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October _____, 1997

Rosemary Calderon
Initiative Coordinator
Office of the Attorney General
1300 I Street, 17th Floor
Sacramento, CA 95814

Re: California Children and Families First Act of 1998
SA97RF0038

Dear Ms. Calderon:

This office represents the Committee For Fair Taxation, sponsored by the Tobacco Institute. We have reviewed the above initiative and offer the following comments and the attached suggested title and summary for consideration by the Attorney General.

The Initiative

The California Children and Families First Act of 1998 would create a new state commission and authorize each county to create a county commission to study ways to improve the development of children from the prenatal stage to five years (Health and Safety Code sec. 130100). The cost of the program would be paid from a surtax on cigarettes (\$.025 per cigarette) and tobacco products (Rev. and Tax Code sec. 30131.2). Twenty percent of the surtax revenues would be allocated to the state commission (Health and Safety Code sec. 130100(d)(1)) and eighty percent to the county commissions (Health and Safety Code sec. 130100(d)(2)). The measure specifically exempts the new revenues from the operation of Proposition 98 (Initiative section 3).

The duties of the State Commission would be to disseminate information and educational materials on child development, and adopt "guidelines" for an integrated statewide program on child development and make recommendations to the Governor and Legislature regarding the same (Health and Safety Code sec. 130125). The duties of the county commissions would be to develop "strategic plans" for early childhood development in furtherance of the State Commission's guidelines ((Health & Safety Code sec. 130140(a)(1)(C)). The county commissions would report annually to the State Commission with respect to "implementation and performance" of their respective functions (Health and Safety Code sec. 130150 (b)).

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Title and Summary

In the title and summary issued for SA97RF0011, the after school tutoring program to be funded from a 50 cent tax on each package of cigarettes, the first two words were "CIGARETTE TAX." Virtually every media consultant and polling expert would opine that given the current assault on the tobacco industry those two words will create a bias in favor of the measure, particularly when they are the lead off phrase. Our suggested title and summary for SA97RF0038 includes the term "TOBACCO TAX" in the bold face but precedes it with a description of the program created by the initiative. We believe that the term "tobacco" is accurate for this measure as it, unlike SA97RF0011, taxes both cigarettes and tobacco products.

Further, we believe the voters ought to know first what program they are being requested to authorize and then advised how that program is going to be funded. In furtherance of this point, our suggested title and summary follows the bold face language with a description of the program, then funding of the program, and last, the exemption of the new revenues from Proposition 98. We believe the exemption of this new tax from Proposition 98 is a point that must be disclosed to the voters. While some voters may well dislike the tobacco industry, they might still conclude that if there are to be further tobacco taxes there should be merit in the programs to which they are allocated, particularly when the new tax revenues are diverted from California's schools.

Lastly, we would hope that any title and summary would state what it does and not what its objectives are. By way of example, the initiative states its purposes are to promote, support and improve the early development of children. If these phrases are used in the title and summary the voters will conclude the Attorney General believes this is what the initiative actually does. Creating that implication would be false and misleading.

Further, the initiative requires county commissions to develop an "adequate and complete county strategic plan" (Health & Safety Code sec. 130140(a)(1)(C)). The terms "adequate," "complete" and "strategic" are totally inappropriate in a title and summary. They have no meaning other than to convey an aura of significance. In this regard they are no more informative than the puffery lurking in such terms as "good," "intelligent," "forthright," or "comprehensive."

This initiative does nothing more than create two new government programs to study child development. What issues will be studied, at what depth and of what quality is left largely to the discretion of the State Commission and the 58 potential county commissions. Whether the efforts of the State and county commissions will result in greater understanding of child development is an argument to be advanced by the proponents of the initiative, not the Attorney General.

Cordially,

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Richard D. Martland

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Enclosure

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