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RECEIVED
AUG 22 2017
S.D. SEC. OF STATE

HAND DELIVERED

August 22, 2017

Hon. Shantel Krebs
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: **Attorney General's Statement for initiated measure** (regarding
prescription drug pricing for state agencies)

Dear Secretary Krebs,

This Office received a proposed initiated measure that the sponsor will seek to place on the November 2018 general election ballot. Enclosed is a copy of the initiated measure, in final form, that was submitted to this Office. In accordance with SDCL 12-13-25.1, I hereby submit the Attorney General's Statement with respect to this initiated measure.

By copy of this letter, I am providing a copy of the Attorney General's Statement to the sponsor pursuant to SDCL 12-13-25.1.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Marty Jackley".

Marty J. Jackley
ATTORNEY GENERAL

MJJ/PA/lde
Enc.

cc/enc.: Drey Samuelson
Jason Hancock, Director of LRC

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SD SEC. OF STATE

For An Act Entitled, An Act to establish a prescription drug pricing law enabling a State Agency to pay the same or lower prices for prescription drugs as the prices paid by the United States Department of Veterans Affairs.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF SOUTH DAKOTA:

Section 1. Notwithstanding any other provision of law, a State Agency may not enter into any agreement with the manufacturer of any drug for the purchase of a prescribed drug or agree to pay, directly or indirectly, for a prescribed drug, unless the net cost of the drug, inclusive of cash discounts, free goods, volume discounts, rebates, and all other discounts or credits, as determined by the purchasing department, agency, or entity is the same as or less than the lowest price paid for the same drug by the United States Department of Veterans Affairs.

Section 2. The price ceiling described in section 1 of this Act applies to all programs in which the State or any of its agencies is the ultimate payer for the drug, even if it does not purchase the drug directly.

Section 3. In addition to any agreement for any cash discounts, free goods, volume discounts, rebates, and any other discounts or credits already in place for these programs, the State and its agencies shall enter into additional agreements with drug manufacturers for further price reduction so the net cost of the drug, as determined by the purchasing department, agency, or entity, is the same as or less than the lowest price paid for the same drug by the United States Department of Veterans Affairs.

Section 4. The Bureau of Administration shall adopt rules, pursuant to chapter 1-26 to obtain information about prescription drug prices, credits, discounts, rebates, and other price advantages for the purpose of determining the lowest price at which a prescription drug is being offered to the United States Department of Veterans Affairs and to establish the lowest price at which prescription drugs may be purchased by any State Agency. Any State agency may seek waivers of federal law, rule or regulation necessary to implement this Act.

Section 5. If any provision of this Act is challenged in court, the committee of individuals responsible for circulating the petition to qualify this Act for the ballot are deemed to have a direct and personal stake in defending this Act from constitutional or other challenges. If the Act is challenged, committee members shall be deemed to have legal standing to assert the member's direct and personal stake by defending the Act's validity.

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S.D. SEC. OF STATE

INITIATED MEASURE

ATTORNEY GENERAL'S STATEMENT

Title: An initiated measure establishing a cap on the price a State agency may pay for a prescription drug.

Explanation:

This measure limits the amount that a State agency may pay for a prescription drug. Under the measure, a State agency may not directly or indirectly pay more for a prescription drug than the U.S. Department of Veterans Affairs pays for that same drug.

The measure requires the State Bureau of Administration to enact rules establishing prescription drug prices payable by State agencies.