

May 1, 2015

VIA PERSONAL DELIVERY

Ashley Johansson, Initiative Coordinator  
Office of the Attorney General  
1300 I Street, 17th Floor, P.O. Box 944255  
Sacramento, CA 95814

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MAY 04 2015

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary for Proposed Initiative

Dear Ms. Johansson:

Pursuant to Article II, Section 10(d) of the California Constitution, we submit the attached proposed Initiative, entitled the "California Healthcare, Research and Prevention Tobacco Tax Act of 2016" (Version II), to your office and request that your office prepare a title and summary. Included with this submission is the required proponent affidavit signed by the proponents of this measure pursuant to sections 9001 and 9608 of the California Elections Code, along with a check for \$200.00.

All inquiries or correspondence relative to this initiative should be directed to Lance H. Olson at Olson, Hagel & Fishburn, LLP, 555 Capitol Mall, Suite 1415, Sacramento, CA 95814, (916) 442-2952.

Thank you for your assistance.

Sincerely



Laphonza Butler  
President, California State Council of Service Employees



Kimberly Amazeen  
Vice President of Programs and Advocacy, American Lung Association in California



Dustin Corcoran  
Chief Executive Officer, California Medical Association

**THE CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO  
TAX ACT OF 2016 (Version II)**

*The people of the State of California do enact as follows:*

**The CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO  
TAX ACT OF 2016**

**SECTION 1. Findings and Declarations**

(a) Tobacco use is the single most preventable cause of death and disease in California, claiming the lives of more than 40,000 people every year. Each year thousands of Californians require medical and dental treatment as a result of tobacco use.

(b) Healthcare treatment of all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases and conditions continues to impose a significant financial burden upon California's overstressed healthcare system. Tobacco use costs Californians more than \$13.29 billion in healthcare expenses every year, of which \$3.5 billion is paid for by taxpayers through existing healthcare programs and services that provide healthcare, treatment, and services for Californians. The cost of lost productivity due to tobacco use adds an additional estimated \$8.5 billion to the annual economic consequences of smoking and tobacco use in California.

(c) An increase in the tobacco tax is an appropriate way to decrease tobacco use and mitigate the costs of healthcare treatment and improve existing programs providing for quality healthcare and access to healthcare services for families and children. It will save lives and save state and local governments money in the future.

(d) An increase in funding for existing healthcare programs and services that treat all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases and conditions will expand the number of healthcare providers that treat patients with such diseases and conditions. Funds spent for this purpose can be used to match federal funds, with the

federal government putting up as much as nine dollars for every dollar spent from this fund.

(e) Research into the causes, early detection, and effective treatment, care, prevention, and potential cures of all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases will ultimately save lives and save state and local governments money in the future.

(f) There is an urgent need for research in California for new and effective treatments for all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases. Such research transforms scientific discoveries into clinical applications that reduce the incidence and mortality of such diseases and conditions.

(g) Funding prevention programs designed to discourage individuals, particularly youth, from taking up smoking and the use of other tobacco products through health education and health promotion programs will save lives and save state and local government money in the future.

(h) A reinvigorated tobacco control program will allow targeted public health efforts to combat the tobacco industry's predatory marketing to ethnic groups, driving down smoking rates and ultimately reducing cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases in these California communities.

(i) Funding implementation and administrative programs to support law enforcement efforts to reduce illegal sales of tobacco products to minors, cigarette smuggling and tobacco tax evasion will save lives and save state and local government money in the future.

(j) California faces a shortage of physicians and dentists to meet the growing health care needs of its residents. As a result, access to primary and oral health care, treatment for tobacco-related diseases, regular check-ups and other urgent healthcare needs will suffer. California taxpayers support the education of thousands of medical and dental students every year, yet because of limits on the number of residency programs, many of those physicians and dentists are forced out of state to continue their training, leaving patients in California without access to

care. Funding implementation and administrative programs by helping keep hundreds more doctors in California every year to improve the health of Californians will save lives and save state and local governments money in the future.

(k) Increasing the cost of cigarettes and tobacco products is widely recognized as the most effective way to reduce smoking across California, especially by young people. The 2000 U.S. Surgeon General's Report, *Reducing Tobacco Use*, found that raising tobacco-product prices decreases the prevalence of tobacco use, particularly among kids and young adults, and that tobacco tax increases produce "substantial long-term improvements in health." From its review of existing research, the report concluded that raising tobacco taxes is one of the most effective tobacco prevention and control strategies. Reducing smoking saves lives and saves state and local government money in the future.

(l) Because increasing the tobacco tax will reduce smoking and use of other tobacco products, it is important to protect existing tobacco tax funded programs from a decline in tax revenues.

(m) California currently taxes cigarettes at only \$0.87 per pack, and ranks 33rd in tobacco tax rates, reflecting one of the lowest tobacco taxes in the United States. The national average is \$1.54 per pack. Thirty states have cigarette tax rates of \$1 per pack or higher, and California is well below other west coast states (Washington: \$3.025, Oregon: \$1.31, and Arizona: \$2). California last raised its tobacco tax in 1998.

## **SECTION 2. Statement of Purpose**

The purpose of this measure is to increase the tax on tobacco in order to:

(a) Save the lives of Californians and save state and local governments money in the future by reducing smoking and tobacco use among all Californians, but particularly the young.

(b) Provide funds to increase funding for existing healthcare programs and services that treat all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases, expand the number of

healthcare providers, and maximize federal funding for these programs and services.

(c) Provide funds to support research into the causes of and cures for all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases and to transform such scientific discoveries into clinical applications to reduce the incidence and mortality of such diseases and conditions.

(d) Provide funds to support prevention programs aimed at discouraging individuals from using cigarettes and other tobacco products.

(e) Provide funds for implementation and administrative purposes to reduce cigarette smuggling, tobacco tax evasion, and illegal sales of tobacco products to minors and fund medical training for new doctors to treat diseases, including those caused by tobacco use.

(f) Protect existing tobacco tax funded programs, which currently save Californians million in health care costs.

(g) Provide a full accounting of how funds raised are spent to further the purposes of the act without creating new bureaucracies.

### **SECTION 3. The CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016**

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. Definitions**

*For the purposes of this article:*

(a) *“Cigarette” has the same meaning as that in Section 30003 as it read on January 1, 2015.*

(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.*

**§ 30130.51. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Cigarette Distribution Tax**

*(a) In addition to any other taxes imposed upon the distribution of cigarettes under this part, there shall be imposed an additional tax upon every distributor of cigarettes at the rate of one hundred mills (\$0.100) for each cigarette distributed on or after the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.*

*(b) Except as otherwise provided in this article, all revenues resulting from the tax imposed by subdivision (a) and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123 shall be deposited into the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund created by Section 30130.53.*

**§ 30130.52. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Cigarette Floor Taxes**

*(a) (1) In addition to any other tax, 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 its possession or under its 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 act at the rate of one hundred mills (\$0.100) for each cigarette.*

*(2) Every dealer and wholesaler shall file a return with the board on or before the first day of the first calendar quarter commencing more than 180 days after the effective date of this act on a form prescribed by the board, showing the number of cigarettes in its possession or under its 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 act. The amount of tax shall be computed and shown on the return.*

*(b) (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 its possession or under its 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 act at the following rates:

(A) Two dollars and fifty cents (\$2.50) for each stamp bearing the designation "25."

(B) Two dollars (\$2) for each stamp bearing the designation "20."

(C) One dollar (\$1) 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 effective date of this act 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.

(c) The taxes required to be paid by this section are due and payable on or before the first day of the first calendar quarter commencing 180 days after the effective date of this act. Payments shall be made by remittances payable to the board and the payments shall accompany the return and forms required to be filed by this section.

(d) Any amount required to be paid by this section that is not timely paid shall bear interest at the rate and by the method established pursuant to Section 30202 from the first day of the first calendar quarter commencing 180 days after the effective date of this act, until paid, and shall be subject to determination, and redetermination, and any penalties provided with respect to determinations and redeterminations.

**§ 30130.53. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund**

(a) The CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund is hereby established in the State

Treasury.

*(b) All revenues raised pursuant to the taxes imposed by this article, less refunds made pursuant to Article 1 (commencing with Section 30361) of Chapter 6, shall be deposited into the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund.*

*(c) Notwithstanding any other law, the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund is a trust fund established solely to carry out the purposes of this act and all revenues deposited into the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund, together with interest earned by the fund, 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.*

*(d) Notwithstanding any other law, the taxes imposed by this article and the revenue derived therefrom, including investment interest, 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 the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered "moneys" for purposes of Section 8(a) and (b) of Article XVI of the California Constitution and its implementing statutes.*

*(e) Notwithstanding any other law, revenues deposited into the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund, including any interest earned by the fund, shall only be used for the specific purposes set forth in this act, and shall be appropriated and expended only for the purposes expressed in this act.*

*(f) Notwithstanding any other law, revenues deposited into the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund shall not be subject to appropriation, reversion, or transfer by the Legislature, the Governor, the Director of Finance, or the Controller for any purpose other than those specified in this act, nor shall such revenues be loaned to the General Fund or any other fund of the state or any local government fund.*

**§ 30130.54. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Effect on Tobacco Consumption and Tax Revenue**

*(a) The board shall determine within one year of the effective date of this act, and annually thereafter, the effect that the additional taxes 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 board to be a direct result of 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, the board 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, and 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 revenues derived from Section 30101.*

*(b) The Controller shall transfer from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund to those affected funds described in subdivision (a) the amount necessary to offset the revenue decrease directly resulting from imposition of additional taxes by this article.*

*(c) The board shall also determine within one year of the effective date of this act, and annually thereafter, the effect that the additional taxes 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, including the illegal sale of cigarettes and tobacco products. To the extent that there is a loss of state or local government sales tax revenues and such loss is determined by the board to be a direct result of 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, including the illegal*

*sale of cigarettes and tobacco products, the board shall determine the fiscal effect on state and local government sales tax revenues.*

*(d) The Controller shall transfer from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund to the general fund of the state and those affected local governments described in subdivision (c) the amount necessary to offset the state and local sales tax revenue decrease directly resulting from imposition of additional taxes by this article, including the illegal sale of cigarettes and tobacco products.*

*(e) Transfers under this section shall be made by the Controller at such times as the Controller determines necessary to further the intent of this section.*

**§ 30130.55. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Distribution of Revenue**

*After deducting the necessary funds pursuant to section 30130.54 and subdivisions (a), (b), (c) and (d) of section 30130.57 the Controller shall apportion and transfer the remaining funds in the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund as follows:*

*(a) Eighty-two percent (82%) shall be transferred to the Healthcare Treatment Fund, which is hereby created, and used by the California Department of Health Care Services to increase funding for the existing healthcare programs and services pursuant to Chapters 7 through 8.9 in Part 3 of Division 9 of the California Welfare and Institutions Code (commencing with Section 14000) including those that provide healthcare, treatment, and services for Californians with tobacco-related diseases and conditions by providing improved reimbursement for all healthcare, treatment, and services pursuant to Chapters 7 through 8.9 in Part 3 of Division 9 of the California Welfare and Institutions Code (commencing with Section 14000). To the extent possible given the limits of funding under this act, reimbursement for healthcare, services, and treatment shall be increased to a level comparable to Medicare reimbursement for the same services based on the Departments specific criteria, including but not limited to, ensuring critical access, specific geographic shortages of services or*

*ensuring quality care; provided that these funds are not to be used to supplant existing state or local general funds for these same purposes. Consistent with federal law, the funding shall be used to draw down federal funds. The funding shall be used to the greatest extent feasible only for care provided by health facilities and health professionals licensed or certified by the State of California.*

*(b) Thirteen percent (13%) shall be used for the purpose of funding comprehensive tobacco prevention and control programs; provided that these funds are not to be used to supplant existing state or local funds for these same purposes. These funds shall be apportioned in the following manner:*

*(1) Eighty-five percent (85%) to the California Department of Public Health Tobacco Control Program to be used for the tobacco control programs described beginning at Section 104375 of the Health and Safety Code. The California Department of Public Health shall award funds to State and local governmental agencies, tribes, universities and colleges, community based organizations, and other qualified agencies for the implementation, evaluation, and dissemination of evidence-based health promotion and health communication activities in order to monitor, evaluate and reduce tobacco use, tobacco-related disease rates, tobacco-related health disparities, and develop a stronger evidence-base of effective prevention programming with not less than fifteen percent (15%) of health promotion, health communication activities, and evaluation and tobacco use surveillance funds being awarded to accelerate and monitor the rate of decline in tobacco-related disparities with the goal of eliminating tobacco-related disparities. The Department shall, if required, submit a request for an amendment to California's State Plan to the Centers for Medicare and Medicaid Services.*

*(2) Fifteen percent (15%) to the California Department of Education to be used for school programs to prevent and reduce the use of tobacco products by young people as described in Section 104420 of the Health and Safety Code with not less than fifteen percent (15%) of these funds being awarded to accelerate and monitor the rate of decline in tobacco-related disparities for the purpose of eliminating tobacco-related*

disparities.

*(c) Five percent (5%) to the University of California Tobacco-Related Disease Research Program pursuant to Article 2 (commencing with Section 104500) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code to supplement the Cigarette and Tobacco Products Surtax Medical Research Program, provided that these funds be used under the following conditions:*

*(1) The funds shall be used for grants and contracts for basic, applied, and translational medical research in California into the prevention of, early detection of, treatments for, complementary treatments for, and potential cures for all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases. Notwithstanding any other provision of law, the Tobacco-Related Disease Research Program shall have authority to expend funds received under this act for the purposes set forth in this subdivision.*

*(2) Any grants and contracts awarded shall be awarded using existing medical research program infrastructure and on the basis of scientific merit as determined by an open, competitive peer review process that assures objectivity, consistency, and high quality.*

*(3) Individuals or entities that receive the grants and contracts must reside or be located entirely in California.*

*(4) The research must be performed entirely in California.*

*(5) The funds shall not be used to supplant existing state or local funds for these same purposes.*

**§ 30130.56. Independent Audit and Disclosure**

*To provide full public accountability concerning the uses to which funds from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 are put, and to ensure full compliance with the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016:*

*(a) The non-partisan California State Auditor shall conduct at least biennially an independent financial audit of the state and local agencies receiving funds pursuant to the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016. An audit conducted pursuant to this section shall include, but not be limited to, a review of the administrative costs expended by the state agencies that administer the fund.*

*(b) Based on the independent audit, the non-partisan California State Auditor shall prepare a report detailing its review and include any recommendations for improvements. The report shall be made available to the public.*

*(c) Each state agency and department receiving funds pursuant to this act shall, on an annual basis, publish on its respective website an accounting of how much money was received from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund and how that money was spent. The annual accounting shall also be posted on any social media outlets the state agency or department deems appropriate.*

*(d) The use of the funds received by the California Department of Health Care Services pursuant to section 30130.55(a) shall be subject to the same restrictions, including, but not limited to audits and prevention of fraud, imposed by existing law.*

*(e) The use of the funds received by the California Department of Public Health, the California Department of Education and the University of California pursuant to subdivisions (b) and (c) of section 30130.55 shall be subject to oversight by the Tobacco Education and Research Oversight Committee pursuant to Health and Safety code sections 104365 and 104370.*

**§ 30130.57. Implementation and Administrative Costs**

*(a) Funds from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund shall be used to reimburse the board for expenses incurred in the administration, calculation, and*

*collection of the tax imposed by this article and for expenses incurred in the calculation and distribution of funds and in the promulgation of regulations as required by this act; provided, however, that after deducting the necessary funds pursuant to subdivision (b) of Section 30130.54, not more than 1% of the funds remaining in the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund shall be used for such administrative costs.*

*(b) Funds from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 shall be used to reimburse the independent nonpartisan California State Auditor up to four hundred thousand dollars (\$400,000) for actual costs incurred to conduct the audits in accordance with Section 30130.56 for the purpose of providing public transparency and ensuring that the revenues generated by this article are used for healthcare, tobacco use prevention and research.*

*(c) Funds from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 in the amount of forty million dollars (\$40,000,000) shall be used to provide funding to the University of California for the purpose and goal of increasing the number of physicians trained in California. This goal shall be achieved by providing this funding to the University of California to sustain, retain and expand graduate medical education programs in the State of California based on demonstrated workforce needs and priorities.*

*(d) Funds from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 in the amount of forty eight million dollars (\$48,000,000) shall be used for the purpose of funding law enforcement efforts to reduce illegal sales of tobacco products to minors; to reduce cigarette smuggling, tobacco tax evasion, and counterfeit tobacco products; and to enforce legal settlement provisions and conduct law enforcement training and technical assistance activities for tobacco-related statutes; provided that these funds are not to be used to supplant existing state or local funds for these same purposes. These funds shall be apportioned in the following manner:*

*(1) Thirty million dollars (\$30,000,000) to go to the California Department of Justice/Office of Attorney General to be distributed to*

*local law enforcement agencies to support and hire front-line law enforcement peace officers for programs, including, but not limited to, enforcement of state and local laws related to the illegal sales and marketing of tobacco to minors, and increasing investigative activities and compliance checks to reduce illegal sales of tobacco products to minors and youth tobacco use.*

*(2) Six million dollars (\$6,000,000) to the board to be used to enforce laws that regulate the distribution and retail sale of cigarettes and other tobacco products, such as laws that prohibit cigarette and tobacco product smuggling, counterfeiting, selling untaxed cigarettes and other tobacco products, and selling cigarettes and other tobacco products without a proper license.*

*(3) Six million dollars (\$6,000,000) to the California Department of Public Health to be used to support programs, including, but not limited to, providing grants and contracts to local law enforcement agencies to provide training and funding for the enforcement of state and local laws related to the illegal sales of tobacco to minors, increasing investigative activities, and compliance checks, and other appropriate activities to reduce illegal sales of tobacco products to minors, including, but not limited to the Stop Tobacco Access to Kids Enforcement (STAKE) Act, pursuant to Section 22952 of the Business and Professions Code.*

*(4) Six million dollars (\$6,000,000) to the California Attorney General to be used for activities including, but not limited to, enforcing laws that regulate the distribution and sale of cigarettes and other tobacco products, such as laws that prohibit cigarette smuggling, counterfeiting, selling untaxed tobacco, selling tobacco without a proper license and selling tobacco to minors, and enforcing tobacco-related laws, court judgments, and settlements.*

*(e) Not more than one percent (1%) of the funds received pursuant to section 30130.55(a) or subdivision (c) and (d) of this section shall be used by any state or local agency or department receiving such funds for administrative costs.*

*(f) Not more than five percent (5%) of the funds received pursuant to*

*section 30130.55(b) and (c) shall be used by any state agency or department receiving such funds for administrative costs.*

*(g) The California State Auditor 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 article.*

*(h) The board shall determine beginning two years following the effective date of this act, and annually thereafter, any reduction in revenues, following the first year after the effective date of this act, resulting from a reduction in the consumption of cigarettes and tobacco products due to the additional taxes imposed on cigarettes by this article, and the increase in the tax on tobacco products required by subdivision (b) of Section 30123. If the board determines there has been a reduction in revenues, the amount of funds allocated pursuant to subdivisions (c) and (d) of this section shall be reduced proportionately.*

#### **§ 30130.58. Statutory References**

*Unless otherwise stated, all references in this act refer to statutes as they existed on July 1, 2016.*

#### **SECTION 4. Severability**

If the provisions of this act, or part thereof, are 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**

(a) Except as hereafter provided, this act may only be amended by the electors as provided in subdivision (c) of Section 10 of Article II of the California Constitution.

(b) The Legislature may amend Revenue and Taxation Code Section 30130.55(a) and (c), Revenue and Taxation Code Section 30130.50(b) and Revenue and Taxation Code Section 30130.57 to further the purposes of the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 by a statute passed in each house by roll-call vote entered in the journal, two-thirds of the membership concurring.

(c) The Legislature may amend the Revenue and Taxation Code to impose a tax on electronic cigarettes as defined in Health and Safety Code section 119405(b) to an equivalent rate established by Part 13 to further the purposes of the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 by a statute passed in each house by roll-call vote entered in the journal, two-thirds of the membership concurring.

(d) The Legislature may amend Revenue and Taxation Code Section 30130.55(b) to further the purposes of the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 by a statute passed in each house by roll-call vote entered in the journal, four-fifths of the membership concurring.