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March 9, 1998

Hon. Daniel E. Lungren
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Connie Lemus
Initiative Coordinator

Dear Attorney General Lungren:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative entitled the "Excellence and Accountability in Education Act of 1998" (File No. SA 98 RF 0005). This measure would increase the per-pack tax on cigarettes and other tobacco products and use the proceeds to increase funding for K-12 education.

DESCRIPTION OF THE PROVISIONS

Tobacco Tax Increase

The measure imposes an additional excise tax on cigarettes of \$1 per pack, as well as an equivalent tax increase on other tobacco products (such as cigars, chewing tobacco, pipe tobacco, and snuff). This increase would take effect immediately upon passage of the initiative. Revenues from the tax increase would be deposited in the State School Fund, which is restricted for elementary and high school purposes.

New K-12 Education Programs

The initiative establishes several new major K-12 spending proposals. In a few cases, the measure specifically directs the Legislature to use tobacco tax revenues to support new programs. Presumably, the remaining programs would be implemented to the extent tobacco tax revenues were available. Each proposal is summarized below.

Class Size Reduction in Fourth Grade. Expands the state's current class size reduction program to include grade 4. Like grades K-3, class sizes in grade 4 would be reduced from the current level of approximately 28 pupils per classroom teacher to 20 students per classroom teacher. The measure requires fourth grade class size reduction to begin on or after July 1, 1999. The measure also directs the Legislature to fund this provision with new tobacco tax revenues.

Staff Development Days Buy-Out. Reimburses school districts for up to seven days each year for staff development. Currently, school districts are allowed to use up to eight days for staff development within the 180 days of required instruction. This measure would make funding available only to school districts that provide staff development *in addition* to 180 days of instruction. The measure, however, appears to contain technical errors as it fails to amend several sections of the Education Code that permit schools to use up to eight days of instruction for staff development. Schools that use these provisions for staff development may not be able to collect funding provided by the measure for days outside the 180 days of instruction. This funding would become available to schools on September 1, 1999.

Minimum Levels of Achievement for K-12 Students. Requires the Superintendent of Public Instruction (SPI) and the State Board of Education (SBE) to set minimum levels of achievement for K-12 students in the core curriculum. This measure defines the "core curriculum" to include English (including reading and writing), mathematics, social studies (including history), and science. The measure requires these minimum standards no later than September 1, 2000.

Yearly Assessment of Each Student. Requires the SPI and the SBE to assess on a yearly basis individual progress toward meeting the minimum achievement levels. The measure would require implementation of this provision by September 1, 2000.

Remedial Programs. Requires students in the regular education program who do not meet the minimum levels of achievement (discussed above) to participate in remedial programs. The content of these programs would be determined by each school and school district. The programs would begin no later than September 1, 2000.

Comprehensive Examinations. Directs the SPI and the SBE to require comprehensive examinations in grades 4, 8, and 12 beginning September 1, 2000.

Summer School and Grade Promotion. Requires any student in the regular education program in the fourth, eighth, or twelfth grade who fails to pass the comprehensive examination to attend a four week summer school or intersession program or an alternative remedial program designated by the school or school district. At the end of the program, the student would retake the comprehensive examination. Any student who, after having completed the required summer school or other remedial program, fails to pass the comprehensive examination would not be promoted to the next grade level. In addition, students would be ineligible to receive a diploma from a California public high school until he or she passes the comprehensive examination for the twelfth grade. These provisions would begin no later than September 1, 2000.

Annual Report on Schools. Requires the Superintendent of Public Instruction to prepare an annual report providing a comparative ranking of each school in the following areas: academic achievement of its students; quality and qualifications of its teaching staff; and any other area regarding the overall instructional program of the school. The rankings would begin no later than January 1, 1999.

Golden State Senior Teachers. Establishes a "Golden State Senior Teacher Program" and defines the qualifications for teachers seeking to become a Golden State Senior Teacher. The measure requires that the pay scale and working year for a Golden State Senior Teacher would be no lower than the beginning pay and working year for local district administrators in the employing district. This provision would take effect no later than September 1, 2000. The measure specifies that the Legislature shall fund this provision from funds made available from this measure's increase in the tobacco tax.

Teacher Credentialing. Makes several changes related to teacher credentials. Beginning September 1, 2000, the measure places a three-year time limit on emergency teaching credentials and requires by September 1, 2005 all public school teachers to have a teaching credential issued by the Commission on Teacher Credentialing. In addition, after September 1, 2000, teachers hired to teach in grades 7 through 12 would be required to (1) possess a university degree with a major or minor in the area of concentration in the subject matter to be taught, (2) have significant work or other experience in the subject matter to be taught, or (3) successfully complete a nationally recognized exam in the subject matter to be taught.

Scholarship Program. Establishes a scholarship program to fund post-baccalaureate work used to secure a teaching credential in California. This measure expresses the intent to provide a \$5,000 scholarship to 5,000 students each year for this program beginning on July 1, 1999. The measure directs the Legislature to support this program with funds made available from this measure's increase in the tobacco tax.

Technology in the Classroom. Directs the Legislature to appropriate annually to the SPI at least \$75 million for "challenge grants" to increase the use of technology in the K-12 curriculum. This measure requires schools and districts applying for these grants to provide matching funds from other state or private sources. The measure directs the SPI to implement this provision no later than September 1, 1999 from funds made available from the increase in the tobacco tax.

New Textbooks and Technology. Requires the state to use, for textbooks and classroom technology, any surplus funds generated by the tobacco surtax proposed in this measure that are not needed to fund the programs and policies required by the measure.

K-12 School Construction

The measure makes two changes that affect K-12 school construction, as discussed below.

Majority Vote on School Bonds. Reduces to a simple majority the level of voter approval for local school construction bonds (including the ability to override the 1 percent rate cap on property taxes to retire the bond debt). The Constitution currently requires two-thirds voter approval. This change would occur immediately after passage of the measure.

Construction of Smaller Schools. Requires that no school district be allocated state funds for the construction of new school buildings unless the school to be built falls within the following guidelines: elementary (K-5) schools would be built to accommodate no more than 500 students; middle (grades 6-8) schools, no more than 750 students; and high schools, no more than 1,500 students. The measure permits the State Allocation Board to issue exemptions to these requirements. This change becomes operative with passage of the measure.

FISCAL EFFECT**Revenues**

Tobacco Tax Revenues. The revenue effects of this measure partly depend on the extent to which the proposed increases in tobacco taxes affect *sales* of tobacco products in this state. Our estimates assume that the price of tobacco products would increase by the full amount of the tax increase. This, in turn, would reduce consumption. (Our estimates also assume a decline in consumption due to increased federal excise taxes beginning January 1, 2000 pursuant to current law.)

The following estimates, which are based on studies of past relationships between price changes and sales of tobacco products, assume that the proposed tax increase will reduce California sales of tobacco products by about 16 percent. However, given the very large magnitude of the proposed increase, it is possible that the impacts will be greater than past experience would suggest.

We estimate that revenues from the new tax on cigarettes and other tobacco products would generate about \$1.5 billion in 1999-00. (Annual revenues would gradually decline in subsequent years.) These revenues would be deposited in the State School Fund.

General Fund Revenues. This measure would increase General Fund revenues by a small amount. The measure would affect *sales tax* revenues to the General Fund in offsetting ways. These revenues would *increase* because the sales tax is imposed on the total price of tobacco products, including the increased excise tax. Revenues would *decrease* because the excise tax would result in higher prices, which would reduce consumption and therefore *reduce* sales tax revenues.

The measure also reduces cigarette and tobacco product *excise tax* revenues to the General Fund because some consumers would reduce their purchase of tobacco products in response to the effect on prices.

We estimate that the *net* effect of the changes in sales and excise tax revenues would be General Fund increases of about \$25 million annually.

School District Bond Revenues. The measure would increase local school district construction bond revenues by tens of millions to hundreds of millions of dollars annually. This increase would result from the measure's change to a simple majority in the level of voter approval needed to authorize local K-12 construction bonds. With the

lowered threshold, more local bonds would be approved, thereby providing a higher level of local funds to K-12 districts.

Cigarette and Tobacco Products Surtax Fund Revenues. The measure would reduce revenues to the Cigarette and Tobacco Products Surtax Fund—Proposition 99 (for health-related education and research programs) and the Breast Cancer Research Fund. Revenue reductions would occur due to increased prices for cigarettes and other tobacco products, causing a drop in consumption. We estimate losses in these special fund revenues of about \$80 million annually.

Local Government Revenues. We estimate that the measure would result in a net increase in local government sales tax revenues of about \$16 million annually.

Costs and Savings

K-12 School Funding. We estimate that \$1.5 billion in tobacco tax revenues would be sufficient to pay for the costs of the proposed programs in the first few years of operation. However, over the long-term, costs would exceed revenues by hundreds of millions of dollars if the Legislature implements all of the measure's new programs. This is due to two factors (1) program costs would increase as the result of inflation and growth in students and (2) the revenue from the new tax would likely decline due to the downward trend in cigarette consumption.

This new tax would not become part of the Proposition 98 base funding level and therefore would not be automatically adjusted for inflation and growth. As a result, the state would have two options (1) not implement one or more of the measure's new programs so that new tobacco tax revenues cover program costs or (2) provide additional state support (from General Fund or Proposition 98 resources) for the costs of the new programs that cannot be funded by new revenues.

Proposition 98 Costs. The measure would increase state General Fund costs to K-12 school districts from the measure's requirement that students repeat a grade if they cannot demonstrate performance on a statewide examination that meets certain standards. By requiring students to repeat a grade, the measure would increase long-term attendance in K-12, thereby increasing the minimum funding guarantee for K-14 education under the Constitution. We estimate these long-term costs in the hundreds of millions of dollars annually.

K-12 Construction Savings. This measure may not affect state K-12 construction costs in the short term because existing demand for school facilities may continue to be

addressed in part through state support. The measure, however, could significantly reduce long-term state costs for K-12 school construction. This reduction would result from the increased availability of local bonds created by the lowered vote requirement discussed above. Savings would be offset to an unknown extent by additional costs created by the measure's requirement to build smaller schools. We estimate net savings, potentially in the tens of millions to hundreds of millions of dollars annually.

Summary of Fiscal Effects. We estimate that the initiative would have the following major fiscal effects:

- Increased annual revenues due to higher tobacco excise taxes of about \$1.5 billion, which would slowly decrease in subsequent years. These funds would pay for new K-12 education programs.
- Long-run state school costs in the hundreds of millions of dollars as a result of students repeating grades under certain circumstances.
- Increased local school bond revenues, potentially in the tens of millions to hundreds of millions of dollars annually, and potential long-term reduction in state school construction costs of a similar magnitude.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Craig L. Brown
Director of Finance