Moving South Dakota Forward
3708 West Brooks Place
Sioux Falls, SD 57104

RECEIVED
AUG 0 3 2011
S.D. SEC. OF STATE

August 1, 2011

Mr. Marty Jackley
Office of Attorney General
1302 E. Hwy 14 Suite 1
Pierre, SD 57501

Dear Attorney General Jackley:

Pursuant to SDCL 12-13-25.1, please find enclosed a copy of a proposed initiative for your review. Under SDCL 12-13-25.1, it is the duty of the Attorney General's office to prepare an Attorney General Statement which consists of a title and an explanation after you have received a copy of the proposed initiative. This initiative is being submitted to you on behalf of Moving South Dakota Forward, a ballot question committee which is being formed to support this initiated measure when it is filed with the Secretary of State. As the committee is being former, Bryce Healy (noted below) and I are acting as the co-sponsors of this initiated ballot measure language.

SDCL 12-13-25.1 requires that prior to the submission of an initiated measure to your office for your work, it must first have been delivered to the Executive Director of the Legislative Research Council for review by the Legislative Research Council pursuant to SDCL 12-13-25. We have submitted this proposed initiative to the Legislative Research Council on July 26, 2011 and have received back from them a comment letter dated July 29, 2011 indicating that they had some stylistic comments but no substantive ones. A copy of the Legislative Research Council's letter pursuant to SDCL 12-13-25 is attached for your convenience. In the proposed initiative, we are sending to you, we have accepted and made all of the Legislative Research Council's stylistic changes.

If you have any questions, feel free to contact me. We look forward to the completion of your work pursuant to SDCL 12-13-25.1 and intend to formally file our initiated measure with the South Dakota Secretary of State once your title and explanation has been filed with the South Dakota Secretary of State.

Sincerely,

David R. Hewett

Enclosure

CC: Mr. Bryce Healy
SDEA
411 East Capitol Avenue
Pierre, SD 57501

CC: Mr. James Fry
Executive Director
Legislative Research Council
500 E. Capitol Avenue
Pierre, SD 57501-5007

CC: Mr. Jason Gant
Secretary of State
Capitol Building
500 East Capitol Avenue Ste 204
Pierre SD 57501-5070

Draft of Initiated Measure

1. Commencing January 1, 2013, twenty percent of the monies collected pursuant to the South Dakota sales and use taxes imposed by SDCL chapters 10-45 and 10-46 shall be placed in a special fund known as the Moving South Dakota Forward fund. The monies in the Moving South Dakota Forward fund shall be allocated into the following two subfunds within the Moving South Dakota Forward fund: (1) fifty percent shall be allocated to the Moving K-12 Education Forward subfund; and (2) fifty percent shall be allocated to the Moving Healthcare Forward subfund.

2. Monies allocated in Section 1 of this initiated measure shall be disbursed as follows:
   (1) Monies in the Moving K-12 Education Forward sub-fund are continuously appropriated to the public school districts of South Dakota, to be distributed pro rata based upon each school district's relative share of fall enrollment as defined in SDCL chapter 13-13, compared to the fall enrollment of all school districts. Funds deposited in the Moving K-12 Education Forward subfund in the preceding calendar quarter shall be distributed, as provided above, to the public school districts of South Dakota by the first business day of February, May, August, and November of each year, commencing May 1, 2013. Funds received by a school district from the Moving K-12 Education Forward subfund shall be used at the sole discretion of the public school district's governing board for the purpose of improving public education;
   (2) Eighty percent of the monies in the Moving Healthcare Forward subfund shall be spent only for the purpose of funding payments to providers to the South Dakota Medicaid program, which are incurred due to increases in expenses related to the reimbursement rates paid to service providers per unit of service in excess of such reimbursement rates in effect as of July 1, 2011; and
   (3) Twenty percent of the monies in the Moving Health Care Forward subfund shall be spent only for the purpose of funding expenses related to payments to providers to the South Dakota Medicaid program, which are incurred due to increases in the case load volume experienced by the South Dakota Medicaid program from the case levels as of July 1, 2011.

3. No monies deposited in the Moving K-12 Education Forward subfund may be spent in any way, either directly or indirectly, to reduce, supplant, or replace appropriations for any state K-12 education program in existence for state fiscal year 2012, including specifically the state aid to education and special education programs established in SDCL chapters 13-13 and 13-37. The per student allocation in SDCL chapter 13-13 and the per student allocation for each specified disability in SDCL chapter 13-37 shall be adjusted by the annual application of their respective index factors, as set forth in SDCL subdivisions 13-13-10.1(3) and 13-37-35.1(6), as in effect on July 1, 2011. However, the index factor adjustment shall, in no case, exceed the actual percentage growth in state general fund revenues for the most recently completed fiscal year. If the percentage growth in state general fund revenues is less than the index factors in any year, the difference shall be made up in the immediately following years to the extent the percentage growth in state general fund revenues exceeds the index factors.

4. No monies deposited in the Moving Heath Care Forward subfund may be spent in any way, either directly or indirectly, to reduce, supplant, or replace state appropriations for any state Medicaid program in existence for state fiscal year 2012.

5. Effective January 1, 2013, any sales or use tax imposed at a rate of four percent by the provisions of SDCL chapters 10-45 or 10-46 are hereby increased by one percent each to a total rate of five percent each.

Legislative Research Council

South Dakota

Rep. Charles M. Turbiville, Chair
Sen. Joni M. Cutler, Vice Chair

James Fry, Director
Doug Decker, Code Counsel

July 29, 2011

Mr. David R. Hewett
3708 West Brooks Place
Sioux Falls, SD 57104

Dear Mr. Hewett:

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

Generally speaking, the draft language of the initiated law you submitted to this office is written in an approved form and style. There are suggestions for improving the language marked on the enclosed copy of the initiative. You may also consider changing the wording for distributing the monies to public school districts from a date specific to a deadline that reflects a business day.

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

Please contact this office if you need additional information.

Sincerely,

Jim Fry

Jim Fry
Director

JF:FB
Enclosure
cc/enc: The Honorable Jason Gant, Secretary of State

Draft of Initiated Measure

1. Commencing January 1, 2013, twenty percent of the monies collected pursuant to the South Dakota sales and use taxes imposed by SDCL chapters 10-45 and 10-46 shall be placed in a special fund known as the Moving South Dakota Forward fund. The monies in the Moving South Dakota Forward fund shall be allocated into the following two sub-funds within the Moving South Dakota Forward fund: (1) fifty percent shall be allocated to the Moving K-12 Education Forward sub-fund, and (2) fifty percent shall be allocated to the Moving Health Care Forward sub-fund.

2. Monies allocated in Section 1 of this initiated measure shall be disbursed as follows:
   (1) Monies in the Moving K-12 Education Forward sub-fund are continuously appropriated to the public school districts of South Dakota, to be distributed pro rata based upon each school district's relative share of fall enrollment as defined in SDCL Chapter 13-13, compared to the fall enrollment of all school districts. Funds deposited in the Moving K-12 Education Forward sub-fund in the preceding calendar quarter shall be distributed, as provided above, to the public school districts of South Dakota ~~on~~ the first business day of February, May, August, and November of each year, commencing May 1, 2013. Funds received by a school district from the Moving K-12 Education Forward sub-fund shall be used at the sole discretion of the public school district's governing board for the purpose of improving public education;
   (2) Eighty percent of the monies in the Moving Healthcare Forward sub-fund shall be spent only for the purpose of funding payments to providers to the South Dakota Medicaid program, which are incurred due to increases in expenses related to the reimbursement rates paid to service providers per unit of service in excess of such reimbursement rates in effect as of July 1, 2011; and
   (3) Twenty percent of the monies in the Moving Health Care Forward sub-fund shall be spent only for the purpose of funding expenses related to payments to providers to the South Dakota Medicaid program, which are incurred due to increases in the case load volume experienced by the South Dakota Medicaid program from the case levels as of July 1, 2011.

3. No monies deposited in the Moving K-12 Education Forward sub-fund may be spent in ~~anyway~~ any way, either directly or indirectly, to reduce, supplant, or replace appropriations for any state K-12 education program in existence for state fiscal year 2012 ~~As of July 1, 2011~~, including specifically the state aid to education and special education programs established in SDCL chapters 13-13 and 13-37. The per student allocation in SDCL Chapter 13-13 and the per student allocation for each specified disability in SDCL Chapter 13-37 shall be adjusted by the annual application of their respective index factors, as set forth in SDCL subdivisions 13-13-10.1(3) and 13-37-35.1(6), as in effect on July 1, 2011. However, the index factor adjustment shall, in no case, exceed the actual percentage growth in state general fund revenues for the most recently completed fiscal year. If the percentage growth in state general fund revenues is less than the index factors in any year, the difference shall be made up in the immediately following years to the extent the percentage growth in state general fund revenues exceeds the index factors.

4. No Monies deposited in the Moving Heath Care Forward sub-fund ~~shall not be used in~~ may be spent any way, either directly or indirectly, to reduce, supplant, or replace state appropriations for any State Medicaid program in existence ~~as of July 1, 2011.~~ for state ~~Best~~ fiscal year 2012

5. Effective January 1, 2013, any sales or use tax imposed at a rate of four percent by the provisions of SDCL chapters 10-45 or 10-46 are hereby increased by one percent each to a total rate of five percent each.