the California Constitution, to read:

Sec. 11. This article shall not affect or apply to taxes, interests, or penalties imposed pursuant to subdivision (c) of Section 7360, Section 7361.2, subdivision (c) of Section 8651, subdivision (c) of Section 60050, or Section 60050.2 of the Revenue and Taxation Code, or any successor provisions.

SEC. 3. Section 60626.5 is added to the Education Code, to read:

60626.5. (a) There is in the State Treasury the Restore Public Postsecondary Education Fund.

(b) (1) Notwithstanding Section 13340 of the Government Code, all moneys in the Restore Public Postsecondary Education Fund are hereby continuously appropriated, without regard to fiscal years, to the Controller for allocation as follows:

(A) Eighty percent to the California State University and the University of California proportionally based on the number of students enrolled in each of those segments.

(B) Twenty percent to the California Community Colleges.

(2) The moneys allocated pursuant to paragraph (1) shall only be used for educational purposes of each respective segment.

SEC. 4. Section 66026.7 is added to the Education Code, to read:

66026.7. (a) The Speaker of the Assembly shall establish a joint commission to research, hold hearings on, and propose methods for improving the cost efficiency of the California Community Colleges, the California State University, and the University of California. The joint commission shall make recommendations to improve cost efficiency across those segments within 600 days from the operative date of this section.

(b) The joint commission shall publish its recommendations on a publicly accessible state Internet Web site and access to this site shall be at no cost to the public.

(c) In compliance with applicable state and federal privacy laws, the Legislative Analyst's Office shall publish all available statistical data relating to the California Community Colleges, the California State University, and the University of California on the Internet Web site designated in subdivision (b).

SEC. 5. Section 7360 of the Revenue and Taxation Code is amended to read:

7360. (a) (1) A tax of eighteen cents (\$0.18) is hereby imposed upon each gallon of fuel subject to the tax in Sections 7362, 7363, and 7364.

(2) If the federal fuel tax is reduced below the rate of nine cents (\$0.09) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by paragraph (1), on and after the date of the reduction, shall be recalculated by an amount so that the combined state rate under paragraph (1) and the federal tax rate per gallon equal twenty-seven cents (\$0.27).

(3) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be so exempt under this section.

(b) (1) On and after July 1, 2010, in addition to the tax imposed by subdivision (a), a tax is hereby imposed upon each gallon of motor vehicle fuel, other than aviation gasoline, subject to the tax in Sections 7362, 7363, and 7364 in an amount equal to seventeen and three-tenths cents (\$0.173) per gallon.

(2) For the 2011–12 fiscal year and each fiscal year thereafter, the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the amount of revenue loss attributable to the exemption provided by Section 6357.7, based on estimates made by the board, and that rate shall be effective during the state's next fiscal year.

(3) In order to maintain revenue neutrality for each year, beginning with the rate adjustment on or before March 1, 2012, the adjustment under paragraph (2) shall also take into account the extent to which the actual amount of revenues derived pursuant to this subdivision and, as applicable, Section 7361.1, the revenue loss attributable to the exemption provided by Section 6357.7 resulted in a net revenue gain or loss for the fiscal year ending prior to the rate adjustment date on or before March 1.

(4) The intent of paragraphs (2) and (3) is to ensure that the act adding this subdivision and Section 6357.7 does not produce a net revenue gain in state taxes.

(c) On and after the operative date of the measure adding this subdivision, in addition to the tax imposed by subdivisions (a) and (b), a tax is hereby imposed upon

each gallon of motor vehicle fuel, other than aviation gasoline, subject to the tax in Sections 7362, 7363, and 7364 in an amount equal to two and one-half cents (\$0.025) per gallon.

SEC. 6. Section 7361.2 is added to the Revenue and Taxation Code, to read:

7361.2. (a) For the privilege of storing for the purpose of sale, each blender, wholesaler, and retailer owning 1,000 gallons or more of tax-paid motor vehicle fuel, other than aviation gasoline, on the operative date of the measure adding this section, shall pay a storage tax equal to the increase that occurred in the rate of tax pursuant to subdivision (c) of Section 7360 on each gallon of tax-paid motor vehicle fuel in storage according to the volumetric measure thereof.

(b) For purposes of subdivision (a):

(1) "Owning" means having title to the motor vehicle fuel.

(2) "Retailer" means a person that sells motor vehicle fuel in this state to a person that subsequently uses the motor vehicle fuel.

(3) "Storing" includes the possession in a storage facility, except an approved terminal or refinery, or a container of any kind, including railroad tank cars and truck or trailer cargo tanks, of tax-paid motor vehicle fuel as well as the tax-paid motor vehicle fuel purchased from and invoiced by the seller prior to the operative date of the measure adding this paragraph and in transit on that date.

(4) "Wholesaler" means a person that sells motor vehicle fuel in this state for resale to a retailer or to a person that is not a retailer and subsequently uses the motor vehicle fuel.

SEC. 7. Section 8351.1 is added to the Revenue and Taxation Code, to read:

8351.1. Notwithstanding Section 8351, all revenues, less refunds and costs of administration, derived from the taxes imposed pursuant to subdivision (c) of Section 7360 and Section 7361.2 shall be deposited in the Restore Public Postsecondary Education Fund, as established pursuant to Section 60626.5 of the Education Code.

SEC. 8. Section 8651 of the Revenue and Taxation Code is amended to read:

8651. (a) An excise tax is hereby imposed for the use of fuel at the following rate per gallon:

- (1) Fourteen cents (\$0.14) during 1990, on and after August 1.
- (2) Fifteen cents (\$0.15) during 1991.
- (3) Sixteen cents (\$0.16) during 1992.
- (4) Seventeen cents (\$0.17) during 1993.
- (5) Eighteen cents (\$0.18) on and after January 1, 1994.

(b) If the federal fuel tax is reduced below the rate of fifteen cents (\$0.15) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by this section, on and after the date of the reduction, shall be increased by an amount so that the combined state and federal tax rate per gallon equals the following:

- (1) Twenty-nine cents (\$0.29) during 1990, on and after August 1.
- (2) Thirty cents (\$0.30) during 1991.
- (3) Thirty-one cents (\$0.31) during 1992.
- (4) Thirty-two cents (\$0.32) during 1993.
- (5) Thirty-three cents (\$0.33) on and after January 1, 1994.

(c) On and after the operative date of the measure adding this subdivision, in addition to the tax imposed by subdivisions (a) and (b), an excise tax is hereby imposed for the use of fuel, at the rate of two and one-half cents (\$0.025) per gallon.

(e)

(d) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be exempt under this section.

SEC. 9. Section 9301.1 is added to the Revenue and Taxation Code, to read:

9301.1. Notwithstanding Section 9301, all revenues, less refunds and costs of administration, derived from the taxes imposed pursuant to subdivision (c) of Section 8651 shall be deposited in the Restore Public Postsecondary Education Fund, as established pursuant to Section 60626.5 of the Education Code.

SEC. 10. Section 10752.3 is added to the Revenue and Taxation Code, to read:

10752.3. (a) On and after the operative date of the measure adding this section, in addition to the annual license fee for a vehicle, other than a commercial motor vehicle described in Section 9400.1 of the Vehicle Code, imposed pursuant to Sections 10752 and 10752.1, a sum equal to 0.5 percent of the market value of the vehicle as determined by the department shall be added to that annual fee.

(b) Notwithstanding Chapter 5 (commencing with Section 11001) or any other law to the contrary, all revenues (including penalties), less refunds, derived from fees imposed pursuant to subdivision (a) shall be deposited in the Restore Public Postsecondary Education Fund, as established pursuant to Section 60626.5 of the Education Code.

SEC. 11. Section 30104 of the Revenue and Taxation Code is amended to read:

30104. The taxes imposed by this part shall not apply to the sale of cigarettes or tobacco products by a distributor to a common carrier engaged in interstate or foreign passenger service or to a person authorized to sell cigarettes or tobacco products on the facilities of the carrier. Whenever cigarettes or tobacco products are sold by distributors to common carriers engaged in interstate or foreign passenger service for use or sale on facilities of the carriers, or to persons authorized to sell cigarettes or tobacco products on those facilities, the tax imposed by Sections 30101, 30123, and 30131.2 under this part shall not be levied with respect to the sales of the cigarettes or tobacco products by the distributors, but a tax is hereby levied upon the carriers or upon the persons authorized to sell cigarettes or tobacco products on the facilities of the carriers, as the case may be, for the privilege of making sales in California at the same rate as set forth in Sections 30101, 30123, and 30131.2 under this part. Those common carriers and authorized persons shall pay the tax imposed by this section and file reports with the board, as provided in Section 30186.

SEC. 12. Section 30108 of the Revenue and Taxation Code is amended to read:

30108. (a) Every distributor engaged in business in this state and selling or accepting orders for cigarettes or tobacco products with respect to the sale of which the tax imposed by Sections 30101, 30123, and 30131.2 under this part is inapplicable shall, at the time of making the sale or accepting the order or, if the purchaser is not then obligated to pay the tax with respect to his or her distribution of the cigarettes or tobacco products, at the time the purchaser becomes so obligated, collect the tax from

the purchaser, if the purchaser is other than a licensed distributor, and shall give to the purchaser a receipt therefor in the manner and form prescribed by the board.

(b) Every person engaged in business in this state and making gifts of untaxed cigarettes or tobacco products as samples with respect to which the tax imposed by Sections 30101, 30123, and 30131.2 under this part is inapplicable shall, at the time of making the gift or, if the donee is not then obligated to pay the tax with respect to his or her distribution of the cigarettes or tobacco products, at the time the donee becomes so obligated, collect the tax from the donee, if the donee is other than a licensed distributor, and shall give the donee a receipt therefor in the manner and form prescribed by the board. This section shall not apply to those distributions of cigarettes or tobacco products which are exempt from tax under Section 30105.5.

(c) "Engaged in business in the state" means and includes any of the following:

(1) Maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(2) Having any representative, agent, salesperson, canvasser or solicitor operating in this state under the authority of the distributor or its subsidiary for the purpose of selling, delivering, or the taking of orders for cigarettes or tobacco products.

(d) The taxes required to be collected by this section constitute debts owed by the distributor, or other person required to collect the taxes, to the state.

SEC. 13. Article 2.5 (commencing with Section 30130.5) is added to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:

Article 2.5. Cigarette and Tobacco Products Excise Tax

30130.5. The following definitions apply for purposes of this article:

(a) "Cigarette" has the same meaning as in Section 30003, as it read on January 1, 2012.

(b) "Tobacco products" includes, but is not limited to, all forms of cigars, smoking tobacco, chewing tobacco, snuff, and any other articles or products made of, or containing at least 50 percent of, tobacco, but does not include cigarettes.

30130.6. In addition to any other tax imposed under this part, an excise tax is hereby imposed upon every distributor of cigarettes at the rate of twelve and one-half mills (\$0.0125) for each cigarette distributed on and after the operative date of the measure adding this article.

30130.7. (a) Every dealer and wholesaler, for the privilege of holding or storing cigarettes for sale, use, or consumption, shall pay a floor stock tax for each cigarette in his or her possession or under his or her control in this state at 12:01 a.m. on the operative date of the measure adding this article at the rate of twelve and one-half mills (\$0.0125) for each cigarette.

(b) Every dealer and wholesaler shall file a return with the State Board of Equalization on or before the first day of the first calendar quarter commencing more than 180 days after the effective date of this section on a form prescribed by the board,

showing the number of cigarettes in his or her possession or under his or her control at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section. The amount of tax shall be computed and shown on the return.

(c) (1) Every licensed cigarette distributor, for the privilege of distributing cigarettes and for holding or storing cigarettes for sale, use, or consumption, shall pay a cigarette indicia adjustment tax for each California cigarette tax stamp that is affixed to any package of cigarettes and for each unaffixed California cigarette tax stamp in his or her possession or under his or her control at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section at the following rates:

(A) Three hundred twelve and one-half mills (\$0.3125) for each stamp bearing the designation "25."

(B) Twenty-five cents (\$0.25) for each stamp bearing the designation "20."

(C) One hundred twenty-five mills (\$0.125) for each stamp bearing the designation "10."

(2) Every licensed cigarette distributor shall file a return with the board on or before the first day of the first calendar quarter commencing 180 days after the operative date of the measure adding this article on a form prescribed by the board, showing the number of stamps described in subparagraphs (A), (B), and (C), of paragraph (1). The amount of tax shall be computed and shown on the return.

30130.9. (a) The taxes imposed under this article shall be administered and collected in accordance with this part.

(b) All revenues, less refunds and costs of administration, derived from a tax imposed pursuant to this article shall be deposited in the Restore Public Postsecondary Education Fund, established pursuant to Section 60626.5 of the Education Code.

SEC. 14. Section 30181 of the Revenue and Taxation Code is amended to read:

30181. (a) When any tax imposed upon cigarettes under ~~Article 1 (commencing with Section 30101), Article 2 (commencing with Section 30121), and Article 3 (commencing with Section 30131) of Chapter 2~~ this part is not paid through the use of stamps or meter impressions, the tax shall be due and payable monthly on or before the 25th day of the month following the calendar month in which a distribution of cigarettes occurs, or in the case of a sale of cigarettes on the facilities of a common carrier for which the tax is imposed pursuant to Section 30104, the tax shall be due and payable monthly on or before the 25th day of the month following the calendar month in which a sale of cigarettes on the facilities of the carrier occurs.

(b) Each distributor of tobacco products shall file a return in the form, as prescribed by the board, which may include, but not be limited to, electronic media respecting the distributions of tobacco products and their wholesale cost during the preceding month, and any other information as the board may require to carry out this part. The return shall be filed with the board on or before the 25th day of the calendar month following the close of the monthly period for which it relates, together with a remittance payable to the board, of the amount of tax, if any, due under ~~Article 2 (commencing with Section 30121) or Article 3 (commencing with Section 30131) of Chapter 2~~ this part for that period.

(c) To facilitate the administration of this part, the board may require the filing of the returns for longer than monthly periods.

(d) Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

(e) This section shall become operative on January 1, 2007.

SEC. 15. Chapter 5.8 (commencing with Section 32231) is added to Part 14 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 5.8. ADDITIONAL SURTAX ON BEER, WINE, AND DISTILLED SPIRITS

Article 1. Imposition of the Surtax

32231. An excise surtax is hereby imposed upon all beer and wine sold in this state by a manufacturer, winegrower, or importer, and upon all distilled spirits sold in this state by a manufacturer, distilled spirits manufacturer's agent, brandy manufacturer, winegrower, importer, rectifier, wholesaler, common carrier with respect to distilled spirits sales made upon boats, trains, and airplanes, or persons licensed to sell distilled spirits upon boats, trains, and airplanes, and upon sellers of beer, wine, or distilled spirits with respect to which no tax has been paid within areas over which the United States government exercises jurisdiction, at the following rates:

(a) On all beer, five cents (\$0.05) per gallon and at a proportionate rate for any other quantity.

(b) On all still wines containing not more than 14 percent of absolute alcohol by volume, five cents (\$0.05) per wine gallon and at a proportionate rate for any other quantity.

(c) On all still wines containing more than 14 percent of absolute alcohol by volume, five cents (\$0.05) per wine gallon and at a proportionate rate for any other quantity.

(d) On champagne, sparkling wine, excepting sparkling hard cider, whether naturally or artificially carbonated, eight cents (\$0.08) per wine gallon and at a proportionate rate for any other quantity.

(e) On sparkling hard cider, five cents (\$0.05) per wine gallon and at a proportionate rate for any other quantity.

(f) On all distilled spirits of proof strength or less, eighty-three cents (\$0.83) per wine gallon and at a proportionate rate for any other quantity.

(g) On all distilled spirits in excess of proof strength, one dollar and sixty-five cents (\$1.65) per wine gallon and at a proportionate rate for any other quantity.

32232. Except with respect to beer and wine in the internal revenue bonded premises of a manufacturer, and except with respect to distilled spirits in the possession of a distilled spirits manufacturer, distilled spirits manufacturer's agent, brandy manufacturer, rectifier, wholesaler, or common carrier licensed to sell distilled spirits onboard boats, trains, and airplanes, floor stock taxes are hereby imposed in amounts equal to the surtaxes imposed by Section 32231 upon all alcoholic beverages upon which the surtaxes have not been paid, that are in the possession or under the control of every person licensed under Division 9 (commencing with Section 23000) of the

Business and Professions Code at 2:01 a.m. on the operative date of the measure adding this chapter. On or before six weeks after the date upon which the measure adding this chapter becomes operative, each person subject to the tax imposed by this section shall prepare and file with the State Board of Equalization, on a form prescribed by the board, a return showing the amount of units of beer, wine, champagne, sparkling wine, sparkling hard cider, and distilled spirits possessed by him or her at 2:01 a.m. on the date upon which the measure adding this chapter becomes operative, that are subject to the tax imposed by this section, and any other information the board deems necessary for the proper administration of this chapter. The taxpayer shall deliver the return, together with a remittance of the tax due, to the office of the board on or before six weeks after the date upon which the measure adding this chapter becomes operative.

32233. The taxes imposed by this chapter are in addition to any other tax imposed under this part.

32234. All of the provisions of this part relating to excise taxes, with the exception of those contained in Chapter 10 (commencing with Section 32501), shall apply to the taxes imposed by this article, to the extent that those provisions are not inconsistent with this article.

Article 2. Disposition of Proceeds

32235. All surtaxes, interest, and penalties imposed and required to be paid under this chapter, less refunds, shall be made in remittances to the State Board of

Equalization and shall be deposited in the Restore Public Postsecondary Education Fund, as established pursuant to Section 60626.5 of the Education Code.

32236. The State Board of Equalization shall be reimbursed for administrative and implementation costs in an amount that is less than 1 percent of the proceeds collected pursuant to Article 1 (commencing with Section 32231) of this chapter.

SEC. 16. Section 60050 of the Revenue and Taxation Code is amended to read:

60050. (a) (1) A tax of eighteen cents (\$0.18) is hereby imposed upon each gallon of diesel fuel subject to the tax in Sections 60051, 60052, and 60058.

(2) If the federal fuel tax is reduced below the rate of fifteen cents (\$0.15) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by paragraph (1), including any reduction or adjustment pursuant to subdivision (b), on and after the date of the reduction, shall be increased by an amount so that the combined state rate under paragraph (1) and the federal tax rate per gallon equal what it would have been in the absence of the federal reduction.

(3) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be exempt under this section.

(b) (1) On July 1, 2011, the tax rate specified in paragraph (1) of subdivision (a) shall be reduced to thirteen cents (\$0.13) and every July 1 thereafter shall be adjusted pursuant to paragraphs (2) and (3).

(2) For the 2012–13 fiscal year and each fiscal year thereafter, the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal

year, adjust the rate reduction in paragraph (1) in that manner as to result in a revenue loss attributable to paragraph (1) that will equal the amount of revenue gain attributable to Sections 6051.8 and 6201.8, based on estimates made by the board, and that rate shall be effective during the state's next fiscal year.

(3) In order to maintain revenue neutrality for each year, beginning with the rate adjustment on or before March 1, 2013, the adjustment under paragraph (2) shall take into account the extent to which the actual amount of revenues derived pursuant to Sections 6051.8 and 6201.8 and the revenue loss attributable to this subdivision resulted in a net revenue gain or loss for the fiscal year ending prior to the rate adjustment date on or before March 1.

(4) The intent of paragraphs (2) and (3) is to ensure that the act adding this subdivision and Sections 6051.8 and 6201.8 does not produce a net revenue gain in state taxes.

(c) On and after the operative date of the measure adding this subdivision, in addition to the tax imposed by subdivisions (a) and (b), a tax is hereby imposed upon each gallon of diesel fuel, subject to the tax in Sections 60051, 60052, and 60058, in an amount equal to two and one-half cents (\$0.025) per gallon.

SEC. 17. Section 60050.2 is added to the Revenue and Taxation Code, to read:

60050.2. (a) For the privilege of storing for the purpose of sale, each blender, wholesaler, and retailer owning 1,000 gallons or more of tax-paid diesel fuel at 12:00 midnight on the day before the operative date of the measure adding this section, shall pay a storage tax equal to the increase that occurred in the rate of tax pursuant to

subdivision (c) of Section 60050 on each gallon of tax-paid diesel fuel in storage according to the volumetric measure thereof.

(b) For purposes of subdivision (a):

(1) "Owning" means having title to the diesel fuel.

(2) "Retailer" means a person that sells diesel fuel in this state to a person that subsequently uses the diesel fuel.

(3) "Storing" includes the possession in a storage facility, except an approved terminal or refinery, or a container of any kind, including railroad tank cars and truck or trailer cargo tanks, of tax-paid diesel fuel as well as the tax-paid diesel fuel purchased from and invoiced by the seller prior to the operative date of the measure adding this paragraph and in transit on that date.

(4) "Wholesaler" means a person that sells diesel fuel in this state for resale to a retailer or to a person that is not a retailer and subsequently uses the diesel fuel.

SEC. 18. Section 60651.1 is added to the Revenue and Taxation Code, to read:

60651.1. Notwithstanding Section 60651, all revenues, less refunds and costs of administration, derived from the taxes imposed pursuant to subdivision (c) of Section 60050 and Section 60050.2 shall be deposited in the Restore Public Postsecondary Education Fund, as established pursuant to Section 60626.5 of the Education Code.

SEC. 19. The provisions of this measure are severable. If any provision of this measure or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 20. The provisions of this measure shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this measure.

SEC. 21. In the event that this measure and another measure or measures conflict on the same statewide election ballot, should this measure receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be void and of no legal effect.

RECEIVED

DEC 21 2012

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

December 21, 2012

VIA MESSENGEROffice of the Attorney General
1300 "I" Street, 17th Floor
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

Re: *The California Residents College Accessibility and Affordability Act of 2014*

Dear Ms. Johansson:

In accordance with the requirements of Elections Code section 9001(a), we request that the Attorney General prepare a circulating title and summary of the chief purpose and points of the initiative measure entitled "The California Residents College Accessibility and Affordability Act of 2014." The text of the measure, a check for \$200.00, and the certifications required by Elections Code sections 9001 and 9608 are enclosed.

Please direct all correspondence and inquiries regarding this measure to:

James C. Harrison
Thomas A. Willis
Remcho, Johansen & Purcell, LLP
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
Fax: (510) 346-6201

Sincerely,


James C. HarrisonEnclosures
(00187609-2)

THE CALIFORNIA RESIDENTS COLLEGE ACCESSIBILITY AND AFFORDABILITY
ACT OF 2014

SECTION 1. Findings and Declarations.

The People of the State of California hereby find and declare that:

- a. In a global economy, a college degree is needed more than ever when it comes to our sons and daughters being able to enjoy the American Dream and for our country to compete and win the fight for jobs.
- b. California's public university system was originally created and structured to provide access to the children of middle class California families.
- c. California's public university system has long been the finest in the nation, educating future leaders, promoting cutting edge research, and fueling our State's economy.
- d. California's economy depends upon its public university system to train future engineers, scientists, and business leaders.
- e. The University of California and the California State University systems educate thousands of California's high school graduates, attract hundreds of millions of dollars in federal research funding annually, and create tens of thousands of jobs.
- f. California's public universities are home to more than 50 Nobel Laureates and research conducted at these universities has helped to fuel California's high tech, biotech, and green energy industries.
- g. As a result of the recession and the State's fiscal problems, however, our public university system is in grave danger. The State has cut billions of dollars in funding to the University of California and the California State University, leading to massive tuition hikes for students and threatening the affordability and accessibility of one of California's greatest assets to California's middle class families.
- h. Higher tuition costs have put a college education out of reach for many middle class California families, undermining the California dream for many students and depriving California businesses of the workforce they depend upon to make California the world's ninth largest economy.
- i. We need to address this challenge by ensuring that California's high school graduates have the resources necessary to attend California's public universities so that they can enjoy the American Dream and by helping California to compete in the global economy by educating the next generation of innovators and leaders for the State.
- j. California has one of the lowest tobacco taxes in the country, ranking 33rd. California has not raised its tobacco tax since 1998, and as a result, it lags far behind the tax imposed by

other states. States around the rest of the nation use their tobacco taxes to support priorities impacting children. We need to address a State priority by targeting an increased tax on tobacco to make public higher education affordable and accessible for California high school graduates who may not otherwise be able to enroll at a campus of the University of California or California State University. Because an increase in the tobacco tax could reduce tobacco consumption, we also need to protect the programs that are currently funded by California's tobacco tax from any decline in revenue caused by the increased tax imposed by this Act.

- k. An increase in California's tobacco tax will also serve as a disincentive for people who smoke, especially for children and young adults. By increasing the tax therefore, we will not only save lives but also provide critical financial aid for young Californians at a time when our public universities are being underfunded because of the recession and our State budget challenges.

SECTION 2. Statement of Purpose.

In enacting this measure, the People of the State of California intend to:

- a. Increase the tax on tobacco to preserve and protect California's public university system, strengthen our State's economy, and ensure that California's high school graduates have the opportunity to lead the next wave of innovations.
- b. Use the funds generated by the additional tax on tobacco to ensure that a public university education is accessible and affordable for California high school graduates by expanding and strengthening California's tuition assistance program.
- c. Protect the existing programs funded by tobacco tax revenues.
- d. Provide a full public accounting of how the money is spent and impose strict limits on administrative expenditures to ensure that the money is spent to further the purposes of the Act and not for bureaucracy.

SECTION 3. The California Residents College Accessibility and Affordability Act of 2014.

Article 2.5 (commencing with Section 30130.50) is added to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:

§ 30130.50. *The College Education Accessibility and Affordability Act Cigarette Excise Tax*

(a) In addition to any other tax imposed under this part, a separate excise tax is hereby imposed upon every distributor of cigarettes upon the distribution of cigarettes at the rate of 50 mills (\$0.050) for each cigarette distributed on and after the first day of the first calendar quarter commencing more than 90 days after the effective date of this section.

(b)(1) In addition to any other tax imposed under this part, every dealer and wholesaler, for the privilege of holding or storing cigarettes for sale, use, or consumption, shall pay a floor stock

tax for each cigarette in his or her possession or under his or her control in this state at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section at the rate of 50 mills (\$0.050) for each cigarette.

(2) Every dealer and wholesaler shall file a return with the State Board of Equalization on or before the first day of the first calendar quarter commencing more than 180 days after the effective date of this section on a form prescribed by the State Board of Equalization, showing the number of cigarettes in his or her possession or under his or her control in this state at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section. The amount of tax shall be computed and shown on the return.

§ 30130.51. Definitions

For the purposes of this article:

(a) "Cigarette" has the same meaning as that in Section 30003, as it read on January 1, 2013.

(b) "Tobacco products" includes, but is not limited to, all forms of cigars, smoking tobacco, chewing tobacco, snuff, and any other articles or products made of, or containing at least 50 percent, tobacco, but does not include cigarettes.

§ 30130.52. The College Education Accessibility and Affordability Fund

(a) Notwithstanding any other provision of law, the revenues from the excise and floor stock tax received by the state, or state officials, pursuant to the provisions of this act and the revenue derived therefrom, including investment interest, shall be considered trust funds, to be expended solely for the purposes set forth in this act and shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with Section 16300) of Part 2, of Division 4, of Title 2 of the Government Code, and shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution, and its implementing statutes.

(b) All revenues from the excise and floor stock tax received by the state, or state officials, pursuant to the provisions of this act shall be deposited in the California Residents College Accessibility and Affordability Fund, which is hereby created in the State Treasury.

(c) Funds deposited into the California Residents College Accessibility and Affordability Fund or any subfund or subaccount of that fund, may be placed into the Pooled Money Investment Account for investment only, and interest earned shall be credited to the fund and deposited, apportioned, and expended only in accordance with the provisions of this act and its purposes.

(d) Notwithstanding any other provision of law, the California Residents College Accessibility and Affordability Fund and all funds, subfunds, or subaccounts of that fund, are trust funds established solely to carry out the purposes of this act and all funds deposited into the California Residents College Accessibility and Affordability Fund, together with interest earned by the fund or any subfund or subaccount, are hereby continuously appropriated for the purposes of this act without regard to fiscal year and shall be expended only in accordance with the provisions of

this act and its purposes.

(e) Notwithstanding any other provisions of law, funds deposited into the California Residents College Accessibility and Affordability Fund, together with interest earned by the fund or any subfund or subaccount, shall not be subject to appropriation, reversion, or transfer by the Legislature, the Governor, the Director of Finance, or the Controller for any other purpose, and shall not be loaned, for any purpose, to the General Fund or any other fund of the state.

(f) Funds deposited into the California Residents College Accessibility and Affordability Fund, together with interest earned by the fund or any subfund or subaccount, shall not be used to supplant existing state funds utilized to support tuition assistance for students of the University of California and the California State University.

§ 30130.53. Effect on Tobacco Consumption and Tax Revenue

(a) At the end of each fiscal year following the effective date of this section, the State Board of Equalization shall determine the effect that the additional tax imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, have on the consumption of cigarettes and tobacco products in this state. To the extent that a decrease in consumption is determined by the State Board of Equalization to be a direct result of the additional tax imposed by this article, or the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, the State Board of Equalization shall determine the fiscal effect the decrease in consumption has on the Cigarette and Tobacco Products Surtax Fund created by Section 30122 (Proposition 99 as approved by the voters at the November 8, 1988, statewide general election), the Breast Cancer Fund created by Section 30461.6, the California Children and Families Trust Fund created by Section 30131 (Proposition 10 as approved by the voters at the November 3, 1998 statewide general election), and the portion of the General Fund created by Section 30101.

(b) At the beginning of each fiscal year following the effective date of this section, the Controller shall transfer funds from the California Residents College Accessibility and Affordability Fund to the Cigarette and Tobacco Products Surtax Fund, the Breast Cancer Fund, the California Children and Families Trust Fund, and the General Fund, to offset the revenue decrease directly resulting from imposition of additional taxes by this article.

§ 30130.54. Distribution of Revenue

(a) Funds from the California Residents College Accessibility and Affordability Fund shall be used to reimburse the State Board of Equalization for expenses incurred in the administration and collection of the tax imposed by section 30130.50 and shall be used to reimburse the Controller for expenses incurred in the calculation and distribution of funds, in promulgating regulations pursuant to Section 30130.54, and in conducting the annual audit required by Section 30130.55 and preparing the annual report and performing the responsibilities required by Section 30130.56.

(b) At the beginning of each fiscal year following the effective date of this section and after

deducting the necessary funds pursuant to subdivision (a) of this section and pursuant to subdivision (b) of Section 30130.53, the Controller shall transfer the remaining funds to the California Student Aid Commission to be used exclusively for the purpose of expanding financial aid for California residents enrolled at a campus of the University of California or the California State University.

(c) Not more than one one-hundredth of one percent (0.01%) of the funds allocated to the California Student Aid Commission pursuant to this section shall be used for administrative costs. The Controller shall promulgate regulations pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to define administrative costs for purposes of this act.

§ 30130.55. Annual Independent Audit and Public Disclosure

(a) The Controller shall conduct, or cause to be conducted from a certified public accounting firm, an annual independent financial audit of the California Residents College Accessibility and Affordability Fund. The annual audit shall include, but not be limited to, a review of the administrative costs expended by the California Student Aid Commission from funds allocated to it from the California Residents College Accessibility and Affordability Fund. Any firm that provides consulting services to any person or entity involved in implementing or effectuating this act shall be disqualified from providing audit services. The result of the audit shall be made available to the public.

(b) The California Student Aid Commission shall, on an annual basis, publish on its Internet Web site an accounting of how much money was received from the California Residents College Accessibility and Affordability Fund and how that money was spent. The annual audit shall also be posted on the web, Facebook, Twitter, and any other social media outlets the Commission deems appropriate, using an address, domain, handle, or other identifier that uses the name of this act.

§ 30130.56. Independent Financial Accountability Oversight Committee

(a) The annual independent audit and the report of expenditures required pursuant to section 30130.55 shall be provided to the Independent Financial Accountability Oversight Committee, which is hereby established. The Committee shall be chaired by the Controller and shall, in addition to the Controller, include four members who have expertise in finance, governance, financial aid, or higher education. The members shall be appointed by the Controller and shall serve without compensation, except reimbursement for reasonable expenses. Two of the initial members shall be appointed to a term of two years and two of the members shall be appointed to a term of four years. After the terms of the initial members expire, all members shall be appointed to four-year terms and no member shall serve more than two terms.

(b) The Committee shall be responsible for reviewing the annual independent audit and the report of expenditures and for evaluating the financial practices and performance of the California Student Aid Commission in administering the California Residents College

Accessibility and Affordability Fund. Based on its review, the Committee shall prepare an annual report regarding the financial practices and performance of the California Student Aid Commission in administering the California Residents College Accessibility and Affordability Fund and shall make any recommendations for improvements in performance. The report shall be made available to the public and the Legislature.

§ 30130.57. Civil and Criminal Penalties for Violations of this Act

The Legislature shall set penalties, including fines, and/or criminal penalties for anyone who willfully misuses funds appropriated and allocated pursuant to this act or who willfully causes the cap on expenditures for administrative purposes set forth in Section 30130.53(c) to be exceeded.

SECTION 4. Severability.

If the provisions of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect and to this end the provisions of this act are severable.

SECTION 5. Conflicting Measures.

(a) It is the intent of the people that in the event that this measure and another measure relating to the taxation of tobacco shall appear on the same statewide election ballot, the provisions of the other measure or measures shall not be deemed to be in conflict with this measure, and if approved by the voters, this measure shall take effect notwithstanding approval by the voters of another measure relating to the taxation of tobacco by a greater number of affirmative votes.

(b) If this measure is approved by the voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting measure is later held invalid, this measure shall be self-executing and given the full force of law.

SECTION 6. Amendments.

The Legislature may amend the provisions of Revenue and Taxation Code sections 30130.50 through 30130.57 to further the purposes of the act by statute passed in each house by roll-call vote entered in the journal, two-thirds of the membership concurring, provided that at least 14 days prior to passage in each, the bill, in final form, has been made available to the public and distributed to the media.