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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

December 21, 2012

VIA MESSENGER

Office 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
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San Leandro, CA 94577
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Sincerely,

James C. Harrison

Enclosures
(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.