



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

STAFF REPORT
October 5, 2010

Honorable Mayor and
Members of the City Council

Title: City Positions on November 2010 Statewide Ballot Measures that qualified for the November 2010 Statewide Ballot

Location/Council District: Citywide

Recommendation: Adopt a **Resolution** approving City positions approved and forwarded by the Law & Legislation Committee for the propositions that qualified for the November 2010 state ballot for consideration and action by the City Council.

Contact: Michelle Heppner, Special Projects Manager, 916-808-1226

Presenters: Michelle Heppner, Special Projects Manager

Department: City Manager's Office

Organization No: 09200

Description/Analysis:

Issue: The City's Law & Legislation Committee reviews and adopts positions on statewide ballot measures in advance of each election. These positions are forwarded to the City Council for consideration and possible action.

Ten propositions qualified for the November 2, 2010 statewide ballot. Of the ten, eight are included in this report. The two not included in this report are Proposition 18, the Safe, Clean, and Reliable Drinking Water Supply Act of 2010 which has been postponed to the November 2012 Statewide Ballot and Proposition 23, the California Jobs Initiative which, at the request of Councilmember Cohn, was heard by the Law & Legislation Committee on August 5, 2010 and City Council on August 31, 2010. The Law & legislation Committee and City Council opposed Proposition 23.

Policy Considerations: The recommended positions are consistent with the Council adopted legislative principles related to retaining local control over issues impacting the City and the Council adopted legislative platform establishing legislative priorities for the City.

Environmental Considerations: None.

California Environmental Quality Act (CEQA):

Under the California Environmental Quality Act (CEQA) guidelines, continuing administrative activities do not constitute a project and are therefore exempt from review.

Sustainability Considerations: Not Applicable.

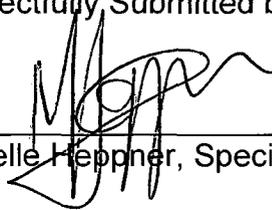
Committee/Commission Action: On September 21, 2010, the Law & Legislation Committee approved positions for the eight propositions included in this report that qualified for the November statewide ballot and forwarded to the full city council.

Rationale for Recommendation: The recommended positions were adopted by the Law & Legislation Committee on September 21, 2010 and are consistent with the Council adopted legislative principles related to retaining local control over issues impacting the City and supporting opportunities for partnerships and additional revenues, as well the Council adopted legislative platform establishing legislative priorities for the City.

Financial Considerations: None.

Emerging Small Business Development (ESBD): n/a

Respectfully Submitted by:


Michelle Heppner, Special Projects Manager

Recommendation Approved:

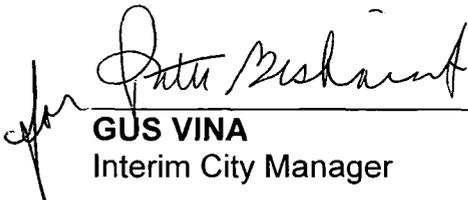

GUS VINA
Interim City Manager

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BACKGROUND

Ten propositions qualified for the November 2, 2010 statewide ballot. Of the ten, eight are included in this report. The two not included in this report are Proposition 18, the Safe, Clean, and Reliable Drinking Water Supply Act of 2010 which has been postponed to the November 2012 Statewide Ballot and Proposition 23, the California Jobs Initiative which, at the request of Councilmember Cohn, was heard by the Law & Legislation Committee on August 5, 2010 and City Council on August 31, 2010. The Law & legislation Committee and City Council opposed Proposition 23.

Staff reviewed the ballot measures on the November 2010 statewide ballot. In developing recommendations on whether to support, oppose, be neutral, or take no position on the measures, staff considered whether the measures would directly affect City residents or its operations.

The following table summarizes the 10 state ballot measures, positions taken by the League of California Cities, staff recommendations and positions for approval by the Law & Legislation Committee:

Measure (Attachment 2 pg. #)	Title	League of CA Cities Position	Staff Recommended Position	Law & Leg Approved Position
Proposition 19 (Pg. 11)	Changes California Law to Legalize Marijuana and Allow It to Be Regulated and Taxed. Initiative Statute.	Oppose	Oppose	Neutral
Proposition 20 (Pg. 22)	Redistricting of Congressional Districts. Initiative Constitutional Amendment.	No Position	No Position	Neutral
Proposition 21 (Pg. 28)	Establishes \$18 Annual Vehicle License Surcharge to Help Fund State Parks and Wildlife Programs and Grants Free Admission to All State Parks to Surcharged Vehicles. Initiative Statute.	No Position	Neutral	Neutral
Proposition 22 (Pg. 35)	Prohibits the State From Taking Funds Used for Transportation or Local Government Projects and Services. Initiative Constitutional Amendment.	Sponsor	Support	Support
Proposition 24 (Pg. 54)	Repeals Recent Legislation That Would Allow Businesses to Carry Back Losses, Share Tax Credits, and Use a Sales-Based Income Calculation to Lower Taxable Income. Initiative Statute.	No Position	Neutral	Neutral
Proposition 25 (Pg. 75)	Changes Legislative Vote Requirement to Pass a Budget From Two Thirds to a Simple Majority. Retains Two-Thirds Vote Requirement for Taxes. Initiative Constitutional Amendment.	No Position	Support	Support
Proposition 26 (Pg. 79)	Increases Legislative Vote Requirement to Two-Thirds for State Levies and Charges. Imposes Additional Requirement for Voters to Approve Local Levies and Charges With Limited Exceptions. Initiative Constitutional Amendment.	Oppose	Oppose	Oppose
Proposition 27 (Pg. 84)	Eliminates State Commission on Redistricting. Consolidates Authority for Redistricting With Elected Representatives. Initiative Constitutional Amendment and Statute.	No Position	Neutral	No Recommendation Split Vote Support 2 Oppose 2

The following is a brief summary and analysis of potential local impacts of each of the propositions:

**PROPOSITION 19 – CHANGES CALIFORNIA LAW TO LEGALIZE MARIJUANA
AND ALLOW IT TO BE REGULATED AND TAXED.
INITIATIVE STATUTE.**

Staff Recommendation: **OPPOSE**

L&L Committee Recommendation: **NEUTRAL**

Allows people 21 years old or older to possess, cultivate, or transport marijuana for personal use. Permits local governments to regulate and tax commercial production and sale of marijuana to people 21 years old or older. Prohibits people from possessing marijuana on school grounds, using it in public, smoking it while minors are present, or providing it to anyone under 21 years old. Maintains current prohibitions against driving while impaired. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Savings of up to several tens of millions of dollars annually to state and local governments on the costs of incarcerating and supervising certain marijuana offenders. Unknown but potentially major tax, fee, and benefit assessment revenues to state and local government related to the production and sale of marijuana products.

Local Impacts:

While this measure could potentially increase tax revenues for the City, it is not known whether the public safety risks associated with expanding marijuana possession and sales could outweigh the potential benefits for local revenue gain.

Opposed by the California Police Chiefs Association, California Narcotics Officers Association, League of CA Cities, and the Metro Chamber.

**PROPOSITION 20 – REDISTRICTING OF CONGRESSIONAL DISTRICTS.
INITIATIVE CONSTITUTIONAL AMENDMENT.**

Staff Recommendation: **NO POSITION**

L&L Committee Recommendation: **NEUTRAL**

Removes elected representatives from the process of establishing congressional districts and transfers that authority to the recently-authorized 14-member redistricting commission. Redistricting commission is comprised of five Democrats, five Republicans, and four voters registered with neither party. Requires that any newly-proposed district lines be approved by nine commissioners including three Democrats, three Republicans, and three from neither party. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Probably no significant change in state redistricting costs.

Local Impacts:

The Law & legislation Committee and the City Council voted to support Proposition 11, a non-partisan, citizen-initiated redistricting measure that was passed by the California voters in November 2008.

Supported by the Metro Chamber, California Chamber of Commerce and various other chambers of commerce.

PROPOSITION 21 – ESTABLISHES \$18 ANNUAL VEHICLE LICENSE SURCHARGE TO HELP FUND STATE PARKS AND WILDLIFE PROGRAMS AND GRANTS FREE ADMISSION TO ALL STATE PARKS TO SURCHARGED VEHICLES. INITIATIVE STATUTE.

Staff Recommendation: **NEUTRAL**

L&L Committee Recommendation: **NEUTRAL**

Establishes an \$18 annual state vehicle license surcharge and grants free admission to all state parks to surcharged vehicles. Requires deposit of surcharge revenue in a new trust fund. Requires that trust funds be used solely to operate, maintain and repair the state park system, and to protect wildlife and natural resources. Exempts commercial vehicles, trailers and trailer coaches from the surcharge. Requires annual independent audit and review by citizens oversight committee. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Increased state revenues of about \$500 million annually from the imposition of a surcharge on the VLF to be used mainly to fund state parks and wildlife conservation programs. Potential state savings of up to approximately \$200 million annually to the extent that the VLF surcharge revenues were used to reduce support from the General Fund and other special funds for parks and wildlife conservation programs. Reduction of about \$50 million annually in state and local revenues from state park day-use fees. These revenue losses could potentially be offset by increases in other types of state park user fees and revenues.

Local Impacts:

No impact to local government. Sacramento citizens will be impacted by additional vehicle license fees whether or not they visit state parks.

Supported by recreational, and nature conscious foundations.

PROPOSITION 22 – PROHIBITS THE STATE FROM TAKING FUNDS USED FOR TRANSPORTATION OR LOCAL GOVERNMENT PROJECTS AND SERVICES. INITIATIVE CONSTITUTIONAL AMENDMENT.

Staff Recommendation: **SUPPORT**

L&L Committee Recommendation: **SUPPORT**

Prohibits the State from shifting, taking, borrowing, or restricting the use of tax revenues dedicated by law to fund local government services, community redevelopment projects, or transportation projects and services. Prohibits the State from delaying the distribution of tax revenues for these purposes even when the Governor deems it necessary due to a severe state fiscal hardship. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Significant constraints on state authority over city, county, special district, and redevelopment agency funds. As a result, higher and more stable local resources, potentially affecting billions of dollars in some years. Commensurate reductions in state resources, resulting in major decreases in state spending and/or increases in state revenues.

Local Impacts:

The League of California Cities sponsored this initiative as a way to protect municipal funds. It offers critical protections to the programs that serve our residents.

Sponsored by the League of CA Cities and supported by the California Fire Chiefs Association, California police Chiefs Association, California Code Enforcement Officers Association, and several fire districts.

PROPOSITION 24 – REPEALS RECENT LEGISLATION THAT WOULD ALLOW BUSINESSES TO CARRY BACK LOSSES, SHARE TAX CREDITS, AND USE A SALES-BASED INCOME CALCULATION TO LOWER TAXABLE INCOME. INITIATIVE STATUTE.

Staff Recommendation: **NEUTRAL**

L&L Committee Recommendation: **NEUTRAL**

Repeals recent legislation that would allow businesses to shift operating losses to prior tax years and that would extend the period permitted to shift operating losses to future tax years. Repeals recent legislation that would allow corporations to share tax credits with affiliated corporations. Repeals recent legislation that would allow multistate businesses to use a sales-based income calculation, rather than a combination property-, payroll- and sales-based income calculation. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Annual state revenue increase from business taxes of about \$1.7 billion when fully phased in, beginning in 2011-12.

Effects on Education Funding and the State's General Fund. Proposition 98 (passed by the voters in 1988) determines the minimum amount of state and local funding for K-12 schools and community colleges each year. Under the formulas of Proposition 98, a significant part of Proposition 24's revenue increases would be allocated to schools and community colleges. The remaining revenues would be available to the Legislature and the Governor for any purpose.

Local Impacts: More than one-half of these estimated increased taxes would be paid by multi-state businesses as a result of the elimination of the single sales factor option. The increased revenues for education will directly benefit all California families; however, the financial impacts of the measure may be injurious to small businesses and job creation efforts.

Opposed by California Chamber of Commerce and various other chambers of commerce, and many business associations. Supported by the California Teachers Association, California Nurses Association, League of Women Voters, California Tax Reform Association.

PROPOSITION 25 – CHANGES LEGISLATIVE VOTE REQUIREMENT TO PASS A BUDGET FROM TWO THIRDS TO A SIMPLE MAJORITY. RETAINS TWO-THIRDS VOTE REQUIREMENT FOR TAXES. INITIATIVE CONSTITUTIONAL AMENDMENT.

Staff Recommendation: **SUPPORT**

L&L Committee Recommendation: **SUPPORT**

Changes the legislative vote requirement necessary to pass the state budget from two-thirds to a simple majority. Provides that if the Legislature fails to pass a budget bill by June 15, all members of the Legislature will permanently forfeit any reimbursement for salary and expenses for every day until the day the Legislature passes a budget bill. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Unknown changes in the content of the state budget from lowering the legislative vote requirement for passage. Fiscal impact would depend on the composition and actions of future Legislatures. Minor reduction in state costs related to compensation of legislators in years when the budget bill is passed after June 15.

Local Impacts:

The City of Sacramento relies on funding from the state level, having a timely budget accommodates cash flow for the State and the City.

Supported by California Nurses Association, California Federation of Teachers, California school Employees Association. Opposed by California Chamber of Commerce and other chambers of commerce, California Taxpayers' Association, and several business groups.

PROPOSITION 26 – INCREASES LEGISLATIVE VOTE REQUIREMENT TO TWO-THIRDS FOR STATE LEVIES AND CHARGES. IMPOSES ADDITIONAL REQUIREMENT FOR VOTERS TO APPROVE LOCAL LEVIES AND CHARGES WITH LIMITED EXCEPTIONS. INITIATIVE CONSTITUTIONAL AMENDMENT.

Staff Recommendation: **OPPOSE**

L&L Committee Recommendation: **OPPOSE**

Increases legislative vote requirement to two-thirds for state levies and charges, with limited exceptions, and for certain taxes currently subject to majority vote. Changes Constitution to require voters to approve, either by two-thirds or majority, local levies and charges with limited exceptions. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Potentially major decrease in state and local revenues and spending, depending upon future actions of the Legislature, local governing bodies, and local voters.

Local Impacts:

This measure broadens the definition of a state or local tax to include many payments currently considered to be fees or charges. The measure's provisions would have negative consequences on existing local authority to raise revenue.

Opposed by the League of CA Cities and the California Tax Reform Association. The Metro Chamber did not take a position on this measure. Supported by California Chamber of Commerce and other chambers of commerce, and California Taxpayers' Association and various industry associations.

**PROPOSITION 27 – ELIMINATES STATE COMMISSION ON REDISTRICTING.
CONSOLIDATES AUTHORITY FOR REDISTRICTING WITH
ELECTED REPRESENTATIVES. INITIATIVE CONSTITUTIONAL
AMENDMENT AND STATUTE.**

Staff Recommendation: **NEUTRAL**

L&L Committee Recommendation: **NO RECOMMENDATION**

Eliminates 14-member redistricting commission selected from applicant pool picked by government auditors. Consolidates authority for establishing state Assembly, Senate, and Board of Equalization district boundaries with elected state representatives responsible for drawing congressional districts. Reduces budget, and imposes limit on amount Legislature may spend, for redistricting. Provides that voters will have the authority to reject district boundary maps approved by the Legislature. Requires populations of all districts for the same office to be exactly the same. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Likely decrease in state redistricting costs totaling several million dollars every ten years.

Local Impacts:

Local impacts are impossible to predict at this time.

Opposed by Metro Chamber, and California Chamber of Commerce and various other chambers of commerce. Supported by Karen Bass and Nancy Pelosi.



RESOLUTION NO.

Adopted by the Sacramento City Council

POSITION ON THE NOVEMBER 2, 2010 STATE GENERAL ELECTION BALLOT

BACKGROUND

- A. The State of California will hold a General Election Ballot on November 2, 2010.
- B. Nine Propositions will be considered by California voters on November 2, 2010. One, Proposition 18 - the Safe, Clean, and Reliable Drinking Water Supply Act of 2010, is postponed until the November 2012 Statewide Ballot.
- C. On August 31, 2010 the City Council took an Oppose position on Proposition 23, the California Jobs Initiative.
- D. The City of Sacramento Law and Legislation Committee reviewed the remaining eight Propositions on September 21, 2010 and forwarded recommended positions on seven of the Propositions to the City Council for adoption.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Council takes the following positions:

Measure	Title	Approved Position
Proposition 19	The Regulate, Control and Tax Cannabis Act of 2010	Neutral
Proposition 20	The Voters First Act for Congress	Neutral
Proposition 21	State Parks and Wildlife Conservation Trust Fund Act	Neutral
Proposition 22	Local Taxpayer, Public Safety, and Transportation Protection Act of 2010	Support
Proposition 24	Repeals Corporate Tax Loopholes Act	Neutral
Proposition 25	On-Time Budget Act of 2010	Support
Proposition 26	Legislative Vote Requirement for State Levies and Charges	Oppose
Proposition 27	Financial Accountability in Redistricting Act or Fair Act	No Position



LAW OFFICES OF JAMES WHEATON

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27 July 2009

09-0024

Amdt. #/S

The Honorable Jerry Brown
Attorney General of California
ATTN: Mr. Neil Amos
Initiative Coordinator
Office of the Attorney General
1300 I Street, 17th floor
Sacramento, CA 95814
916/445-4752

RECEIVED

AUG 04 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

By Overnight courier

Re: Initiative Measure 09-0024: "Regulate, Control, Tax Cannabis"

Dear Mr. Amos:

Please find enclosed an amendment package for this proposed initiative measure.

The amendments are technical and nonsubstantive. They do not change the chief purposes or points of the measure.

For your convenience, a redlined copy showing the amendments is attached as Exhibit A. They are limited to pages 2, 3 and 5.

In addition, the complete text of the initiative as amended is attached as Exhibit B to this letter.

Last, I attach original signatures of the proponents approving and explaining the precise amendments. as Exhibit C.

Cordially,

James Wheaton

Enclosures: as noted

The Regulate, Control and Tax Cannabis Act of 2010

Section 1: Name

This Act shall be known as the "Regulate, Control and Tax Cannabis Act of 2010."

09 - 0024

Amdt. #1 S

Section 2: Findings, Intent and Purposes

This Act, adopted by the People of the State of California, makes the following Findings and Statement of Intent and Purpose:

A. Findings

1. California's laws criminalizing cannabis (marijuana) have failed and need to be reformed. Despite spending decades arresting millions of non-violent cannabis consumers, we have failed to control cannabis or reduce its availability.
2. According to surveys, roughly 100 million Americans (around 1/3 of the country's population) acknowledge that they have used cannabis, 15 million of those Americans having consumed cannabis in the last month. Cannabis consumption is simply a fact of life for a large percentage of Americans.
3. Despite having some of the strictest cannabis laws in the world, the United States has the largest number of cannabis consumers. The percentage of our citizens who consume cannabis is double that of the percentage of people who consume cannabis in the Netherlands, a country where the selling and adult possession of cannabis is allowed.
4. According to The National Research Council's recent study of the 11 U.S. states where cannabis is currently decriminalized, there is little apparent relationship between severity of sanctions and the rate of consumption.
5. Cannabis has fewer harmful effects than either alcohol or cigarettes, which are both legal for adult consumption. Cannabis is not physically addictive, does not have long term toxic effects on the body, and does not cause its consumers to become violent.
6. There is an estimated \$15 billion in illegal cannabis transactions in California each year. Taxing and regulating cannabis, like we do with alcohol and cigarettes, will generate

billions of dollars in annual revenues for California to fund what matters most to Californians: jobs, health care, schools and libraries, roads, and more.

7. California wastes millions of dollars a year targeting, arresting, trying, convicting, and imprisoning non-violent citizens for cannabis related offenses. This money would be better used to combat violent crimes and gangs.
8. The illegality of cannabis enables for the continuation of an out-of-control criminal market, which in turn spawns other illegal and often violent activities. Establishing legal, regulated sales outlets would put dangerous street dealers out of business.

B. Purposes

1. Reform California's cannabis laws in a way that will benefit our state.
2. Regulate cannabis like we do alcohol: Allow adults to possess and consume small amounts of cannabis.
3. Implement a legal regulatory framework to give California more control over the cultivation, processing, transportation, distribution, and sales of cannabis.
4. Implement a legal regulatory framework to better police and prevent access to and consumption of cannabis by minors in California.
5. Put dangerous, underground street dealers out of business, so their influence in our communities will fade.
6. Provide easier, safer access for patients who need cannabis for medical purposes.
7. Ensure that if a city decides not to tax and regulate the sale of cannabis, that buying and selling cannabis within that city's limits remain illegal, but that the city's citizens still have the right to possess and consume small amounts, except as permitted under Health and Safety Sections 11362.5 and 11362.7 through 11362.9.
8. Ensure that if a city decides it does want to tax and regulate the buying and selling of cannabis (to and from adults only), that a strictly controlled legal system is implemented to oversee and regulate cultivation, distribution, and sales, and that the city will have control over how and how much cannabis can be bought and sold, except as permitted

under Health and Safety Sections 11362.5 and 11362.7 through 11362.9.

9. Tax and regulate cannabis to generate billions of dollars for our state and local governments to fund what matters most: jobs, healthcare, schools and libraries, parks, roads, transportation, and more.
10. Stop arresting thousands of non-violent cannabis consumers, freeing up police resources and saving millions of dollars each year, which could be used for apprehending truly dangerous criminals and keeping them locked up, and for other essential state needs that lack funding.
11. Allow the Legislature to adopt a statewide regulatory system for a commercial cannabis industry.
12. Make cannabis available for scientific, medical, industrial, and research purposes.
13. Permit California to fulfill the state's obligations under the United States Constitution to enact laws concerning health, morals, public welfare and safety within the State.
14. Permit the cultivation of small amounts of cannabis for personal consumption.

C. Intent

1. This Act is intended to limit the application and enforcement of state and local laws relating to possession, transportation, cultivation, consumption and sale of cannabis, including but not limited to the following, whether now existing or adopted in the future: Health and Safety Code sections 11014.5 and 11364.5 [relating to drug paraphernalia]; 11054 [relating to cannabis or tetrahydrocannabinols]; 11357 [relating to possession]; 11358 [relating to cultivation]; 11359 [possession for sale]; 11360 [relating to transportation and sales]; 11366 [relating to maintenance of places]; 11366.5 [relating to use of property]; 11370 [relating to punishment]; 11470 [relating to forfeiture]; 11479 [relating to seizure and destruction]; 11703 [relating to definitions regarding illegal substances]; 11705 [actions for use of illegal controlled substance]; Vehicle Code sections 23222 and 40000.15 [relating to possession].
2. This Act is not intended to affect the application or enforcement of the following state

laws relating to public health and safety or protection of children and others: Health and Safety Code sections 11357 [relating to possession on school grounds]; 11361 [relating to minors as amended herein]; 11379.6 [relating to chemical production]; 11532 [relating to loitering to commit a crime or acts not authorized by law]; Vehicle Code section 23152 [relating to driving while under the influence]; Penal Code section 272 [relating to contributing to the delinquency of a minor]; nor any law prohibiting use of controlled substances in the workplace or by specific persons whose jobs involve public safety.

Section 3: Lawful Activities

Article 5 of Chapter 5 of Division 10 of the Health and Safety Code, commencing with section 11300 is added to read:

Section 11300: Personal Regulation and Controls

- (a) Notwithstanding any other provision of law, it is lawful and shall not be a public offense under California law for any person 21 years of age or older to:
- (i) Personally possess, process, share, or transport not more than one ounce of cannabis, solely for that individual's personal consumption, and not for sale.
 - (ii) Cultivate, on private property by the owner, lawful occupant, or other lawful resident or guest of the private property owner or lawful occupant, cannabis plants for personal consumption only, in an area of not more than twenty-five square feet per private residence or, in the absence of any residence, the parcel. Cultivation on leased or rented property may be subject to approval from the owner of the property. Provided that, nothing in this section shall permit unlawful or unlicensed cultivation of cannabis on any public lands.
 - (iii) Possess on the premises where grown the living and harvested plants and results of any harvest and processing of plants lawfully cultivated pursuant to section 11300(a)(ii), for personal consumption.
 - (iv) Possess objects, items, tools, equipment, products and materials associated with

activities permitted under this subsection.

- (b) "Personal consumption" shall include but is not limited to possession and consumption, in any form, of cannabis in a residence or other non-public place, and shall include licensed premises open to the public authorized to permit on-premises consumption of cannabis by a local government pursuant to section 11301.
- (c) "Personal consumption" shall not include, and nothing in this Act shall permit cannabis:
 - (i) possession for sale regardless of amount, except by a person who is licensed or permitted to do so under the terms of an ordinance adopted pursuant to section 11301;
 - (ii) consumption in public or in a public place;
 - (iii) consumption by the operator of any vehicle, boat or aircraft while it is being operated, or that impairs the operator;
 - (iv) smoking cannabis in any space while minors are present.

Section 11301: Commercial Regulations and Controls

Notwithstanding any other provision of state or local law, a local government may adopt ordinances, regulations, or other acts having the force of law to control, license, regulate, permit or otherwise authorize, with conditions, the following:

- (a) cultivation, processing, distribution, the safe and secure transportation, sale and possession for sale of cannabis, but only by persons and in amounts lawfully authorized;
- (b) retail sale of not more than one ounce per transaction, in licensed premises, to persons 21 years or older, for personal consumption and not for resale;
- (c) appropriate controls on cultivation, transportation, sales, and consumption of cannabis to strictly prohibit access to cannabis by persons under the age of 21;
- (d) age limits and controls to ensure that all persons present in, employed by, or in any way involved in the operation of, any such licensed premises are 21 or older;
- (e) consumption of cannabis within licensed premises;

- (f) safe and secure transportation of cannabis from a licensed premises for cultivation or processing, to a licensed premises for sale or on-premises consumption of cannabis;
- (g) prohibit and punish through civil fines or other remedies the possession, sale, possession for sale, cultivation, processing, or transportation of cannabis that was not obtained lawfully from a person pursuant to this section or section 11300;
- (h) appropriate controls on licensed premises for sale, cultivation, processing, or sale and on-premises consumption, of cannabis, including limits on zoning and land use, locations, size, hours of operation, occupancy, protection of adjoining and nearby properties and persons from unwanted exposure, advertising, signs and displays, and other controls necessary for protection of the public health and welfare;
- (i) appropriate environmental and public health controls to ensure that any licensed premises minimizes any harm to the environment, adjoining and nearby landowners, and persons passing by;
- (j) appropriate controls to restrict public displays, or public consumption of cannabis;
- (k) appropriate taxes or fees pursuant to section 11302;
- (l) such larger amounts as the local authority deems appropriate and proper under local circumstances, than those established under section 11300(a) for personal possession and cultivation, or under this section for commercial cultivation, processing, transportation and sale by persons authorized to do so under this section;
- (m) any other appropriate controls necessary for protection of the public health and welfare.

Section 11302: Imposition and Collection of Taxes and Fees

- (a) Any ordinance, regulation or other act adopted pursuant to section 11301 may include imposition of appropriate general, special or excise, transfer or transaction taxes, benefit assessments, or fees, on any activity authorized pursuant to such enactment, in order to permit the local government to raise revenue, or to recoup any direct or indirect costs associated with the authorized activity, or the permitting or licensing scheme, including

without limitation: administration; applications and issuance of licenses or permits; inspection of licensed premises and other enforcement of ordinances adopted under section 11301, including enforcement against unauthorized activities.

- (b) Any licensed premises shall be responsible for paying all federal, state and local taxes, fees, fines, penalties or other financial responsibility imposed on all or similarly situated businesses, facilities or premises, including without limitation income taxes, business taxes, license fees, and property taxes, without regard to or identification of the business or items or services sold.

Section 11303: Seizure

- (a) Notwithstanding sections 11470 and 11479 of the Health and Safety Code or any other provision of law, no state or local law enforcement agency or official shall attempt to, threaten to, or in fact seize or destroy any cannabis plant, cannabis seeds or cannabis that is lawfully cultivated, processed, transported, possessed, possessed for sale, sold or used in compliance with this Act or any local government ordinance, law or regulation adopted pursuant to this Act.

Section 11304: Effect of Act and Definitions

- (a) This Act shall not be construed to affect, limit or amend any statute that forbids impairment while engaging in dangerous activities such as driving, or that penalizes bringing cannabis to a school enrolling pupils in any grade from kindergarten through 12, inclusive.
- (b) Nothing in this Act shall be construed or interpreted to permit interstate or international transportation of cannabis. This Act shall be construed to permit a person to transport cannabis in a safe and secure manner from a licensed premises in one city or county to a licensed premises in another city or county pursuant to any ordinances adopted in such cities or counties, notwithstanding any other state law or the lack of any such ordinance

in the intervening cities or counties.

- (c) No person shall be punished, fined, discriminated against, or be denied any right or privilege for lawfully engaging in any conduct permitted by this Act or authorized pursuant to Section 11301 of this Act. Provided however, that the existing right of an employer to address consumption that actually impairs job performance by an employee shall not be affected.

(d) Definitions

For purposes of this Act:

- (i) "Marijuana" and "cannabis" are interchangeable terms that mean all parts of the plant Genus Cannabis, whether growing or not; the resin extracted from any part of the plant; concentrated cannabis; edible products containing same; and every active compound, manufacture, derivative, or preparation of the plant, or resin.
- (ii) "One ounce" means 28.5 grams.
- (iii) For purposes of section 11300(a)(ii) "cannabis plant" means all parts of a living Cannabis plant.
- (iv) In determining whether an amount of cannabis is or is not in excess of the amounts permitted by this Act, the following shall apply:
- (a) only the active amount of the cannabis in an edible cannabis product shall be included;
- (b) living and harvested cannabis plants shall be assessed by square footage, not by weight in determining the amounts set forth in section 11300(a);
- (c) in a criminal proceeding a person accused of violating a limitation in this Act shall have the right to an affirmative defense that the cannabis was reasonably related to his or her personal consumption.
- (v) "residence" means a dwelling or structure, whether permanent or temporary, on private or public property, intended for occupation by a person or persons for residential purposes, and includes that portion of any structure intended for both

commercial and residential purposes.

- (vi) "local government" means a city, county, or city and county.
- (vii) "licensed premises" is any commercial business, facility, building, land or area that has a license, permit or is otherwise authorized to cultivate, process, transport, sell, or permit on-premises consumption, of cannabis pursuant to any ordinance or regulation adopted by a local government pursuant to section 11301, or any subsequently enacted state statute or regulation.

Section 4: Prohibition on Furnishing Marijuana to Minors

Section 11361 of the Health and Safety Code is amended to read:

Prohibition on Furnishing Marijuana to Minors

- (a) Every person 18 years of age or over who hires, employs, or uses a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling any marijuana, who unlawfully sells, or offers to sell, any marijuana to a minor, or who furnishes, administers, or gives, or offers to furnish, administer, or give any marijuana to a minor under 14 years of age, or who induces a minor to use marijuana in violation of law shall be punished by imprisonment in the state prison for a period of three, five, or seven years.
- (b) Every person 18 years of age or over who furnishes, administers, or gives, or offers to furnish, administer, or give, any marijuana to a minor 14 years of age or older shall be punished by imprisonment in the state prison for a period of three, four, or five years.
- (c) Every person 21 years of age or over who knowingly furnishes, administers, or gives, or offers to furnish, administer or give, any marijuana to a person aged 18 years or older, but younger than 21 years of age, shall be punished by imprisonment in the county jail for a period of up to six months and be fined up to \$1,000 for each offense.
- (d) In addition to the penalties above, any person who is licensed, permitted or authorized to perform any act pursuant to Section 11301, who while so licensed, permitted or authorized, negligently furnishes, administers, gives or sells, or offers to furnish, administer, give or sell, any

marijuana to any person younger than 21 years of age shall not be permitted to own, operate, be employed by, assist or enter any licensed premises authorized under Section 11301 for a period of one year.

Section 5: Amendment

Pursuant to Article 2, section 10(c) of the California Constitution, this Act may be amended either by a subsequent measure submitted to a vote of the People at a statewide election; or by statute validly passed by the Legislature and signed by the Governor, but only to further the purposes of the Act. Such permitted amendments include but are not limited to:

- (a) Amendments to the limitations in section 11300, which limitations are minimum thresholds and the Legislature may adopt less restrictive limitations.
- (b) Statutes and authorize regulations to further the purposes of the Act to establish a statewide regulatory system for a commercial cannabis industry that addresses some or all of the items referenced in Sections 11301 and 11302.
- (c) Laws to authorize the production of hemp or non-active cannabis for horticultural and industrial purposes.

Section 6: Severability

If any provision of this measure or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the measure that can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

September 1, 2009

The Honorable Edmund G. Brown, Jr.
Attorney General
1300 I Street
Sacramento, CA 95814

09 - 0027

RECEIVED

SEP 02 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Krystal Paris, Initiative Coordinator

Re: Request to Prepare Title and Summary—Initiative Amendment

Dear Mr. Brown,

This letter is to request that the Attorney General prepare a title and summary of the enclosed measure, the "Voters FIRST Act for Congress."

The proponent of this measure is Mr. Charles T. Munger, Jr.

Please also find enclosed the statement required under Elections Code Section 9608, and the address at which I, Mr. Charles T. Munger, Jr., am currently registered to vote, and a check made payable to the State of California in the amount of \$200.00.

Please direct any inquiries of the office of Attorney General regarding this request to me at the address at which I am registered to vote, or by telephone to the number included with that address. The address and telephone number may be found on the statement enclosed.

Past practice indicates that this cover letter will be posted and accessible to the public on the website of the Attorney General. Any member of the public wishing to request to discuss the measure with me, or who has specific changes to the text of the measure to propose, may send a note to me by electronic mail to

votersfirstactforcongress@gmail.com

Please note, however, that any changes to the measure will be made (by filing a new, revised, and final measure and withdrawing the present one) by September 25, 2009, or very shortly thereafter.

Sincerely yours,

Charles T. Munger, Jr.

THE VOTERS FIRST ACT FOR CONGRESS

SECTION 1. Title.

This act shall be known and may be cited as the "Voters FIRST Act for Congress."

SEC. 2. Findings and Purpose.

The People of the State of California hereby make the following findings and declare their purpose in enacting this act is as follows:

- (a) Under current law, California legislators draw the districts for Congress. Allowing politicians to draw these districts, to make them safe for incumbents, or to tailor the districts for the election of themselves or their friends, or to bar the districts to the election of their adversaries, is a serious abuse that harms voters.
- (b) Politicians draw districts that serve their interests, not those of our communities. Cities, counties, and communities are currently split between bizarrely jagged Congressional districts designed to make those districts safe for particular parties and particular incumbents. We need reform to keep our communities together so everyone has representation.
- (c) This reform will make the redistricting process for Congress open so it cannot be controlled by whichever party is in power. It will give the redistricting for Congress to the independent Citizens Redistricting Commission, which already has the authority to draw the districts for the Legislature and the Board of Equalization. The membership of the Commission will have three groups of members: five Democrats; five Republicans; and four members registered with neither of those parties, who will carry the voices of independent and minor-party voters who are completely shut out of the current process. The new districts will be fair because support from all three groups is required for approval of any new redistricting plan.
- (d) The independent Citizens Redistricting Commission will draw districts based on strict, nonpartisan rules designed to ensure fair representation. This reform takes redistricting of Congress out of the partisan battles of the Legislature and guarantees redistricting for Congress will be debated in the open in public meetings. All minutes will be posted publicly on the Internet. Every aspect of this process will be open to scrutiny by the public and the press.
- (e) In the current process, politicians are choosing the voters instead of voters having a real choice. This reform will put the voters back in charge.

SEC. 3. Amendment of Article XXI of the California Constitution.

SEC. 3.1. Section 1 of Article XXI of the California Constitution is amended to read:

SEC. 1. In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the Citizens Redistricting Commission described in Section 2 shall adjust the boundary lines of the Congressional, State Senatorial, Assembly, and Board of Equalization districts (also known as "redistricting") in conformance with the following standards and process set forth in Section 2.

- (a) Each member of Congress shall be elected from a single member district.

~~(b) The population of all congressional districts shall be reasonably equal. After following this criterion, the Legislature shall adjust the boundary lines according to the criteria set forth and prioritized in paragraphs (2), (3), (4) and (5) of subdivision (d) of Section 2. The Legislature shall issue, with its final map, a report that explains the basis on which it made its decisions in achieving compliance with these criteria and shall include definitions of the terms and standards used in drawing its final map.~~

~~(c) Congressional districts shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.~~

~~(d) The Legislature shall coordinate with the Citizens Redistricting Commission established pursuant to Section 2 to hold concurrent hearings, provide access to redistricting data and software, and otherwise ensure full public participation in the redistricting process. The Legislature shall comply with the open hearing requirements of paragraphs (1), (2), (3), and (7) of subdivision (a) of, and subdivision (b) of, Section 8253 of the California Government Code, or its successor provisions of statute.~~

SEC. 3.2. Section 2 of Article XXI of the California Constitution is amended to read:

SEC. 2. (a) The Citizens Redistricting Commission ~~shall draw new district lines (also known as "redistricting") for State Senate, Assembly, and Board of Equalization districts. This commission shall be created no later than December 31 in 2010, and in each year ending in the number zero thereafter.~~

(b) ~~The Citizens Redistricting Commission (hereinafter the "commission") shall:~~ (1) conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines; (2) draw district lines according to the redistricting criteria specified in this article; and (3) conduct themselves with integrity and fairness.

(c) (1) The selection process is designed to produce a ~~Citizens Redistricting Commission~~ that is independent from legislative influence and reasonably representative of this State's diversity.

(2) ~~The Citizens Redistricting Commission~~ shall consist of 14 members, as follows: five who are registered with the largest political party in California based on registration, five who are registered with the second largest political party in California based on registration, and four who are not registered with either of the two largest political parties in California based on registration.

(3) Each commission member shall be a voter who has been continuously registered in California with the same political party or unaffiliated with a political party and who has not changed political party affiliation for five or more years immediately preceding the date of his or her appointment. Each commission member shall have voted in two of the last three statewide general elections immediately preceding his or her application.

(4) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.

(5) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action. The ~~three~~ four final redistricting maps must be approved by at least nine affirmative votes which must include at least three votes of members registered from each of the two largest political parties in California based on

registration and three votes from members who are not registered with either of these two political parties.

(6) Each commission member shall apply this article in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A commission member shall be ineligible for a period of ten years beginning from the date of appointment to hold elective public office at the federal, state, county or city level in this State. A member of the commission shall be ineligible for a period of five years beginning from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staff for, or as a paid consultant to, the Board of Equalization, the Congress, the Legislature, or any individual legislator, or to register as a federal, state or local lobbyist in this State.

(d) The commission shall establish single-member districts for the Senate, Assembly, Congress, and State Board of Equalization pursuant to a mapping process using the following criteria as set forth in the following order of priority:

(1) Districts shall comply with the United States Constitution. Congressional districts shall achieve population equality as nearly as is practicable, and Senatorial, Assembly, and State Board of Equalization districts shall have reasonably equal population with other districts for the same office, except where deviation is required to comply with the federal Voting Rights Act or allowable by law.

(2) Districts shall comply with the federal Voting Rights Act (42 U.S.C. Sec. 1971 and following).

(3) Districts shall be geographically contiguous.

(4) The geographic integrity of any city, county, city and county, local neighborhood, or local community of interest shall be respected in a manner that minimizes their division to the extent possible without violating the requirements of any of the preceding subdivisions. A community of interest is a contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Examples of such shared interests are those common to an urban area, a rural area, an industrial area, or an agricultural area, and those common to areas in which the people share similar living standards, use the same transportation facilities, have similar work opportunities, or have access to the same media of communication relevant to the election process. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

(5) To the extent practicable, and where this does not conflict with the criteria above, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant population.

(6) To the extent practicable, and where this does not conflict with the criteria above, each Senate district shall be comprised of two whole, complete, and adjacent Assembly districts, and each Board of Equalization district shall be comprised of 10 whole, complete, and adjacent Senate districts.

(e) The place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.

(f) Districts for the Congress, Senate, Assembly, and State Board of Equalization shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

(g) By ~~September~~ August 15 in 2011, and in each year ending in the number one thereafter, the commission shall approve ~~four~~ three final maps that separately set forth the district boundary lines for the Congressional, Senatorial, Assembly, and State Board of Equalization districts. Upon approval, the commission shall certify the ~~four~~ three final maps to the Secretary of State.

(h) The commission shall issue, with each of the ~~four~~ three final maps, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria listed in subdivision (d) and shall include definitions of the terms and standards used in drawing each final map.

(i) Each certified final map shall be subject to referendum in the same manner that a statute is subject to referendum pursuant to Section 9 of Article II. The date of certification of a final map to the Secretary of State shall be deemed the enactment date for purposes of Section 9 of Article II.

(j) If the commission does not approve a final map by at least the requisite votes or if voters disapprove a certified final map in a referendum, the Secretary of State shall immediately petition the California Supreme Court for an order directing the appointment of special masters to adjust the boundary lines of that map in accordance with the redistricting criteria and requirements set forth in subdivisions (d), (e), and (f). Upon its approval of the masters' map, the court shall certify the resulting map to the Secretary of State, which map shall constitute the certified final map for the subject type of district.

SEC. 3.3. Section 3 of Article XXI of the California Constitution is amended to read:

SEC. 3. (a) The commission has the sole legal standing to defend any action regarding a certified final map, and shall inform the Legislature if it determines that funds or other resources provided for the operation of the commission are not adequate. The Legislature shall provide adequate funding to defend any action regarding a certified map. The commission has sole authority to determine whether the Attorney General or other legal counsel retained by the commission shall assist in the defense of a certified final map.

(b) (1) The California Supreme Court has original and exclusive jurisdiction in all proceedings in which a certified final map is challenged or is claimed not to have taken timely effect.

(2) Any registered voter in this state may file a petition for a writ of mandate or writ of prohibition, within 45 days after the commission has certified a final map to the Secretary of State, to bar the Secretary of State from implementing the plan on the grounds that the filed plan violates this Constitution, the United States Constitution, or any federal or state statute. Any registered voter in this state may also file a petition for a writ of mandate or writ of prohibition to seek relief where a certified final map is subject to a referendum measure that is likely to qualify and stay the timely implementation of the map.

(3) The California Supreme Court shall give priority to ruling on a petition for a writ of mandate or a writ of prohibition filed pursuant to paragraph (2). If the court determines that a final certified map violates this Constitution, the United States Constitution, or any federal or state statute, the court shall fashion the relief that it deems appropriate, including, but not limited to, the relief set forth in Section 2, subdivision (j).

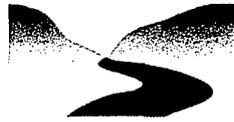
SEC. 4. Conflicting Ballot Propositions.

(a) In the event this measure and another measure or measures relating to the redistricting of Senatorial, Assembly, Congressional, or Board of Equalization districts are approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure or measures, this measure shall control in its entirety and the other measure or measures shall be rendered void and without any legal effect. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than the other measure or measures, this measure shall take effect to the extent permitted by law.

(b) If this measure is approved by voters but is superseded in whole or in part by the provisions of any other conflicting measure approved by the voters and receiving a greater number of affirmative votes at the same election, and the conflicting measure or any superseding provisions thereof are subsequently held to be invalid, the formerly superseded provisions of this measure shall be self-executing and given full force of law.

SEC. 5. Severability.

The provisions of this act are severable. If any provision of this act or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect in the absence of the invalid provision or application.



CONSERVATION
STRATEGY GROUP

November 3, 2009

Ms. Krystal Paris
Initiative Coordinator
Office of the Attorney General
1300 I Street
Sacramento, CA 95814

09-0072
RECEIVED

NOV 03 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary for Proposed Initiative titled State Parks and
Wildlife Conservation Trust Fund Act

Dear Ms. Paris,

I respectfully request that the Attorney General prepare Title and Summary for the enclosed proposed initiative titled "State Parks and Wildlife Conservation Trust Fund Act." Also enclosed is a check payable to the State of California in the amount of \$200.00, the required signed statement pursuant to Elections Code 9068, and my voter registration address.

Should you have any questions or require any additional information please contact me at 1100 11th Street, Suite 200, Sacramento, CA 95814, (916)558-1516.

 Joseph L. Caves on behalf of
Californians for State Parks and Wildlife Conservation

09 - 0072

State Parks and Wildlife Conservation Trust Fund Act

The People of the State of California find and declare all of the following:

(1) California's natural resources and wildlife must be preserved and protected for future generations.

(2) The California State Park System is essential to protecting these resources for the people of California. Along with the wildlife protection and conservation agencies of the state, the State Park System is responsible for preserving the state's unique wildlife, natural lands and ocean resources.

(3) Persistent underfunding of the State Park System and wildlife conservation has resulted in a backlog of more than a billion dollars in needed repairs and improvements, threatens the closure of parks throughout the state and the loss of protection for many of the state's most important natural and cultural resources, recreational opportunities and wildlife habitat.

(4) California's State Park System benefits all Californians by providing opportunities for recreation, nature education, preservation of cultural and historic landmarks, and by protecting natural resources that improve the state's air and water quality.

(5) Californians deserve a world-class State Park System that will preserve and protect the unique natural and cultural resources of the state for future generations.

(6) Rebuilding the State Park System and protecting the state's wildlife resources will grow California's economy and create jobs by drawing millions of tourists each year to contribute to the state's multibillion dollar tourism economy.

(7) It is the intent of the People in enacting this measure to protect the state's resources and wildlife by establishing a stable, reliable, and adequate funding source for the State Park System and for wildlife conservation, and to provide increased and equitable access to those resources for all Californians.

(8) It is further the intent of the People that the State Park System be operated and maintained at a level of excellence, allow increased access to state parks for all Californians while continuing to charge out of state visitors for the use of state parks, and protect the state's natural and cultural resources, recreational opportunities, and wildlife for future generations.

Chapter 1.21 is added to the Public Resources Code, to read:

Chapter 1.21 State Parks and Wildlife Conservation Trust Fund Act

Article 1. Trust Fund

5081. There is hereby established the State Parks and Wildlife Conservation Trust Fund in the State Treasury. All money deposited in the fund shall be held in trust for the People of the State of California and used solely for the purposes of this chapter. The moneys in the fund shall be available for appropriation only for the following purposes:

- (a) Operation, maintenance, and repair of facilities, including visitor centers, restrooms, campsites, and ranger stations, in the State Park System.
- (b) Wildlife conservation and protection of natural resources, including forests, other natural lands, and lands that provide clean water, clean air and protect the health of people and nature.
- (c) Expanding public access to the State Park System and natural areas through outreach, public education, improved transportation access and providing for the safety and security of park visitors.
- (d) Development, management and expansion of state park units and facilities as needed to provide and enhance public access and recreational opportunities.
- (e) Protecting rivers, lakes, streams, coastal waters and marine resources.
- (f) Grants to local agencies that operate units of the State Park System to offset the loss of day use revenues as provided in this chapter, and to state and local agencies that manage river parkways.
- (g) Protecting and restoring state park cultural and historical resources.
- (h) Auditing and oversight of the implementation of this act to ensure that funds are only spent in accordance with the provisions of this act and are not diverted or misspent.
- (i) Other costs related to the operation and management of the State Park System.
- (j) Collection costs for the State Park Access Pass.

5082. The Department of Parks and Recreation shall prepare a strategic plan to improve access to the State Park System that addresses the needs of each region of the state and identifies

programs and policies consistent with this act to improve access to state parks and state park services and benefits to underserved groups and regions.

5082.5. For the purposes of this chapter “fund” means the State Park and Wildlife Conservation Trust Fund.

5082.6. For the purposes of this chapter “department” means the Department of Parks and Recreation.

5082.7. For the purposes of this chapter, “wildlife” has the same meaning as provided in Section 711.2 of the Fish and Game Code.

Article 2. Fiscal Accountability and Oversight

5085. (a) The State Parks and Wildlife Conservation Trust Fund shall be subject to an annual independent audit by the State Auditor that shall be released to the public, placed on the department’s website, and submitted to the Legislature for review as part of the State Budget.

(b) Up to 1% of the annual revenues of the fund may be used for auditing, oversight and administrative costs for this article and costs for collection of the State Parks Access Pass.

(c) The Secretary of Natural Resources shall establish a Citizens Oversight Committee to review the annual audit and issue a public report on the implementation of the this act and its effectiveness at protecting state parks and natural resources. Members shall include citizens with expertise in business and finance, park management, natural resource protection, cultural and historical resource protection, and other disciplines as may be deemed necessary by the Secretary.

5085.5. Funds deposited into the State Parks and Wildlife Conservation Trust Fund, together with any interest earned by the fund, shall be used solely for the purpose of this chapter and shall not be subject to appropriation, reversion, or transfer for any other purpose, may not be loaned to the General Fund or any other fund for any purpose and shall not be used for the payment of interest, principal or other costs related to general obligation bonds.

5086. Notwithstanding any other provision of law, all state park fee and concession revenues shall be deposited into the State Parks and Recreation Fund pursuant to Section 5010, and, together with any interest earned thereon, shall be available for appropriation only to the Department of Parks and Recreation for operation, management, planning and development of the State Park System and shall not be subject to appropriation, reversion, or transfer for any other purpose, may not be loaned to the General Fund or any other fund for any purpose and

shall not be used for the payment of interest, principal or other costs related to general obligation bonds.

5086.5. It is the intent of the people in enacting this chapter to provide a stable and adequate level of funding to the Department of Parks and Recreation. General Fund monies used to support the department may be reallocated to other uses if the Legislature determines that the financial resources provided from the State Parks and Wildlife Conservation Trust Fund and the State Parks and Recreation Fund are adequate to fully maintain and operate the State Park System.

Article 3. State Park Access Pass

5087. (a) All California vehicles subject to the State Park Access Pass shall have free admission to all units of the state park system and to designated state lands and wildlife areas as provided in this chapter.

(b) For the purposes of this section "free admission" means free vehicle admission, parking and day use at all units of the State Park System and shall be subject only to those limitations as the department deems necessary to manage the State Park System to avoid overcrowding and damage to natural and cultural resources and for public health and safety. Other state and local agencies shall designate those lands whose management and operation is funded pursuant to this chapter for free vehicle access where such access is consistent with the management objectives of the land. As used in this subdivision, free admission does not include camping, tour fees, swimming pool fees, the use of boating facilities, museum and special event fees, any supplemental fees, or special event parking fees.

5087.1. The department shall issue rebates of the State Park Access Pass surcharge to veterans who qualify for a park fee exemption pursuant to Section 5011.5.

Article 4. Allocation of State Park and Wildlife Conservation Trust Fund Revenues

5088. Except for the costs pursuant to Article 2 of audits, oversight and collection costs, all funds deposited in the State Park and Wildlife Conservation Trust Fund shall be allocated only to the following agencies and as provided in this section:

(a) Eighty five percent (85%) shall be available for appropriation from the fund to the Department of Parks and Recreation. Except for costs for grants and grant management pursuant to Section 5088.1., all funds allocated for appropriation to the Department of Parks and Recreation shall be used only for operation, management, planning and development of the State Park System.

(b) Seven percent (7%) shall be available for appropriation from the fund to the Department of Fish and Game for the management and operation of wildlife refuges, ecological reserves and other lands owned or managed by the Department of Fish and Game for wildlife conservation.

(c) Four percent (4%) shall be available for appropriation from the fund to the Ocean Protection Council for marine wildlife conservation and the protection of coastal waters, with first priority given to the development, operation, management, and monitoring of marine protected areas.

(d) Two percent (2%) shall be available for appropriation from the fund to state conservancies for management, operation and wildlife conservation on state lands that are managed for park and wildlife habitat purposes by those conservancies. A state conservancy may provide grants to a local agency that assists the conservancy in managing state owned lands under that conservancy's jurisdiction.

(e) Two percent (2%) shall be available for appropriation from the fund to the Wildlife Conservation Board for grants to local public agencies for wildlife conservation.

5088.1. The department shall develop and administer a program of grants to public agencies to enhance the operation, management and restoration of urban river parkways providing recreational benefits and access to open space and wildlife areas to underserved urban communities. The department shall allocate each year an amount equal to four percent (4%) of the funds deposited in the State Park and Wildlife Conservation Trust Fund from the funds the department receives pursuant to subdivision (a) of Section 5088. For the purposes of this section, "public agencies" means state agencies, cities, counties, cities and counties, local park districts, and joint powers authorities. In consultation with the California River Parkway Program (Chapter 3.8 (commencing with Section 5750) of Division 5), the department shall adopt best management practices for stewardship, operation, and management of urban river parkways. The department shall consider those best management practices and providing continuity of funding for urban river parkways when allocating grant funds pursuant to this section. The department shall give highest priority for grants to urban river parkways that benefit the most underserved communities.

5088.2. The department shall provide grants to local agencies operating units of the State Park System to assist in the operation and maintenance of those units. The department shall first grant available funds to local agencies operating units of the State Park System that, prior to the implementation of this chapter, charged entry or parking fees on vehicles, and shall allocate any remaining funds, on a pro-rated basis, to local agencies to assist in the operation and maintenance of state park units managed by local agencies, based on the average annual operating expenses of those units over the three previous years, as certified by the Chief

Financial Officer of such local agency. Of the funds provided in subdivision (a) of Section 5088, an amount equal to five percent (5%) of the amount deposited in the fund shall be available for appropriation for the purposes of this section. The department shall develop guidelines for the implementation of this section.

5089. For the purposes of this chapter, eligible expenditures for wildlife conservation include direct expenditures and grants for operation, management, development, restoration, maintenance, law enforcement and public safety, interpretation, costs to provide appropriate public access, and other costs necessary for the protection and management of natural resources and wildlife including scientific monitoring and analysis required for adaptive management.

5090. Funds provided pursuant to this chapter, and any appropriation or transfer of those funds, shall not be deemed to be a transfer of funds for the purposes of Chapter 9 (commencing with Section 2780) of Division 3 of the Fish and Game Code.

SEC. 2. Section 10751.5 is added to the Revenue and Taxation Code, to read:

10751.5. (a) Except as provided in subdivision (b), in addition to the license fee imposed pursuant to Section 10751, for licenses and renewals on or after January 1, 2011, there shall also be imposed an annual surcharge, to be called the State Parks Access Pass, in the amount of eighteen dollars (\$18) on every vehicle subject to the license fee imposed by that section. All revenues from the surcharge shall be deposited into the State Parks and Wildlife Conservation Trust Fund pursuant to subdivision (a) of Section 5081 of the Public Resources Code.

(b) The surcharge established in subdivision (a) shall not apply to the following vehicles:

- (1) Vehicles subject to the Commercial Vehicle Registration Act (Section 4000.6 of the Vehicle Code).
- (2) Trailers subject to Section 5014.1 of the Vehicle Code.
- (3) Trailer coaches as defined by Section 635 of the Vehicle Code.

October 26, 2009

09 - 0063

Amdt. #1NS

VIA PERSONAL DELIVERY

The Honorable Edmund G. Brown, Jr.
Attorney General
1300 I Street
Sacramento, CA 95814

RECEIVED

OCT 26 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Krystal Paris, Initiative Coordinator

Re: Request to Make Non-Substantive Amendments to Initiative No. 09-0063

Dear Mr. Brown:

Attached are two Amendments to Initiative No. 09-0063, filed October 20, 2009. First, the Initiative designates two sections, the Findings and Declarations and Statement of Purpose, as "Section Two." The first amendment renumbers the Statement of Purpose as "Section Two and One-Half." Second, in Section 7 of the Initiative, the numbering of the subdivisions in Cal. Const. Art. XIX B, section 2 jumps from "(d)" to "(f)" without including a subdivision "(e)." The second amendment renumbers subdivisions (f) through (i) of section 2 of Article XIX B as subdivisions (e) through (h) so that a subdivision (e) is included between subdivisions (d) and (f). The proponents believe these changes are non-substantive.

Thank you for your assistance.

Sincerely,

Enclosure: Proposed Initiative

PROPONENTS:

Joshua Shaw

Christopher K. McKenzie

James N. Earp

09 - 0063

Amdt. #1NS

Section One. Title.

This act shall be known and may be cited as the "Local Taxpayer, Public Safety, and Transportation Protection Act of 2010."

Section Two. Findings and Declarations.

The people of the State of California find and declare that:

(a) In order to maintain local control over local taxpayer funds and protect vital services like local fire protection and 9-1-1 emergency response, law enforcement, emergency room care, public transit, and transportation improvements, California voters have repeatedly and overwhelmingly voted to restrict state politicians in Sacramento from taking revenues dedicated to funding local government services and dedicated to funding transportation improvement projects and services.

(b) By taking these actions, voters have acknowledged the critical importance of preventing State raids of revenues dedicated to funding vital local government services and transportation improvement projects and services.

(c) Despite the fact that voters have repeatedly passed measures to prevent the State from taking these revenues dedicated to funding local government services and transportation improvement projects and services, state politicians in Sacramento have seized and borrowed billions of dollars in local government and transportation funds.

(d) In recent years, state politicians in Sacramento have specifically:

(1) Borrowed billions of dollars in local property tax revenues that would otherwise be used to fund local police, fire and paramedic response and other vital local services;

(2) Sought to take and borrow billions of dollars in gas tax revenues that voters have dedicated to on-going transportation projects and tried to use them for non-transportation purposes;

(3) Taken local community redevelopment funds on numerous occasions and used them for unrelated purposes;

(4) Taken billions of dollars from local public transit like bus, shuttle, light-rail and regional commuter rail, and used these funds for unrelated state purposes.

(e) The continued raiding and borrowing of revenues dedicated to funding local government services and dedicated to funding transportation improvement projects can cause

severe consequences, such as layoffs of police, fire and paramedic first responders, fire station closures, healthcare cutbacks, delays in road safety improvements, public transit fare increases and cutbacks in public transit services.

(f) State politicians in Sacramento have continued to ignore the will of the voters, and current law provides no penalties when state politicians take or borrow these dedicated funds.

(g) It is hereby resolved, that with approval of this ballot initiative, state politicians in Sacramento shall be prohibited from seizing, diverting, shifting, borrowing, transferring, suspending or otherwise taking or interfering with tax revenues dedicated to funding local government services or dedicated to transportation improvement projects and services.

Section Two and One-Half. Statement of Purpose.

The purpose of this measure is to conclusively and completely prohibit state politicians in Sacramento from seizing, diverting, shifting, borrowing, transferring, suspending or otherwise taking or interfering with revenues that are dedicated to funding services provided by local government or funds dedicated to transportation improvement projects and services.

Section Three. Section 24 of Article XIII of the California Constitution is hereby amended to read as follows:

(a) The Legislature may not impose taxes for local purposes but may authorize local governments to impose them.

(b) The Legislature may not reallocate, transfer, borrow, appropriate, restrict the use of, or otherwise use the proceeds of any tax imposed or levied by a local government solely for the local government's purposes.

(c) Money appropriated from state funds to a local government for its local purposes may be used as provided by law.

(d) Money subvended to a local government under Section 25 may be used for state or local purposes.

Section Four. Section 25.5 of Article XIII of the California Constitution is hereby amended to read as follows:

SEC. 25.5. (a) On or after November 3, 2004, the Legislature shall not enact a statute to do any of the following:

(1) (A) Except as otherwise provided in subparagraph (B), modify the manner in which ad valorem property tax revenues are allocated in accordance with subdivision (a) of Section 1 of Article XIII A so as to reduce for any fiscal year the percentage of the total amount of ad valorem property tax revenues in a county that is allocated among all of the local agencies in that county below the percentage of the total amount of those revenues that would be allocated among those agencies for the same fiscal year under the statutes in effect on November 3, 2004. For purposes of this subparagraph, "percentage" does not include any property tax revenues referenced in paragraph (2).

(B) ~~Beginning with the 2008-09~~ In the 2009-10 fiscal year only, and except as otherwise provided in subparagraph (C), subparagraph (A) may be suspended for a that fiscal year if all of the following conditions are met:

(i) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of subparagraph (A) is necessary.

(ii) The Legislature enacts an urgency statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, that contains a suspension of subparagraph (A) for that fiscal year and does not contain any other provision.

(iii) No later than the effective date of the statute described in clause (ii), a statute is enacted that provides for the full repayment to local agencies of the total amount of revenue losses, including interest as provided by law, resulting from the modification of ad valorem property tax revenue allocations to local agencies. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the modification applies.

~~(C)(i) Subparagraph (A) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year for which subparagraph (A) is suspended.~~

~~(ii) Subparagraph (A) shall not be suspended during any fiscal year if the full repayment required by a statute enacted in accordance with clause (iii) of subparagraph (B) has not yet been completed.~~

~~(iii) Subparagraph (A) shall not be suspended during any fiscal year if the amount that was required to be paid to cities, counties, and cities and counties under Section 10754.11 of the Revenue and Taxation Code, as that section read on November 3, 2004, has not been paid in full prior to the effective date of the statute providing for that suspension as described in clause (ii) of subparagraph (B).~~

(iv) (C) A suspension of subparagraph (A) shall not result in a total ad valorem property tax revenue loss to all local agencies within a county that exceeds 8 percent of the total amount of ad valorem property tax revenues that were allocated among all local agencies within that county for the fiscal year immediately preceding the fiscal year for which subparagraph (A) is suspended.

(2)(A) Except as otherwise provided in subparagraphs (B) and (C), restrict the authority of a city, county, or city and county to impose a tax rate under, or change the method of distributing revenues derived under, the Bradley-Burns Uniform Local Sales and Use Tax Law set forth in Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, as that law read on November 3, 2004. The restriction imposed by this subparagraph also applies to the entitlement of a city, county, or city and county to the change in tax rate resulting from the end of the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004.

(B) The Legislature may change by statute the method of distributing the revenues derived under a use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law to allow the State to participate in an interstate compact or to comply with federal law.

(C) The Legislature may authorize by statute two or more specifically identified local agencies within a county, with the approval of the governing body of each of those agencies, to enter into a contract to exchange allocations of ad valorem property tax revenues for revenues derived from a tax rate imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law. The exchange under this subparagraph of revenues derived from a tax rate imposed under that law shall not require voter approval for the continued imposition of any portion of an existing tax rate from which those revenues are derived.

(3) Except as otherwise provided in subparagraph (C) of paragraph (2), change for any fiscal year the pro rata shares in which ad valorem property tax revenues are allocated among local agencies in a county other than pursuant to a bill passed in each house of the Legislature by roll call vote entered in the journal, two-thirds of the membership concurring. The Legislature shall not change the pro rata shares of ad valorem property tax pursuant to this paragraph, nor change the allocation of the revenues described in Section 15 of Article XI, to reimburse a local government when the Legislature or any state agency mandates a new program or higher level of service on that local government.

(4) Extend beyond the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004, the suspension of the authority, set forth in that section on that date, of a city, county, or city and county to impose a sales and use tax rate under the Bradley-Burns Uniform Local Sales and Use Tax Law.

(5) Reduce, during any period in which the rate authority suspension described in paragraph (4) is operative, the payments to a city, county, or city and county that are required by Section 97.68 of the Revenue and Taxation Code, as that section read on November 3, 2004.

(6) Restrict the authority of a local entity to impose a transactions and use tax rate in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code), or change the method for distributing revenues derived under a transaction and use tax rate imposed under that law, as it read on November 3, 2004.

(7) Require a community redevelopment agency (A) to pay, remit, loan or otherwise transfer, directly or indirectly, taxes on ad valorem real property and tangible personal property allocated to the agency pursuant to Section 16 of Article XVI to or for the benefit of the State, any agency of the State, or any jurisdiction; or (B) to use, restrict, or assign a particular purpose for such taxes for the benefit of the State, any agency of the State, or any jurisdiction, other than (i) for making payments to affected taxing agencies pursuant to Sections 33607.5 and 33607.7 of Health and Safety Code or similar statutes requiring such payments, as those statutes read on January 1, 2008; or (ii) for the purpose of increasing, improving, and preserving the supply of low and moderate income housing available at affordable housing cost.

(b) For purposes of this section, the following definitions apply:

(1) "Ad valorem property tax revenues" means all revenues derived from the tax collected by a county under subdivision (a) of Section 1 of Article XIII A, regardless of any of this revenue being otherwise classified by statute.

(2) "Local agency" has the same meaning as specified in Section 95 of the Revenue and Taxation Code as that section read on November 3, 2004.

(3) "Jurisdiction" has the same meaning as specified in Section 95 of the Revenue and Taxation Code as that section read on November 3, 2004.

Section Five. Article XIX of the California Constitution is hereby amended to read as follows:

SECTION 1. The Legislature shall not borrow revenue from the Highway Users Tax Account, or its successor, and shall not use these revenues for purposes, or in ways, other than those specifically permitted by this article.

SEC. 2. Revenues from taxes imposed by the State on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be deposited into the Highway Users Tax Account (Section 2100 of the Streets and Highways Code) or its successor, which is hereby declared to be a trust

fund, and shall be allocated monthly in accordance with Section 4, and shall used solely for the following purposes:

(a) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes.

(b) The research, planning, construction, and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, the administrative costs necessarily incurred in the foregoing purposes, and the maintenance of the structures and the immediate right-of-way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services.

~~SEC. 2.~~ SEC. 3. Revenues from fees and taxes imposed by the State upon vehicles or their use or operation, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The state administration and enforcement of laws regulating the use, operation, or registration of vehicles used upon the public streets and highways of this State, including the enforcement of traffic and vehicle laws by state agencies and the mitigation of the environmental effects of motor vehicle operation due to air and sound emissions.

(b) The purposes specified in Section ~~1~~ 2 of this article.

~~SEC. 3.~~ SEC. 4. (a) Except as provided in subdivision (b), the Legislature shall provide for the allocation of the revenues to be used for the purposes specified in Section 1 of this article in a manner which ensures the continuance of existing statutory allocation formulas in effect on June 30, 2009 which allocate the revenues described in Section 2 to cities, counties, and areas of the State shall remain in effect.

(b) The Legislature shall not modify the statutory allocations in effect on June 30, 2009 unless and until both of the following have occurred:

(1) The Legislature determines in accordance with this subdivision that another basis for an equitable, geographical, and jurisdictional distribution exists; provided that, until such determination is made, any use of such revenues for purposes specified in subdivision (b) of Section 1 of this article by or in a city, county, or area of the State shall be included within the existing statutory allocations to, or for expenditure in, that city, county, or area. Any future statutory revisions shall (A) provide for the allocation of these revenues, together with other

similar revenues, in a manner which gives equal consideration to the transportation needs of all areas of the State and all segments of the population; and (B) be consistent with the orderly achievement of the adopted local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan;

(2) The process described in subdivision (c) has been completed.

(c) The Legislature shall not modify the statutory allocation pursuant to subdivision (b) until all of the following have occurred:

(1) The California Transportation Commission has held no less than four public hearings in different parts of the State to receive public input about the local and regional goals for ground transportation in that part of the State;

(2) The California Transportation Commission has published a report describing the input received at the public hearings and how the modification to the statutory allocation is consistent with the orderly achievement of local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan; and

(3) Ninety days have passed since the publication of the report by the California Transportation Commission.

(d) A statute enacted by the Legislature modifying the statutory allocations must be by a bill passed in each house of the Legislature by roll call vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision.

(e) The revenues allocated by statute to cities, counties, and areas of the State pursuant to this article may be used solely by the entity to which they are allocated, and solely for the purposes described in Sections 2, 5, or 6 of this article.

(f) The Legislature may not take any action which permanently or temporarily does any of the following: (1) changes the status of the Highway Users Tax Account as a trust fund; (2) borrows, diverts, or appropriates these revenues for purposes other than those described in subdivision (e); or (3) delays, defers, suspends, or otherwise interrupts the payment, allocation, distribution, disbursement, or transfer of revenues from taxes described in Section 2 to cities, counties, and areas of the State pursuant to the procedures in effect on June 30, 2009.

~~SEC. 4.~~ SEC. 5. Revenues allocated pursuant to Section ~~3~~ 4 may not be expended for the purposes specified in subdivision (b) of Section ~~4~~ 2, except for research and planning, until such use is approved by a majority of the votes cast on the proposition authorizing such use of

such revenues in an election held throughout the county or counties, or a specified area of a county or counties, within which the revenues are to be expended. The Legislature may authorize the revenues approved for allocation or expenditure under this section to be pledged or used for the payment of principal and interest on voter-approved bonds issued for the purposes specified in subdivision (b) of Section 4 2.

~~SEC. 5. SEC. 6. (a) The Legislature may authorize Up to 25 percent of the revenues available for expenditure by any city or county, or by the State, allocated to the State pursuant to Section 4 for the purposes specified in subdivision (a) of Section 2 of this article may be pledged or used by the State, upon approval by the voters and appropriation by the Legislature, for the payment of principal and interest on voter-approved bonds for such purposes issued by the State on and after November 2, 2010 for such purposes.~~

(b) Up to 25 percent of the revenues allocated to any city or county pursuant to Section 4 for the purposes specified in subdivision (a) of Section 2 of this article may be pledged or used only by any city or county for the payment of principal and interest on voter-approved bonds issued by that city or county for such purposes.

~~SEC. 6. The tax revenues designated under this article may be loaned to the General Fund only if one of the following conditions is imposed:~~

~~(a) That any amount loaned is to be repaid in full to the fund from which it was borrowed during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.~~

~~(b) That any amount loaned is to be repaid in full to the fund from which it was borrowed within three fiscal years from the date on which the loan was made and one of the following has occurred:~~

~~(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.~~

~~(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, adjusted for the change in the cost of living and the change in population, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year.~~

~~(c) Nothing in this section prohibits the Legislature from authorizing, by statute, loans to local transportation agencies, cities, counties, or cities and counties, from funds that are subject to this article, for the purposes authorized under this article. Any loan authorized as~~

~~described by this subdivision shall be repaid, with interest at the rate paid on money in the Pooled Money Investment Account, or any successor to that account, during the period of time that the money is loaned, to the fund from which it was borrowed, not later than four years after the date on which the loan was made.~~

SEC. 7. If the Legislature reduces or repeals the taxes described in Section 2 and adopts an alternative source of revenue to replace the moneys derived from those taxes, the replacement revenue shall be deposited into the Highway Users Tax Account, dedicated to the purposes listed in Section 2, and allocated to cities, counties, and areas of the State pursuant to Section 4. All other provisions of this article shall apply to any revenues adopted by the Legislature to replace the moneys derived from the taxes described in Section 2.

~~SEC. 7.~~ SEC. 8. This article shall not affect or apply to fees or taxes imposed pursuant to the Sales and Use Tax Law or the Vehicle License Fee Law, and all amendments and additions now or hereafter made to such statutes.

~~SEC. 8.~~ SEC. 9. Notwithstanding Sections ~~1 and 2 and 3~~ of this article, any real property acquired by the expenditure of the designated tax revenues by an entity other than the State for the purposes authorized in those sections, but no longer required for such purposes, may be used for local public park and recreational purposes.

~~SEC. 9.~~ SEC. 10. Notwithstanding any other provision of this Constitution, the Legislature, by statute, with respect to surplus state property acquired by the expenditure of tax revenues designated in Sections ~~1 and 2 and 3~~ and located in the coastal zone, may authorize the transfer of such property, for a consideration at least equal to the acquisition cost paid by the ~~s~~State to acquire the property, to the Department of Parks and Recreation for state park purposes, or to the Department of Fish and Game for the protection and preservation of fish and wildlife habitat, or to the Wildlife Conservation Board for purposes of the Wildlife Conservation Law of 1947, or to the State Coastal Conservancy for the preservation of agricultural lands.

As used in this section, "coastal zone" means "coastal zone" as defined by Section 30103 of the Public Resources Code as such zone is described on January 1, 1977.

Section Six. Article XIX A of the California Constitution is hereby amended to read as follows:

SECTION 1. (a) The Legislature shall not borrow revenues from the Public Transportation Account, or any successor account, and shall not use these revenues for purposes, or in ways, other than those specifically permitted by this article.

(b) The funds in the Public Transportation Account in the State Transportation Fund, or any successor account, is a trust fund. The Legislature may not change the status of the Public Transportation Account as a trust fund. Funds in the Public Transportation Account may

not be loaned or otherwise transferred to the General Fund or any other fund or account in the State Treasury. may be loaned to the General Fund only if one of the following conditions is imposed:

(c) All revenues specified in paragraphs (1) through (3), inclusive, of subdivision (a) of Section 7102 of the Revenue and Taxation Code, as that section read on June 1, 2001, shall be deposited no less than quarterly into the Public Transportation Account (Section 99310 of the Public Utilities Code), or its successor. The Legislature may not take any action which temporarily or permanently diverts or appropriates these revenues for purposes other than those described in subdivision (d), or delays, defers, suspends, or otherwise interrupts the quarterly deposit of these funds into the Public Transportation Account.

(d) Funds in the Public Transportation Account may only be used for transportation planning and mass transportation purposes. The revenues described in subdivision (c) are hereby continuously appropriated to the Controller without regard to fiscal years for allocation as follows:

(1) Fifty percent pursuant to subdivisions (a) through (f), inclusive, of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(2) Twenty-five percent pursuant to subdivision (b) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009.

(3) Twenty-five percent pursuant to subdivision (c) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009.

~~(a) That any amount loaned is to be repaid in full to the account during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.~~

~~(b) That any amount loaned is to be repaid in full to the account within three fiscal years from the date on which the loan was made and one of the following has occurred:~~

~~(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.~~

~~(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year.~~

(e) For purposes of paragraph (1) of subdivision (d), "transportation planning" means only the purposes described in subdivisions (c) through (f), inclusive, of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(f) For purposes of this article, "mass transportation," "public transit," and "mass transit" have the same meaning as "public transportation." "Public transportation" means:

(1)(A) Surface transportation service provided to the general public, complementary paratransit service provided to persons with disabilities as required by 42 U.S.C. 12143, or similar transportation provided to people with disabilities or the elderly; (B) operated by bus, rail, ferry, or other conveyance on a fixed route, demand response, or otherwise regularly available basis; (C) generally for which a fare is charged; and (D) provided by any transit district, included transit district, municipal operator, included municipal operator, eligible municipal operator, or transit development board, as those terms were defined in Article 1 of Chapter 4 of Part 11 of Division 10 of the Public Utilities Code on January 1, 2009, a joint powers authority formed to provide mass transportation services, an agency described in subdivision (f) of Section 15975 of the Government Code, as that section read on January 1, 2009, any recipient of funds under Sections 99260, 99260.7, 99275, or subdivision (c) of Section 99400 of the Public Utilities Code, as those sections read on January 1, 2009, or a consolidated agency as defined in Section 132353.1 of the Public Utilities Code, as that section read on January 1, 2009.

(2) Surface transportation service provided by the Department of Transportation pursuant to subdivision (a) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(3) Public transit capital improvement projects, including those identified in subdivision (b) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

SEC. 2. (a) As used in this section, a "local transportation fund" is a fund created under Section 29530 of the Government Code, or any successor to that statute.

(b) All local transportation funds are hereby designated trust funds. The Legislature may not change the status of local transportation funds as trust funds.

(c) A local transportation fund that has been created pursuant to law may not be abolished.

(d) Money in a local transportation fund shall be allocated only by the local government that created the fund, and only for the purposes authorized under Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code and Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code, as those provisions existed on October 1, 1997. Neither the county nor the Legislature

may authorize the expenditure of money in a local transportation fund for purposes other than those specified in this subdivision.

(e) This section constitutes the sole method of allocating, distributing, and using the revenues in a local transportation fund. The purposes described in subdivision (d) are the sole purposes for which the revenues in a local transportation fund may be used. The Legislature may not enact a statute or take any other action which, permanently or temporarily, does any of the following:

(1) Transfers, diverts, or appropriates the revenues in a local transportation fund for any other purpose than those described in subdivision (d);

(2) Authorizes the expenditures of the revenue in a local transportation fund for any other purpose than those described in subdivision (d);

(3) Borrows or loans the revenues in a local transportation fund, regardless of whether these revenues remain in the Retail Sales Tax Fund in the State Treasury or are transferred to another fund or account.

(f) The percentage of the tax imposed pursuant to section 7202 of the Revenue and Taxation Code allocated to local transportation funds shall not be reduced below the percentage that was transmitted to such funds during the 2008 calendar year. Revenues allocated to local transportation funds shall be transmitted in accordance with Section 7204 of the Revenue and Taxation Code and deposited into local transportation funds in accordance with Section 29530 of the Government Code, as those sections read on June 30, 2009.

Section Seven. Article XIX B of the California Constitution is hereby amended to read as follows:

SECTION 1. The Legislature shall not borrow revenues from the Transportation Investment Fund, or its successor, and shall not use these revenues for purposes, or in ways, other than those specifically permitted by this article.

SEC. 2. (a) For the 2003-04 fiscal year and each fiscal year thereafter, all moneys revenues that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code), and that are deposited in the General Fund of the State pursuant to that law, shall be transferred to deposited into the Transportation Investment Fund or its successor, which is hereby created in

the State Treasury and which is hereby declared to be a trust fund. The Legislature may not change the status of the Transportation Investment Fund as a trust fund.

(b)(1) For the 2003-04 to 2007-08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on March 6, 2002.

(2) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation. Moneys appropriated for public transit and mass transportation shall be allocated as follows: (i) Twenty-five percent pursuant to subdivision (b) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009; (ii) Twenty-five percent pursuant to subdivision (c) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009; and (iii) Fifty percent for the purposes of subdivisions (a) and (b) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund are hereby continuously appropriated to the Controller without regard to fiscal years, which shall be allocated,~~upon appropriation by the Legislature,~~ as follows:

(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(D) Twenty percent of the moneys for the purposes set forth in subparagraph (D) of paragraph (2) of subdivision (b).

~~(d) (1) Except as otherwise provided by paragraph (2), the transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for a fiscal year if all of the following conditions are met:~~

~~(A) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of the transfer of revenues required by subdivision (a) is necessary.~~

~~(B) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues required by subdivision (a) and the bill does not contain any other unrelated provision.~~

~~(C) No later than the effective date of the statute described in subparagraph (B), a separate statute is enacted that provides for the full repayment to the Transportation Investment Fund of the total amount of revenue that was not transferred to that fund as a result of the suspension, including interest as provided by law. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the suspension applies.~~

~~(2) (A) The transfer required by subdivision (a) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year commencing on or after July 1, 2007, for which the transfer required by subdivision (a) is suspended.~~

~~(B) The transfer required by subdivision (a) shall not be suspended during any fiscal year if a full repayment required by a statute enacted in accordance with subparagraph (C) of paragraph (1) has not yet been completed.~~

~~(e) (d) The Legislature may not enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b) until all of the following have occurred:~~

~~(1) The California Transportation Commission has held no less than four public hearings in different parts of the State to receive public input about the need for public transit, mass transportation, transportation capital improvement projects, and street and highway maintenance;~~

~~(2) The California Transportation Commission has published a report describing the input received at the public hearings and how the modification to the statutory allocation is~~

consistent with the orderly achievement of local, regional and statewide goals for public transit, mass transportation, transportation capital improvements, and street and highway maintenance in a manner that is consistent with local general plans, regional transportation plans, and the California Transportation Plan;

(3) Ninety days have passed since the publication of the report by the California Transportation Commission.

(4) The statute enacted by the Legislature pursuant to this subdivision must be by a bill passed in each house of the Legislature by roll call vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the revenues described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).

~~(f)~~ (e)(1) An amount equivalent to the total amount of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund, as of July 1, 2007, because of a suspension of transfer of revenues pursuant to this section as it read on January 1, 2006, but excluding the amount to be paid to the Transportation Deferred Investment Fund pursuant to Section 63048.65 of the Government Code, shall be transferred from the General Fund to the Transportation Investment Fund no later than June 30, 2016. Until this total amount has been transferred, the amount of transfer payments to be made in each fiscal year shall not be less than one-tenth of the total amount required to be transferred by June 30, 2016. The transferred revenues shall be allocated solely for the purposes set forth in this section as if they had been received in the absence of a suspension of transfer of revenues.

(2) The Legislature may provide by statute for the issuance of bonds by the state or local agencies, as applicable, that are secured by the minimum transfer payments required by paragraph (1). Proceeds from the sale of those bonds shall be allocated solely for the purposes set forth in this section as if they were revenues subject to allocation pursuant to paragraph (2) of subdivision (b).

(f) This section constitutes the sole method of allocating, distributing, and using the revenues described in subdivision (a). The purposes described in paragraph (2) of subdivision (b) are the sole purposes for which the revenues described in subdivision (a) may be used. The Legislature may not enact a statute or take any other action which, permanently or temporarily, does any of the following:

(1) Transfers, diverts, or appropriates the revenues described in subdivision (a) for any other purposes than those described in paragraph (2) of subdivision (b);

(2) Authorizes the expenditures of the revenues described in subdivision (a) for any other purposes than those described in paragraph (2) of subdivision (b) or;

(3) Borrows or loans the revenues described in subdivision (a), regardless of whether these revenues remain in the Transportation Investment Fund or are transferred to another fund or account such as the Public Transportation Account, a trust fund in the State Transportation Fund.

(g) For purposes of this article, "mass transportation," "public transit" and "mass transit" have the same meanings as "public transportation." "Public transportation" means:

(1)(A) Surface transportation service provided to the general public, complementary paratransit service provided to persons with disabilities as required by 42 U.S.C. 12143, or similar transportation provided to people with disabilities or the elderly; (B) operated by bus, rail, ferry, or other conveyance on a fixed route, demand response, or otherwise regularly available basis; (C) generally for which a fare is charged; and (D) provided by any transit district, included transit district, municipal operator, included municipal operator, eligible municipal operator, or transit development board, as those terms were defined in Article 1 of Chapter 4 of Part 11 of Division 10 of the Public Utilities Code on January 1, 2009, a joint powers authority formed to provide mass transportation services, an agency described in subdivision (f) of Section 15975 of the Government Code, as that section read on January 1, 2009, any recipient of funds under Sections 99260, 99260.7, 99275, or subdivision (c) of Section 99400 of the Public Utilities Code, as those sections read on January 1, 2009, or a consolidated agency as defined in Section 132353.1 of the Public Utilities Code, as that section read on January 1, 2009.

(2) Surface transportation service provided by the Department of Transportation pursuant to subdivision (a) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(3) Public transit capital improvement projects, including those identified in subdivision (b) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(h) If the Legislature reduces or repeals the taxes described in subdivision (a) and adopts an alternative source of revenue to replace the moneys derived from those taxes, the replacement revenue shall be deposited into the Transportation Investment Fund, dedicated to the purposes listed in paragraph (2) of subdivision (b), and allocated pursuant to subdivision (c). All other provisions of this article shall apply to any revenues adopted by the Legislature to replace the moneys derived from the taxes described in subdivision (a).

Section Eight. Article XIX C is hereby added to the Constitution to read as follows:

SECTION 1. If any challenge to invalidate an action that violates Articles XIX, XIX A, or XIX B of the California Constitution is successful either by way of a final judgment, settlement, or resolution by administrative or legislative action, there is hereby continuously appropriated from the General Fund to the Controller, without regard to fiscal years, that amount of revenue necessary to restore the fund or account from which the revenues were unlawfully taken or diverted to its financial status had the unlawful action not been taken.

SEC. 2. If any challenge to invalidate an action that violates Section 24 or Section 25.5 of Article XIII of this Constitution is successful either by way of a final judgment, settlement, or resolution by administrative or legislative action, there is hereby continuously appropriated from the General Fund to the local government an amount of revenue equal to the amount of revenue unlawfully taken or diverted.

SEC. 3. Interest calculated at the Pooled Money Investment Fund rate from the date or dates the revenues were unlawfully taken or diverted shall accrue to the amounts required to be restored pursuant to this section. Within thirty days from the date a challenge is successful, the Controller shall make the transfer required by the continuous appropriation and issue a notice to the parties that the transfer has been completed.

SEC. 4. If in any challenge brought pursuant to this section a restraining order or preliminary injunction is issued, the plaintiffs or petitioners shall not be required to post a bond obligating the plaintiffs or petitioners to indemnify the government defendants or the State of California for any damage the restraining order or preliminary injunction may cause.

Section Nine.

Section 16 of Article XVI of the Constitution requires that a specified portion of the taxes levied upon the taxable property in a redevelopment project each year be allocated to the redevelopment agency to repay indebtedness incurred for the purpose of eliminating blight within the redevelopment project area. Section 16 of Article XVI prohibits the Legislature from reallocating some or that entire specified portion of the taxes to the State, an agency of the State, or any other taxing jurisdiction, instead of to the redevelopment agency. The Legislature has been illegally circumventing Section 16 of Article XVI in recent years by requiring redevelopment agencies to transfer a portion of those taxes for purposes other than the financing of redevelopment projects. A purpose of the amendments made by this measure is to prohibit the Legislature from requiring, after the taxes have been allocated to a redevelopment agency, that the redevelopment agency transfer some or all of those taxes to the State, an agency of the State, or a jurisdiction; or use some or all of those taxes for the benefit of the State, an agency of the State, or a jurisdiction.

Section Ten. Continuous Appropriations.

The provisions of Sections 6, 7, and 8 of this Act that require a continuous appropriation to the Controller without regard to fiscal year are intended to be "appropriations made by law" within the meaning of Section 7 of Article XVI of the California Constitution.

Section Eleven. Liberal Construction.

The provisions of this Act shall be liberally construed in order to effectuate its purposes.

Section Twelve. Conflicting Statutes.

Any statute passed by the Legislature between October 21, 2009 and the effective date of this measure, that would have been prohibited if this measure were in effect on the date it was enacted, is hereby repealed.

Section Thirteen. Conflicting Ballot Measures.

In the event that this measure and another measure or measures relating to the direction or redirection of revenues dedicated to funding services provided by local governments and/or transportation projects or services appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

Section Fourteen. Severability.

It is the intent of the People that the provisions of this Act are severable and that if any provision of this Act or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this Act which can be given effect without the invalid provision or application.

October 29, 2009

09 - 0058

Amdt. #1 NS

RECEIVED

OCT 30 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

VIA MESSENGER

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Attention: Krystal M. Paris

Re: *Repeal Corporate Tax Loopholes Act*
Proposed Initiative 09-0058, Amendment #1 N/S

Dear Ms. Paris:

Enclosed is a revised copy of the "Repeal Corporate Tax Loopholes Act," which we filed on October 16, 2009. The revised copy reflects one non-substantive edit to correct a typographical error in the first sentence of the Conflicting Initiatives section from "deemd" to "deemed."

Please direct all correspondence and inquiries regarding this measure to:

Robin B. Johansen
Karen Getman
Remcho, Johansen & Purcell, LLP
201 Dolores Avenue
San Leandro, CA 94577
Phone: 346-6200
Fax: (510) 346-6201

Sincerely,

ε

Roberta B. Johansen

~

Karen Getman

KG:BM
Enclosures
(00093910)

09 - 0058

SECTION 1. TITLE

Amdt. #1 NS

This Act shall be known as the "Repeal Corporate Tax Loopholes Act."

SECTION 2. FINDINGS AND DECLARATIONS

The People of the State of California find and declare that:

1. The State of California is in the midst of the worst financial crisis since the Great Depression. State revenues have plummeted, millions of Californians have lost their jobs, and hundreds of thousands of California homes have been lost in foreclosure sales. Projections suggest it could be many years before the State and its citizens recover.
2. To cope with the fiscal crisis, in 2008 and 2009 the Legislature and Governor raised taxes paid by the people of this State: the personal income tax, the state sales tax, and vehicle license fees. Yet at the same time they passed three special corporate tax breaks that give large corporations nearly \$2 billion a year in state revenues.
3. No public hearings were held and no public notice was given before these corporate tax breaks were passed by the Legislature and signed into law by the Governor.
4. Corporations get these tax breaks without any requirements to create new jobs or to stop shipping current jobs overseas.
5. These loopholes benefit the biggest of corporations with gross incomes of over \$1 billion. One study estimates that 80% of the benefits from the first loophole will go to just 0.1 percent of all California corporations. Similarly, estimates are that 87% of the benefits from one tax break will go to just 229 companies, each of which has gross income over \$1 billion.
6. At the same time it created these corporate loopholes, the Legislature and Governor enacted \$31 billion in cuts to the state budget – decimating funding for public schools and colleges, eliminating health care services to our neediest citizens, closing state parks, furloughing state workers, and wreaking havoc on our state's citizens.
7. The first tax loophole allows corporations to choose which of two formulas to use to determine the share of their profits that is taxed in California. There is little doubt corporations will choose the formula that allows them to pay less taxes to this State.
8. The second tax loophole allows corporations to transfer tax credits among their related companies. This allows a company to use tax credits it didn't even earn to reduce the amount of taxes it pays to this State.
9. The third loophole allows corporations to carry back net operating losses and claim refunds for taxes they have already owed and paid in prior years.

10. Public schools are bearing the brunt of these cuts. Over the last two years, the state has cut more than \$17 billion from the K-12 school system. Schools have laid off more than 20,000 classroom teachers and education support staff. Elementary class sizes have grown from 20 students to more than 30 kids in each class. Middle and high school class sizes of 40 are common, with some as large as 60. There will be no new textbooks for years. Entire art, music, vocational education and athletic programs have been eliminated. Schools throughout the State may shut their doors five days early.

11. Since 1981, the share of corporate income paid in taxes has fallen by nearly half – even before these special tax breaks. California taxpayers are paying more, while big corporations are paying less.

12. We should not be cutting vital programs and raising taxes on low-income and middle-class Californians while enacting tax loopholes for big corporations. It makes no sense, and it isn't fair. When public education has been cut by over \$9 billion this year, and taxes on individuals have increased by \$12.5 billion, we cannot afford to give large corporations billions in special tax breaks that are not tied in any way to creating jobs in California. In these tough economic times, everyone should pay their fair share.

SECTION 3. PURPOSE AND INTENT

The People enact this measure to repeal three tax breaks that were granted to corporations in 2008 and 2009: (1) the elective single sales factor provisions contained in ABx3 15 and SBx3 15 of 2009; (2) the net operating loss carryback provisions contained in AB 1452 of 2008; and (3) the tax credit sharing provisions in AB 1452 of 2008.

SECTION 4. Revenue & Taxation Code section 17276 is amended to read:

17276. Except as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7, the deduction provided by Section 172 of the Internal Revenue Code, relating to a net operating loss deduction, shall be modified as follows:

(a)(1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b)(1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty-percent for any taxable year beginning before January 1, 2000.

(B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(D) One hundred percent for any taxable year beginning on or after January 1, 2004.

(2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (d).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in subdivision (d).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of that paragraph, paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, the term "net loss" means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) Net operating loss carrybacks shall not be allowed.

~~(e) Section 172(b)(1) of the Internal Revenue Code, relating to net operating loss carrybacks and carryovers and the years to which the loss may be carried, is modified as follows:~~

~~(1) Net operating loss carrybacks shall not be allowed for any net operating losses attributable to taxable years beginning before January 1, 2011.~~

~~(2) A net operating loss attributable to taxable years beginning on or after January 1, 2011, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of the loss in lieu of the number of years provided therein.~~

~~(A) For a net operating loss attributable to a taxable year beginning on or after January 1, 2011, and before January 1, 2012, the amount of carryback to any taxable year shall not exceed 50 percent of the net operating loss.~~

~~(B) For a net operating loss attributable to a taxable year beginning on or after January 1, 2012, and before January 1, 2013, the amount of carryback to any taxable year shall not exceed 75 percent of the net operating loss.~~

~~(C) For a net operating loss attributable to a taxable year beginning on or after January 1, 2013, the amount of carryback to any taxable year shall not exceed 100 percent of the net operating loss.~~

~~(3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the Internal Revenue Code, relating to special rules for REITs, and Sections 172(b)(1)(E) and 172(h) of the Internal Revenue Code, relating to corporate equity reduction interest loss, shall apply as provided.~~

~~(4) A net operating loss carryback shall not be carried back to any taxable year beginning before January 1, 2009.~~

(d)(1)(A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute “five taxable years” in lieu of “20 taxable years” except as otherwise provided in paragraphs (2) and (3).

(B) For a net operating loss for any taxable year beginning on or after January 1, 2000, and before January 1, 2008, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute “10 taxable years” in lieu of “20 taxable years.”

(2) For any taxable year beginning before January 1, 2000, in the case of a “new business,” the “five taxable years” in paragraph (1) shall be modified to read as follows:

(A) “Eight taxable years” for a net operating loss attributable to the first taxable year of that new business.

(B) “Seven taxable years” for a net operating loss attributable to the second taxable year of that new business.

(C) “Six taxable years” for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 17276.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the

10 taxable years following the year of the loss if it is incurred by a taxpayer that is under the jurisdiction of the court in a Title 11 or similar case at any time during the income year. The loss carryover provided in the preceding sentence shall not apply to any loss incurred after the date the taxpayer is no longer under the jurisdiction of the court in a Title 11 or similar case.

(e) For purposes of this section:

(1) "Eligible small business" means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars (\$1,000,000) during the taxable year.

(2) Except as provided in subdivision (f), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or "S" corporation paragraphs (1) and (2) shall be applied to the partnership or "S" corporation.

(f) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months (“prior trade or business activity”), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer’s (or any related person’s) current or prior trade or business activities.

(3) In any case where a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1) of this subdivision.

(5) “Related person” shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) “Acquire” shall include any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(7)(A) For taxable years beginning on or after January 1, 1997, the term “new business” shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the United States Food and Drug Administration.

(B) For purposes of this paragraph:

(i) “Biopharmaceutical activities” means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(ii) "Other biotechnology activities" means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(g) In computing the modifications under Section 172(d)(2) of the Internal Revenue Code, relating to capital gains and losses of taxpayers other than corporations, the exclusion provided by Section 18152.5 shall not be allowed.

(h) Notwithstanding any provisions of this section to the contrary, a deduction shall be allowed to a "qualified taxpayer" as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7.

(i) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(j) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(k) Except as otherwise provided, the amendments made by Chapter 107 of the Statutes of 2000 shall apply to net operating losses for taxable years beginning on or after January 1, 2000.

SECTION 5. Revenue & Taxation Code section 17276.9 is amended to read:

17276.9. (a) Notwithstanding Sections 17276, 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7 of this code and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for any taxable year beginning on or after January 1, 2008, and before January 1, 2010.

(b) For any net operating loss or carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2008, and before January 1, 2009.

(2) By two years, for losses incurred in taxable years beginning before January 1, 2008.

~~(c) Notwithstanding subdivision (a), a net operating loss deduction shall be allowed for carryback of a net operating loss attributable to a taxable year beginning on or after January 1, 2011.~~

~~(d)~~ (c) The provisions of this section shall not apply to a taxpayer with net business income of less than five hundred thousand dollars (\$500,000) for the taxable year. For purposes of this subdivision, business income means:

- (1) Income from a trade or business, whether conducted by the taxpayer or by a pass-through entity owned directly or indirectly by the taxpayer. For purposes of this paragraph, the term "pass through entity" means a partnership or an "S" corporation.
- (2) Income from rental activity.
- (3) Income attributable to a farming business.

SECTION 6. Revenue & Taxation Code section 17276.10 is repealed:

~~17276.10. Notwithstanding Section 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, or 17276.7 to the contrary, a net operating loss attributable to a taxable year beginning on or after January 1, 2008, shall be a net operating carryover to each of the 20 taxable years following the year of the loss, and a net operating loss attributable to a taxable year beginning on or after January 1, 2011, shall also be a net operating loss carryback to each of the two taxable years preceding the taxable year of loss.~~

SECTION 7. Revenue & Taxation Code section 23663 is repealed.

~~23663. (a)(1) Notwithstanding any other law to the contrary, for each taxable year beginning on or after July 1, 2008, any credit allowed to a taxpayer under this chapter that is an "eligible credit (within the meaning of paragraph (2) of subdivision (b)) may be assigned by that taxpayer to any "eligible assignee" (within the meaning of paragraph (3) of subdivision (b)).~~

~~(2) A credit assigned under paragraph (1) may only be applied by the eligible assignee against the "tax" of the eligible assignee in a taxable year beginning on or after January 1, 2010.~~

~~(3) Except as specifically provided in this section, following an assignment of any eligible credit under this section, the eligible assignee shall be treated as if it originally earned the assigned credit.~~

~~(b) For purposes of this section, the following definitions shall apply:~~

~~(1) "Affiliated corporation" means a corporation that is a member of a commonly controlled group as defined in Section 25105.~~

~~(2) "Eligible credit" shall mean:~~

~~(A) Any credit earned by the taxpayer in a taxable year beginning on or after July 1, 2008, or~~

~~(B) Any credit earned in any taxable year beginning before July 1, 2008, that is eligible to be carried forward to the taxpayer's first taxable year beginning on or after July 1, 2008, under the provisions of this part.~~

~~(3) "Eligible assignee" shall mean any affiliated corporation that is properly treated as a member of the same combined reporting group pursuant to Section 25101 or 25110 as the taxpayer assigning the eligible credit as of:~~

~~(A) In the case of credits earned in taxable years beginning before July 1, 2008:~~

~~(i) June 30, 2008, and~~

~~(ii) The last day of the taxable year of the assigning taxpayer in which the eligible credit is assigned.~~

~~(B) In the case of credits earned in taxable years beginning on or after July 1, 2008:~~

~~(i) The last day of the first taxable year in which the credit was allowed to the taxpayer, and~~

~~(ii) The last day of the taxable year of the assigning taxpayer in which the eligible credit is assigned.~~

~~(c)(1) The election to assign any credit under subdivision (a) shall be irrevocable once made, and shall be made by the taxpayer allowed that credit on its original return for the taxable year in which the assignment is made.~~

~~(2) The taxpayer assigning any credit under this section shall reduce the amount of its unused credit by the face amount of any credit assigned under this section, and the amount of the assigned credit shall not be available for application against the assigning taxpayer's "tax" in any taxable year, nor shall it thereafter be included in the amount of any credit carryover of the assigning taxpayer.~~

~~(3) The eligible assignee of any credit under this section may apply all or any portion of the assigned credits against the "tax" (as defined in Section 23036) of the eligible assignee for the taxable year in which the assignment occurs, or any subsequent taxable year, subject to any carryover period limitations that apply to the assigned credit and also subject to the limitation in paragraph (2) of subdivision (a).~~

~~(4) In no case may the eligible assignee sell, otherwise transfer, or thereafter assign the assigned credit to any other taxpayer.~~

- ~~(d)(1) No consideration shall be required to be paid by the eligible assignee to the assigning taxpayer for assignment of any credit under this section.~~
- ~~(2) In the event that any consideration is paid by the eligible assignee to the assigning taxpayer for the transfer of an eligible credit under this section, then:~~
- ~~(A) No deduction shall be allowed to the eligible assignee under this part with respect to any amounts so paid, and~~
- ~~(B) No amounts so received by the assigning taxpayer shall be includable in gross income under this part.~~
- ~~(e)(1) The Franchise Tax Board shall specify the form and manner in which the election required under this section shall be made, as well as any necessary information that shall be required to be provided by the taxpayer assigning the credit to the eligible assignee.~~
- ~~(2) Any taxpayer who assigns any credit under this section shall report any information, in the form and manner specified by the Franchise Tax Board, necessary to substantiate any credit assigned under this section and verify the assignment and subsequent application of any assigned credit.~~
- ~~(3) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to paragraphs (1) and (2).~~
- ~~(4) The Franchise Tax Board may issue any regulations necessary to implement the purposes of this section, including any regulations necessary to specify the treatment of any assignment that does not comply with the requirements of this section (including, for example, where the taxpayer and eligible assignee are not properly treated as members of the same combined reporting group on any of the dates specified in paragraph (3) of subdivision (b)).~~
- ~~(f)(1) The taxpayer and the eligible assignee shall be jointly and severally liable for any tax, addition to tax, or penalty that results from the disallowance, in whole or in part, of any eligible credit assigned under this section.~~
- ~~(2) Nothing in this section shall limit the authority of the Franchise Tax Board to audit either the assigning taxpayer or the eligible assignee with respect to any eligible credit assigned under this section.~~
- ~~(g) On or before June 30, 2013, the Franchise Tax Board shall report to the Joint Legislative Budget Committee, the Legislative Analyst, and the relevant policy committees of both houses on the effects of this section. The report shall include, but need not be limited to, the following:~~

- ~~(1) An estimate of use of credits in the 2010 and 2011 taxable years by eligible taxpayers.~~
- ~~(2) An analysis of effect of this section on expanding business activity in the state related to these credits.~~
- ~~(3) An estimate of the resulting tax revenue loss to the state.~~
- ~~(4) The report shall cover all credits covered in this section, but focus on the credits related to research and development, economic incentive areas, and low income housing.~~

SECTION 8. Revenue & Taxation Code section 24416 is amended to read:

24416. Except as provided in Sections 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, and 24416.7, a net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

- (a)(1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.
- (2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.
- (b)(1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:
- (A) Fifty percent for any taxable year beginning before January 1, 2000.
- (B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.
- (C) Sixty percent for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.
- (D) One hundred percent for any taxable year beginning on or after January 1, 2004.
- (2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (e).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in paragraph (1) of subdivision (e).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (e).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of paragraph (2), paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, "net loss" means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) For any taxable year in which the taxpayer has in effect a water's-edge election under Section 25110, the deduction of a net operating loss carryover shall be denied to the extent that the net operating loss carryover was determined by taking into account the income and factors of an affiliated corporation in a combined report whose income and apportionment factors would not have been taken into account if a water's-edge election under Section 25110 had been in effect for the taxable year in which the loss was incurred.

(d) Net operating loss carrybacks shall not be allowed.

~~(d) Section 172(b)(1) of the Internal Revenue Code, relating to net operating loss carrybacks and carryovers and the years to which the loss may be carried, is modified as follows:~~

~~(1) Net operating loss carrybacks shall not be allowed for any net operating losses attributable to taxable years beginning before January 1, 2011.~~

~~(2) A net operating loss attributable to taxable years beginning on or after January 1, 2011, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of the loss in lieu of the number of years provided therein.~~

~~(A) For a net operating loss attributable to a taxable year beginning on or after January 1, 2011, and before January 1, 2012, the amount of carryback to any taxable year shall not exceed 50 percent of the net operating loss.~~

~~(B) For a net operating loss attributable to a taxable year beginning on or after January 1, 2012, and before January 1, 2013, the amount of carryback to any taxable year shall not exceed 75 percent of the net operating loss.~~

~~(C) For a net operating loss attributable to a taxable year beginning on or after January 1, 2013, the amount of carryback to any taxable year shall not exceed 100 percent of the net operating loss.~~

~~(3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the Internal Revenue Code, relating to special rules for REITs, and Sections 172(b)(1)(E) and 172(h) of the Internal Revenue Code, relating to corporate equity reduction interest loss, shall apply as provided.~~

~~(4) A net operating loss carryback shall not be carried back to any taxable year beginning before January 1, 2009.~~

(e)(1)(A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute “five taxable years” in lieu of “20 years” except as otherwise provided in paragraphs (2), (3), and (4).

(B) For a net operating loss for any income year beginning on or after January 1, 2000, and before January 1, 2008, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute “10 taxable years” in lieu of “20 taxable years.”

(2) For any income year beginning before January 1, 2000, in the case of a “new business,” the “five taxable years” referred to in paragraph (1) shall be modified to read as follows:

(A) “Eight taxable years” for a net operating loss attributable to the first taxable year of that new business.

(B) “Seven taxable years” for a net operating loss attributable to the second taxable year of that new business.

(C) “Six taxable years” for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 24416.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a corporation that was either of the following:

(A) Under the jurisdiction of the court in a Title 11 or similar case at any time prior to January 1, 1994. The loss carryover provided in the preceding sentence shall not apply to any loss incurred in an income year after the taxable year during which the corporation is no longer under the jurisdiction of the court in a Title 11 or similar case.

(B) In receipt of assets acquired in a transaction that qualifies as a tax-free reorganization under Section 368(a)(1)(G) of the Internal Revenue Code.

(f) For purposes of this section:

(1) "Eligible small business" means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars (\$1,000,000) during the income year.

(2) Except as provided in subdivision (g), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or an "S corporation," paragraphs (1) and (2) shall be applied to the partnership or "S corporation."

(g) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(l) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property

described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months (“prior trade or business activity”), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer’s (or any related person’s) current or prior trade or business activities.

(3) In any case where a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1) of this subdivision.

(5) “Related person” shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) “Acquire” shall include any transfer, whether or not for consideration.

(7)(A) For taxable years beginning on or after January 1, 1997, the term “new business” shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the United States Food and Drug Administration.

(B) For purposes of this paragraph:

(i) “Biopharmaceutical activities” means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make

commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(ii) "Other biotechnology activities" means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(h) For purposes of corporations whose net income is determined under Chapter 17 (commencing with Section 25101), Section 25108 shall apply to each of the following:

(1) The amount of net operating loss incurred in any taxable year that may be carried forward to another taxable year.

(2) The amount of any loss carry forward that may be deducted in any taxable year.

(i) The provisions of Section 172(b)(1)(D) of the Internal Revenue Code, relating to bad debt losses of commercial banks, shall not be applicable.

(j) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(k) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(l) Except as otherwise provided, the amendments made by Chapter 107 of the Statutes of 2000 shall apply to net operating losses for taxable years beginning on or after January 1, 2000.

SECTION 9. Revenue & Taxation Code section 24416.9 is amended to read:

24416.9. (a) Notwithstanding Sections 24416, 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, and 24416.7 of this code and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for any taxable year beginning on or after January 1, 2008, and before January 1, 2010.

(b) For any net operating loss or carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2008, and before January 1, 2009.

(2) By two years, for losses incurred in taxable years beginning before January 1, 2008.

~~(c) Notwithstanding subdivision (a), a net operating loss deduction shall be allowed for carryback of a net operating loss attributable to a taxable year beginning on or after January 1, 2011.~~

~~(d)~~ (c) The provisions of this section shall not apply to a taxpayer with income subject to tax under this part of less than five hundred thousand dollars (\$500,000) for the taxable year.

SECTION 10. Revenue & Taxation Code section 24416.10 is repealed:

~~24416.10. Notwithstanding Section 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, or 24416.7 to the contrary, a net operating loss attributable to a taxable year beginning on or after January 1, 2008, shall be a net operating carryover to each of the 20 taxable years following the year of the loss, and a net operating loss attributable to a taxable year beginning on or after January 1, 2011, shall also be a net operating loss carryback to each of the two taxable years preceding the taxable year of loss.~~

SECTION 11. Revenue & Taxation Code section 25128.5 is repealed.

~~25128.5. (a) Notwithstanding Section 38006, any apportioning trade or business, other than an apportioning trade or business described in subdivision (b) of Section 25128, may make an irrevocable annual election on an original timely filed return, in the manner and form prescribed by the Franchise Tax Board to apportion its income in accordance with this section, and not in accordance with Section 25128.~~

~~(b) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2011, all business income shall be apportioned to this state by multiplying the business income by the sales factor.~~

~~(c) The Franchise Tax Board is authorized to issue regulations necessary or appropriate regarding the making of an election under this section, including regulations that are consistent with rules prescribed for making an election under Section 25113.~~

SECTION 12. SEVERABILITY

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, such finding shall not affect the remaining provisions or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable.

SECTION 13. CONFLICTING INITIATIVES

In the event that this measure and another measure relating to these tax provisions shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the other measure shall be null and void.

October 14, 2009

09 - 0057

VIA MESSENGER

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Attention: Krystal M. Paris

RECEIVED

OCT 15 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: *Passing the Budget on Time Act of 2010*

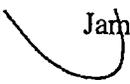
Dear Ms. Paris:

Pursuant to Elections Code section 9002, we request that the Attorney General prepare a title and summary of a measure entitled "Passing the Budget on Time Act of 2010." The text of the measure, a check for \$200.00, the address at which we are registered to vote and the signed statement certifying that we will not willfully allow initiative signatures to be used for purposes other than qualification of the measure are enclosed.

Please direct all correspondence and inquiries regarding this measure to:

James C. Harrison
Thomas A. Willis
Remcho, Johansen & Purcell, LLP
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
Fax: (510) 346-6201

Sincerely,

 James C. Harrison

 Thomas A. Willis

JH:NL
Enclosures
(00092365)

09 - 0057

SECTION 1. Title.

This measure shall be known and may be cited as the "On-Time Budget Act of 2010."

SECTION 2. Findings and Declarations.

The People of the State of California find and declare that:

1. For more than 20 years, the California Legislature has been unable to meet its constitutional duty to pass a Budget Act by June 15. In many of those years, the Legislature did not pass a Budget Act until the month of August, and in 2008, the Budget Act was not passed until September 16, more than three months late.
2. Late budget passage can have a sudden and devastating effect on individual Californians and California businesses. Individuals and families can be deprived of essential governmental services and businesses are subject to protracted delays in payments for services rendered to the State.
3. A major cause of the inability of the Legislature to pass a budget in a timely manner is the supermajority two-thirds vote required to pass a budget. Political party leaders refuse to compromise to solve the State's budget problem and have used the two-thirds vote requirement to hold up the budget or to leverage special interest concessions that benefit only a handful of politicians.

4. California, Rhode Island and Arkansas are the only states in the country that require a vote of two-thirds or more of the legislature to pass a budget.
5. A second major cause of the inability of the Legislature to pass a budget on time is that individual Legislators have no incentive for doing so. Whether they adopt a budget on time or not has no effect upon those elected to represent the voters. In order to give the Legislature an incentive to pass the annual state budget on time, Legislators should not be paid or reimbursed for living expenses if they fail to enact the budget on time. This measure requires incumbents to permanently forfeit their salaries and expenses for each day the budget is late.

SECTION 3. Purpose and Intent.

1. The People enact this measure to end budget delays by changing the legislative vote necessary to pass the budget from two-thirds to a majority vote and by requiring Legislators to forfeit their pay if the Legislature fails to pass the budget on time.

2. This measure will not change Proposition 13's property tax limitations in any way. This measure will not change the two-thirds vote requirement for the Legislature to raise taxes.

SECTION 4. Section 12 of Article IV of the California Constitution is amended to read:

SEC. 12 (a) Within the first 10 days of each calendar year, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated state revenues. If recommended expenditures exceed estimated revenues, the Governor shall recommend the sources from which the additional revenues should be provided.

(b) The Governor and the Governor-elect may require a state agency, officer or employee to furnish whatever information is deemed necessary to prepare the budget.

(c)(1) The budget shall be accompanied by a budget bill itemizing recommended expenditures.

(2) The budget bill shall be introduced immediately in each house by the persons chairing the committees that consider the budget.

(3) The Legislature shall pass the budget bill by midnight on June 15 of each year.

(4) Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

(d) No bill except the budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools; and

appropriations in the budget bill and in other bills providing for appropriations related to the budget bill, are void unless passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring.

(e)(1) Notwithstanding any other provision of law or of this Constitution, the budget bill and other bills providing for appropriations related to the budget bill may be passed in each house by rollcall vote entered in the journal, a majority of the membership concurring, to take effect immediately upon being signed by the Governor or upon a date specified in the legislation. Nothing in this subdivision shall affect the vote requirement for appropriations for the public schools contained in subdivision (d) of this section and in subdivision (b) of Section 8 of this article.

(2) For purposes of this section, other bills providing for appropriations related to the budget bill shall consist only of bills identified as related to the budget in the budget bill passed by the Legislature.

(ef) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

(fg) For the 2004-05 fiscal year, or any subsequent fiscal year, the Legislature may not send to the Governor for consideration, nor may the Governor sign into law, a budget bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill's passage, and the amount of any General

Fund moneys transferred to the Budget Stabilization Account for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues for that fiscal year estimated as of the date of the budget bill's passage. That estimate of General Fund revenues shall be set forth in the budget bill passed by the Legislature.

(h) Notwithstanding any other provision of law or of this Constitution, including Sections 4 and 8 of Article III and Sections 4 and 12(c) of this Article, in any year in which the budget bill is not passed by the Legislature by midnight on June 15, there shall be no appropriation from the current budget or future budget to pay any salary or reimbursement for travel or living expenses for Members of the Legislature during any regular or special session for the period from midnight on June 15 until the day that the budget bill is presented to the Governor. No salary or reimbursement for travel or living expenses forfeited pursuant to this subdivision shall be paid retroactively.

SECTION 5. Severability.

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, such finding shall not affect the remaining provisions or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable.

November 23, 2009

09 - 0093

VIA PERSONAL DELIVERY

The Honorable Edmund G. Brown, Jr.
Attorney General
1300 I Street
Sacramento, CA 95814

RECEIVED

NOV 23 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Krystal Paris, Initiative Coordinator

Re: Request for Title and Summary- Initiative Constitutional Amendment

Dear Mr. Brown:

Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared for the attached initiative constitutional amendment. Enclosed is a check for \$200.00. My residence address is attached.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814, (916) 446-6752, Attention: Steve Lucas (telephone: 415/389-6800).

Thank you for your assistance.

Sincerely,

Allan Zaremborg, Proponent

Enclosure: Proposed Initiative

SECTION 1 - FINDINGS AND DECLARATIONS OF PURPOSE.

The People of the State of California find and declare that:

(a) Since the people overwhelmingly approved Proposition 13 in 1978, the Constitution of the State of California has required that increases in state taxes be adopted by not less than two-thirds of the members elected to each house of the Legislature.

(b) Since the enactment of Proposition 218 in 1996, the Constitution of the State of California has required that increases in local taxes be approved by the voters.

(c) Despite these limitations, California taxes have continued to escalate. Rates for state personal income taxes, state and local sales and use taxes, and a myriad of state and local business taxes are at all-time highs. Californians are taxed at one of the highest levels of any state in the nation.

(d) Recently, the Legislature added another \$12 billion in new taxes to be paid by drivers, shoppers, and anyone who earns an income.

(e) This escalation in taxation does not account for the recent phenomenon whereby the Legislature and local governments have disguised new taxes as "fees" in order to extract even more revenue from California taxpayers without having to abide by these constitutional voting requirements. Fees couched as "regulatory" but which exceed the reasonable costs of actual regulation or are simply imposed to raise revenue for a new program and are not part of any licensing or permitting program are actually taxes and should be subject to the limitations applicable to the imposition of taxes.

(f) In order to ensure the effectiveness of these constitutional limitations, this measure also defines a "tax" for state and local purposes so that neither the Legislature nor local governments can circumvent these restrictions on increasing taxes by simply defining new or expanded taxes as "fees."

SECTION 2 - SECTION 3 OF ARTICLE XIII A OF THE CALIFORNIA CONSTITUTION IS AMENDED TO READ:

SEC. 3. *(a) From and after the effective date of this article, any changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto. Any change in state statute which results in any taxpayer paying a higher tax whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed.*

(b) As used in this section, "tax" means any levy, charge, or exaction of any kind imposed by the State, except the following:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of conferring the benefit or granting the privilege to the payor.

(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of providing the service or product to the payor.

(3) A charge imposed for the reasonable regulatory costs to the State incident to issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(4) A charge imposed for entrance to or use of state property, or the purchase, rental, or lease of state property, except charges governed by Section 15 of Article XI.

(5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or the State, as a result of a violation of law.

(c) Any tax adopted after January 1, 2010, but prior to the effective date of this Act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this Act unless the tax is reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section.

(d) The State bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

SECTION 3 - SECTION 1 OF ARTICLE XIII C OF THE CALIFORNIA CONSTITUTION IS AMENDED TO READ:

SECTION 1. Definitions. As used in this article:

(a) "General tax" means any tax imposed for general governmental purposes.

(b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.

(c) "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with

limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

(d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

(e) As used in this article, "tax" means any levy, charge, or exaction of any kind imposed by a local government, except the following:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

(3) A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(4) A charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

(5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law.

(6) A charge imposed as a condition of property development.

(7) Assessments and property-related fees imposed in accordance with the provisions of Article XIII D.

The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

SECTION 4 - CONFLICTING MEASURES.

In the event that this measure and another measure or measures relating to the legislative or local votes required to enact taxes or fees shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the

provisions of the other measure or measures relating to the legislative or local votes required to enact taxes or fees shall be null and void.

SECTION 5 - SEVERABILITY.

If any provision of this Act, or any part thereof, is 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.

December 28, 2009

Via Overnight Delivery

09 - 0107

Ms. Krystal Paris, Initiative Coordinator
Office of the Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

RECEIVED

DEC 29 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Preparation of Title and Summary

Dear Ms. Paris:

I am the proponent of the enclosed initiative measure, which is entitled "Financial Accountability in Redistricting Act." Pursuant to article II, section 10(d), of the California Constitution and section 9002 of the California Elections Code, I hereby request the preparation of a title and summary of the chief purposes and points of the proposed measure. Enclosed is a check for \$200 made payable to the State of California.

I am a registered voter of California. My residence address is set forth in an attachment hereto, which I request be kept confidential following verification of my status as a registered voter. I have also signed and attached the statement required pursuant to Elections Code section 9608.

You are hereby authorized to direct all further inquiries and correspondence regarding this proposed measure to the following person:

Fredric D. Woocher, Esq.
Strumwasser & Woocher LLP
10940 Wilshire Boulevard, Suite 2000
Los Angeles, California 90024
fwoocher@strumwooch.com
(310) 576-1233

Sincerely,

Professor Daniel Lowenstein

SECTION 1. Title.

This Act shall be known and may be cited as the “Financial Accountability in Redistricting Act” or “FAIR Act.”

SECTION 2. Findings and Purpose.

The People of the State of California hereby make the following findings and declare their purpose in enacting the FAIR Act is as follows:

(a) Our political leadership has failed us. California is facing an unprecedented economic crisis and we, the people (not the politicians), need to prioritize how we spend our limited funds. We are going broke. Spending unlimited millions of dollars to create multiple new bureaucracies just to decide a political game of Musical Chairs is a waste – pure and simple. Under current law, a group of unelected commissioners, making up to \$1 million a year in cumulative salary, preside over a budget that cannot be cut even when state revenues are shrinking. This reform will cut wasteful spending on unnecessary bureaucracies whose sole purpose is to draw districts for politicians. This initiative reform provides a permanent cap on this kind of spending, and prohibits any spending increases without approval by the voters. It will save many millions of dollars.

(b) Under current law, three randomly selected accountants decide who can be one of the fourteen unelected commissioners who head a bureaucracy that wields the power to decide who represents us. This reform will ensure that those who make the decisions are accountable to the voters and that all their decisions are subject to approval by the voters.

(c) Voters should always have the final voice. Under current law, voters can be denied the right to pass a referendum against unfair Congressional district gerrymanders. A referendum means that we, the voters, have a right to say “no” to the Legislature, say “no” to a statute with which we disagree. Under current law, protections to ensure a transparent, open process can be changed against the will of the people. This initiative reform ensures that voters will always have the right to challenge any redistricting plan (including the Congressional plan) and that no government officials can deny the public the right to participate in the process.

(d) One-person-one-vote should mean something. But under current law, some people can count 10% more than others. Under current law, one district could have almost a million more people than another. That is not fair representation, it is the opposite. Historically, severely under-populated districts were called “Rotten Boroughs.” This practice must be stopped. This reform will ensure that all districts are precisely the same size and that every person counts equally.

(e) Unaccountable appointed officials cannot be trusted to serve the interests of our communities. The last time unelected officials drew districts, they split twice as many cities as those drawn by people who were accountable to the voters. This fracturing of cities diminishes the power of local communities. This reform strengthens protections against splitting counties and cities. We need reform to keep our communities and neighborhoods together so everyone has representation.

(f) Sacramento has become a full time game of Musical Chairs – where incumbent term-limited politicians serve out their maximum term in one office and then run for another office where they are a shoo in. This must stop! Current law gives State Assembly members the homefield advantage in running for the State Senate and gives State Senators the same advantage when running for the State Assembly. This is because current law mandates that in virtually all situations each State Senator represent 100% of two Assembly seats; each Assembly member represents 50% of a Senate district. Sacramento politicians already have access to millions of dollars from lobbyists and special interest groups. Stacking districts to further disadvantage

ordinary people (homeowner groups, small business, environmental and community activist groups) who don't have access to the special interest contributions that flow to Sacramento incumbents is outrageous. This reform ends this practice.

(g) "Jim Crow" districts are a throwback to an awful bygone era. Districting by race, by class, by lifestyle or by wealth is unacceptable. Yet the same proponents who backed the current failing law have also proposed mandating that all districts be segregated according to "similar living standards" and that districts include only people with "similar work opportunities." Californians understand these code words. The days of "country club members only" districts or of "poor people only" districts are over. This reform ensures these districts remain a thing of the past. All Californians will be treated equally.

SECTION 3. Amendment of Article II of the California Constitution.

SEC. 3.1. Section 9 of Article II of the California Constitution is amended to read:

SEC. 9. (a) The referendum is the power of the electors to approve or reject statutes or parts of statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the State. None of these exceptions shall apply to any statutes or parts of statutes approving the final maps setting forth the district boundary lines for Congressional, Senate, Assembly, or State Board of Equalization districts.

(b) A referendum measure may be proposed by presenting to the Secretary of State, within 90 days after the enactment date of the statute, a petition certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for Governor at the last gubernatorial election, asking that the statute or part of it be submitted to the electors. In the case of a statute enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, the petition may not be presented on or after January 1 next following the enactment date unless a copy of the petition is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II before January 1.

(c) The Secretary of State shall then submit the measure at the next general election held at least 31 days after it qualifies or at a special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.

SECTION 4. Amendment of Article XXI of the California Constitution.

SEC. 4.1. Section 1 of Article XXI of the California Constitution is amended to read:

SECTION 1. In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the Legislature shall adjust the boundary lines of Congressional, State Senate, Assembly, and Board of Equalization districts in conformance with the following standards and process: pursuant to a mapping process using the following criteria as set forth in the following order of priority:

(a) Each member of ~~Congress~~ shall be elected from a single-member district.

(b) Districts shall comply with the United States Constitution. The population of all ~~congressional~~ districts shall be ~~reasonably equal~~ precisely equal with other districts for the same office. If precise population equality is mathematically impossible, a population variation of no more than plus or minus one person shall be allowed. After following this criterion, the Legislature shall adjust the boundary lines according to the criteria set forth and prioritized in paragraphs (2), (3), (4), and (5) of subdivision (d) of Section 2. The Legislature shall issue, with its final map, a report that explains the basis on which it made its decisions in achieving

~~compliance with these criteria and shall include definitions of the terms and standards used in drawing its final map.~~

~~(c) Districts shall comply with the federal Voting Rights Act (42 U.S.C. Sec. 1971 and following) and all federal law in effect at the time the districting plan is adopted.~~

~~(d) Districts shall be geographically contiguous.~~

~~(e) The geographical integrity of any city, county, city and county, or community of interest shall be respected in a manner that minimizes its division. No contiguous city, county, or city and county that has fewer persons than the ideal population of a district established by subdivision (b) shall be split except to achieve population equality, contiguity, or to comply with all federal constitutional and statutory requirements including the Voting Rights Act (42 U.S.C. Sec. 1971 and following).~~

~~(e) Congressional districts (f) Districts for the same office shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.~~

~~(d) The Legislature shall coordinate with the Citizens Redistricting Commission established pursuant to Section 2 to hold concurrent hearings, provide access to redistricting data and software, and otherwise ensure full public participation in the redistricting process. The Legislature shall comply with the open hearing requirements of paragraphs (1), (2), (3), and (7) of subdivision (a) of, and subdivision (b) of, Section 8253 of the Government Code, or its successor provisions of statute.~~

SEC. 4.2. Section 2 of Article XXI of the California Constitution is amended to read:

~~SEC. 2. (a) The Citizens Redistricting Commission shall draw new district lines (also known as "redistricting") for State Senate, Assembly, and Board of Equalization districts. This commission shall be created no later than December 31 in 2010, and in each year ending in the number zero thereafter.~~

~~(b) The Citizens Redistricting Commission (hereinafter the "commission") SEC. 2. (a) The Legislature shall: (1) conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines; (2) draw district lines according to the redistricting criteria specified in this article; and (3) conduct themselves itself with integrity and fairness; and (4) apply this article in a manner that reinforces public confidence in the integrity of the redistricting process.~~

~~(b) The Legislature shall provide not less than 14 days public notice for each meeting dealing with redistricting. No bill setting forth the district boundary lines for Congressional, Senate, Assembly, or State Board of Equalization districts shall be amended in the three days prior to the passage of the bill in each house in its final form.~~

~~(c) The Legislature shall take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide the public ready access to redistricting data and computer software for drawing maps.~~

~~(d) The records of the Legislature pertaining to redistricting and all data considered by the Legislature are public records and shall be posted in a manner that ensures immediate and widespread public access.~~

~~(e) The Legislature shall retain at least one legal counsel who has extensive experience and expertise in the implementation and enforcement of the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 and following) and other federal and state legal requirements for redistricting.~~

(f) Notwithstanding any other provision of law, no employer shall discharge, threaten to discharge, intimidate, coerce, or retaliate against any employee by reason of views expressed by such employee in any legislative session or hearing relating to redistricting.

(g) The Legislature shall establish and implement an open hearing process for public input and deliberation that shall be subject to public notice and shall be promoted through a thorough outreach program in order to solicit broad public participation in the redistricting public review process. The hearing process shall include, at a minimum, (1) hearings to receive public input before the release of data by the United States Census Bureau for the most recent applicable decennial census, (2) hearings to receive public input before the Legislature draws any maps, and (3) hearings to receive public input following the drawing and display of any maps. In addition, hearings shall be supplemented with other activities as appropriate in order to further increase opportunities for the public to observe and participate in the review process. The Legislature shall display proposed maps for public comment in a manner designed to achieve the widest public access reasonably possible. Public comment shall be taken for at least 14 days from the date of the initial public display of maps.

(h) For the two-year period beginning with November, 2010, and in each three-year period beginning with the year ending in nine thereafter, the Legislature shall expend no more than the lesser of (1) two and one-half million dollars (\$2,500,000), or (2) the amount expended pursuant to this subdivision in the immediately preceding redistricting process, to implement the redistricting process required by this article. For each of the redistricting processes beginning with the year 2020 and thereafter, the above amounts shall be adjusted by the cumulative change in the California Consumer Price Index, or its successor, since the date of the immediately preceding appropriation made pursuant to this subdivision. This provision shall be deemed to constitute an absolute spending cap on the expenditure of public funds by the Legislature for the costs of implementing the redistricting process required by this article during the specified period.

~~—(e) (1) The selection process is designed to produce a Citizens Redistricting Commission that is independent from legislative influence and reasonably representative of this State's diversity.~~

~~—(2) The Citizens Redistricting Commission shall consist of 14 members, as follows: five who are registered with the largest political party in California based on registration, five who are registered with the second largest political party in California based on registration, and four who are not registered with either of the two largest political parties in California based on registration.~~

~~—(3) Each commission member shall be a voter who has been continuously registered in California with the same political party or unaffiliated with a political party and who has not changed political party affiliation for five or more years immediately preceding the date of his or her appointment. Each commission member shall have voted in two of the last three statewide general elections immediately preceding his or her application.~~

~~—(4) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.~~

~~—(5) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action. The three final maps must be approved by at least nine affirmative votes which must include at least three votes of members registered from each of the two largest political parties in California based on registration and three votes from members who are not registered with either of these two political parties.~~

~~—(6) Each commission member shall apply this article in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A commission member shall be ineligible for a period of 10 years beginning from the date of appointment to hold elective public office at the federal, state, county, or city level in this State. A member of the commission shall be ineligible for a period of five years beginning~~

from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staff for the Legislature or any individual legislator or to register as a federal, state, or local lobbyist in this State.

~~(d) The commission shall establish single member districts for the Senate, Assembly, and State Board of Equalization pursuant to a mapping process using the following criteria as set forth in the following order of priority:~~

~~(1) Districts shall comply with the United States Constitution. Senate, Assembly, and State Board of Equalization districts shall have reasonably equal population with other districts for the same office, except where deviation is required to comply with the federal Voting Rights Act or allowable by law.~~

~~(2) Districts shall comply with the federal Voting Rights Act (42 U.S.C. Sec. 1971 and following).~~

~~(3) Districts shall be geographically contiguous.~~

~~(4) The geographic integrity of any city, county, city and county, neighborhood, or community of interest shall be respected to the extent possible without violating the requirements of any of the preceding subdivisions. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.~~

~~(5) To the extent practicable, and where this does not conflict with the criteria above, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant population.~~

~~(6) To the extent practicable, and where this does not conflict with the criteria above, each Senate district shall be comprised of two whole, complete, and adjacent Assembly districts, and each Board of Equalization district shall be comprised of 10 whole, complete, and adjacent Senate districts.~~

~~(e) The place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.~~

~~(f) Districts for the Senate, Assembly, and State Board of Equalization shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.~~

~~(g) (i) By September 15 in 2011, and in each year ending in the number one thereafter, the commission shall approve three Legislature shall enact one or more statutes approving four final maps that separately set forth the district boundary lines for the Congressional, Senate, Assembly, and State Board of Equalization districts. Every such statute shall be subject to referendum pursuant to Section 9 of Article II of this Constitution. Upon approval, the commission shall certify the three final maps to the Secretary of State.~~

~~(h) The commission shall issue, with each of the three final maps, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria listed in subdivision (d) and shall include definitions of the terms and standards used in drawing each final map.~~

~~(i) Each certified final map shall be subject to referendum in the same manner that a statute is subject to referendum pursuant to Section 9 of Article II. The date of certification of a final map to the Secretary of State shall be deemed the enactment date for purposes of Section 9 of Article II.~~

~~(j) If the commission does not approve a final map by at least the requisite votes or if voters disapprove a certified final map in a referendum, the Secretary of State shall immediately petition the Supreme Court for an order directing the appointment of special masters to adjust the boundary lines of that map in accordance~~

~~with the redistricting criteria and requirements set forth in subdivisions (d), (e), and (f). Upon its approval of the masters' map, the court shall certify the resulting map to the Secretary of State, which map shall constitute the certified final map for the subject type of district.~~

SEC. 4.3. Section 3 of Article XXI of the California Constitution is amended to read:

~~SEC. 3. (a) The commission has the sole legal standing to defend any action regarding a certified final map, and shall inform the Legislature if it determines that funds or other resources provided for the operation of the commission are not adequate. The Legislature shall provide adequate funding to defend any action regarding a certified map. The commission has sole authority to determine whether the Attorney General or other legal counsel retained by the commission shall assist in the defense of a certified final map.~~

~~—(b) (1) SEC. 3. (a) The California Supreme Court has original and exclusive jurisdiction in all state judicial proceedings in which a certified final map is challenged.~~

~~—(2) (b) Any registered voter registered in this state may file a petition for a writ of mandate or writ of prohibition with the California Supreme Court, within 45 days after the enactment of commission has certified a final map to the Secretary of State, to bar the Secretary of State from implementing the redistricting plan on the grounds that the filed plan violates this Constitution, the United States Constitution, or any federal or state statute.~~

~~—(3) The Supreme Court shall give priority to ruling on a petition for a writ of mandate or a writ of prohibition filed pursuant to paragraph (2). If the court determines that a final certified map violates this Constitution, the United States Constitution, or any federal or state statute, the court shall fashion the relief that it deems appropriate.~~

~~(c) If final maps are not enacted in a timely manner, or if the Supreme Court determines that a final map violates this Constitution, the United States Constitution, or any federal statute, the California Supreme Court shall fashion the relief that it deems appropriate in accordance with the redistricting criteria and requirements set forth in Section 1 of this article. This relief may but need not extend the time for the Legislature to carry out its responsibilities.~~

SECTION 5. Amendment of Government Code.

SEC. 5.1. Chapter 3.2 (commencing with Section 8251) of Division I of Title 2 of the Government Code is repealed:

~~Chapter 3.2. Citizens Redistricting Commission~~

~~8251. Citizens Redistricting Commission General Provisions.~~

~~—(a) This chapter implements Article XXI of the California Constitution by establishing the process for the selection and governance of the Citizens Redistricting Commission.~~

~~—(b) For purposes of this chapter, the following terms are defined:~~

~~—(1) "Commission" means the Citizens Redistricting Commission.~~

~~—(2) "Day" means a calendar day, except that if the final day of a period within which an act is to be performed is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.~~

- ~~—(3) "Panel" means the Applicant Review Panel.~~
- ~~—(4) "Qualified independent auditor" means an auditor who is currently licensed by the California Board of Accountancy and has been a practicing independent auditor for at least 10 years prior to appointment to the Applicant Review Panel.~~
- ~~—(c) The Legislature may not amend this chapter unless all of the following are met:~~
 - ~~—(1) By the same vote required for the adoption of the final set of maps, the commission recommends amendments to this chapter to carry out its purpose and intent.~~
 - ~~—(2) The exact language of the amendments provided by the commission is enacted as a statute approved by a two-thirds vote of each house of the Legislature and signed by the Governor.~~
 - ~~—(3) The bill containing the amendments provided by the commission is in print for 10 days before final passage by the Legislature.~~
 - ~~—(4) The amendments further the purposes of this act.~~
 - ~~—(5) The amendments may not be passed by the Legislature in a year ending in 0 or 1.~~

~~8252. Citizens Redistricting Commission Selection Process:~~

- ~~—(a) (1) By January 1 in 2010, and in each year ending in the number zero thereafter, the State Auditor shall initiate an application process, open to all registered California voters in a manner that promotes a diverse and qualified applicant pool.~~
- ~~—(2) The State Auditor shall remove from the applicant pool individuals with conflicts of interest including:~~
 - ~~—(A) Within the 10 years immediately preceding the date of application, neither the applicant, nor a member of his or her immediate family, may have done any of the following:~~
 - ~~—(i) Been appointed to, elected to, or have been a candidate for federal or state office.~~
 - ~~—(ii) Served as an officer, employee, or paid consultant of a political party or of the campaign committee of a candidate for elective federal or state office.~~
 - ~~—(iii) Served as an elected or appointed member of a political party central committee.~~
 - ~~—(iv) Been a registered federal, state, or local lobbyist.~~
 - ~~—(v) Served as paid congressional, legislative, or Board of Equalization staff.~~
 - ~~—(vi) Contributed two thousand dollars (\$2,000) or more to any congressional, state, or local candidate for elective public office in any year, which shall be adjusted every 10 years by the cumulative change in the California Consumer Price Index, or its successor.~~
 - ~~—(B) Staff and consultants to, persons under a contract with, and any person with an immediate family relationship with the Governor, a Member of the Legislature, a member of Congress, or a member of the State Board of Equalization, are not eligible to serve as commission members. As used in this subdivision, a~~

member of a person's "immediate family" is one with whom the person has a bona fide relationship established through blood or legal relation, including parents, children, siblings, and in-laws.

~~(b) The State Auditor shall establish an Applicant Review Panel, consisting of three qualified independent auditors, to screen applicants. The State Auditor shall randomly draw the names of three qualified independent auditors from a pool consisting of all auditors employed by the state and licensed by the California Board of Accountancy at the time of the drawing. The State Auditor shall draw until the names of three auditors have been drawn including one who is registered with the largest political party in California based on party registration, one who is registered with the second largest political party in California based on party registration, and one who is not registered with either of the two largest political parties in California. After the drawing, the State Auditor shall notify the three qualified independent auditors whose names have been drawn that they have been selected to serve on the panel. If any of the three qualified independent auditors decline to serve on the panel, the State Auditor shall resume the random drawing until three qualified independent auditors who meet the requirements of this subdivision have agreed to serve on the panel. A member of the panel shall be subject to the conflict of interest provisions set forth in paragraph (2) of subdivision (a).~~

~~(c) Having removed individuals with conflicts of interest from the applicant pool, the State Auditor shall no later than August 1 in 2010, and in each year ending in the number zero thereafter, publicize the names in the applicant pool and provide copies of their applications to the Applicant Review Panel.~~

~~(d) From the applicant pool, the Applicant Review Panel shall select 60 of the most qualified applicants, including 20 who are registered with the largest political party in California based on registration, 20 who are registered with the second largest political party in California based on registration, and 20 who are not registered with either of the two largest political parties in California based on registration. These subpools shall be created on the basis of relevant analytical skills, ability to be impartial, and appreciation for California's diverse demographics and geography. The members of the panel shall not communicate with any State Board of Equalization member, Senator, Assembly Member, congressional member, or their representatives, about any matter related to the nomination process or applicants prior to the presentation by the panel of the pool of recommended applicants to the Secretary of the Senate and the Chief Clerk of the Assembly.~~

~~(e) By October 1 in 2010, and in each year ending in the number zero thereafter, the Applicant Review Panel shall present its pool of recommended applicants to the Secretary of the Senate and the Chief Clerk of the Assembly. No later than November 15 in 2010, and in each year ending in the number zero thereafter, the President pro Tempore of the Senate, the Minority Floor Leader of the Senate, the Speaker of the Assembly, and the Minority Floor Leader of the Assembly may each strike up to two applicants from each subpool of 20 for a total of eight possible strikes per subpool. After all legislative leaders have exercised their strikes, the Secretary of the Senate and the Chief Clerk of the Assembly shall jointly present the pool of remaining names to the State Auditor.~~

~~(f) No later than November 20 in 2010, and in each year ending in the number zero thereafter, the State Auditor shall randomly draw eight names from the remaining pool of applicants as follows: three from the remaining subpool of applicants registered with the largest political party in California based on registration, three from the remaining subpool of applicants registered with the second largest political party in California based on registration, and two from the remaining subpool of applicants who are not registered with either of the two largest political parties in California based on registration. These eight individuals shall serve on the Citizens Redistricting Commission.~~

~~(g) No later than December 31 in 2010, and in each year ending in the number zero thereafter, the eight commissioners shall review the remaining names in the pool of applicants and appoint six applicants to the commission as follows: two from the remaining subpool of applicants registered with the largest political~~

party in California based on registration, two from the remaining subpool of applicants registered with the second largest political party in California based on registration, and two from the remaining subpool of applicants who are not registered with either of the two largest political parties in California based on registration. The six appointees must be approved by at least five affirmative votes which must include at least two votes of commissioners registered from each of the two largest parties and one vote from a commissioner who is not affiliated with either of the two largest political parties in California. The six appointees shall be chosen to ensure the commission reflects this state's diversity, including, but not limited to, racial, ethnic, geographic, and gender diversity. However, it is not intended that formulas or specific ratios be applied for this purpose. Applicants shall also be chosen based on relevant analytical skills and ability to be impartial.

~~8252.5. Citizens Redistricting Commission Vacancy, Removal, Resignation, Absence.~~

~~—(a) In the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a member of the commission may be removed by the Governor with the concurrence of two thirds of the Members of the Senate after having been served written notice and provided with an opportunity for a response. A finding of substantial neglect of duty or gross misconduct in office may result in referral to the Attorney General for criminal prosecution or the appropriate administrative agency for investigation.~~

~~—(b) Any vacancy, whether created by removal, resignation, or absence, in the 14 commission positions shall be filled within the 30 days after the vacancy occurs, from the pool of applicants of the same voter registration category as the vacating nominee that was remaining as of November 20 in the year in which that pool was established. If none of those remaining applicants are available for service, the State Auditor shall fill the vacancy from a new pool created for the same voter registration category in accordance with Section 8252.~~

~~8253. Citizens Redistricting Commission Miscellaneous Provisions.~~

~~—(a) The activities of the Citizens Redistricting Commission are subject to all of the following:~~

~~—(1) The commission shall comply with the Bagley Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2), or its successor. The commission shall provide not less than 14 days' public notice for each meeting, except that meetings held in September in the year ending in the number one may be held with three days' notice.~~

~~—(2) The records of the commission pertaining to redistricting and all data considered by the commission are public records that will be posted in a manner that ensures immediate and widespread public access.~~

~~—(3) Commission members and staff may not communicate with or receive communications about redistricting matters from anyone outside of a public hearing. This paragraph does not prohibit communication between commission members, staff, legal counsel, and consultants retained by the commission that is otherwise permitted by the Bagley Keene Open Meeting Act or its successor outside of a public hearing.~~

~~—(4) The commission shall select by the voting process prescribed in paragraph (5) of subdivision (c) of Section 2 of Article XXI of the California Constitution one of their members to serve as the chair and one to serve as vice chair. The chair and vice chair shall not be of the same party.~~

~~—(5) The commission shall hire commission staff, legal counsel, and consultants as needed. The commission shall establish clear criteria for the hiring and removal of these individuals, communication protocols, and a code of conduct. The commission shall apply the conflicts of interest listed in paragraph (2) of subdivision (a) of Section 8252 to the hiring of staff to the extent applicable. The Secretary of State shall provide support~~

functions to the commission until its staff and office are fully functional. Any individual employed by the commission shall be exempt from the civil service requirements of Article VII of the California Constitution. The commission shall require that at least one of the legal counsel hired by the commission has demonstrated extensive experience and expertise in implementation and enforcement of the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 and following). The commission shall make hiring, removal, or contracting decisions on staff, legal counsel, and consultants by nine or more affirmative votes including at least three votes of members registered from each of the two largest parties and three votes from members who are not registered with either of the two largest political parties in California.

—(6) Notwithstanding any other provision of law, no employer shall discharge, threaten to discharge, intimidate, coerce, or retaliate against any employee by reason of such employee's attendance or scheduled attendance at any meeting of the commission.

—(7) The commission shall establish and implement an open hearing process for public input and deliberation that shall be subject to public notice and promoted through a thorough outreach program to solicit broad public participation in the redistricting public review process. The hearing process shall include hearings to receive public input before the commission draws any maps and hearings following the drawing and display of any commission maps. In addition, hearings shall be supplemented with other activities as appropriate to further increase opportunities for the public to observe and participate in the review process. The commission shall display the maps for public comment in a manner designed to achieve the widest public access reasonably possible. Public comment shall be taken for at least 14 days from the date of public display of any map.

—(b) The Legislature shall take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide the public ready access to redistricting data and computer software for drawing maps. Upon the commission's formation and until its dissolution, the Legislature shall coordinate these efforts with the commission.

8253.5. Citizens Redistricting Commission Compensation.

—Members of the commission shall be compensated at the rate of three hundred dollars (\$300) for each day the member is engaged in commission business. For each succeeding commission, the rate of compensation shall be adjusted in each year ending in nine by the cumulative change in the California Consumer Price Index, or its successor. Members of the panel and the commission are eligible for reimbursement of personal expenses incurred in connection with the duties performed pursuant to this act. A member's residence is deemed to be the member's post of duty for purposes of reimbursement of expenses.

8253.6. Citizens Redistricting Commission Budget, Fiscal Oversight.

—(a) In 2009, and in each year ending in nine thereafter, the Governor shall include in the Governor's Budget submitted to the Legislature pursuant to Section 12 of Article IV of the California Constitution amounts of funding for the State Auditor, the Citizens Redistricting Commission, and the Secretary of State that are sufficient to meet the estimated expenses of each of those officers or entities in implementing the redistricting process required by this act for a three-year period, including, but not limited to, adequate funding for a statewide outreach program to solicit broad public participation in the redistricting process. The Governor shall also make adequate office space available for the operation of the commission. The Legislature shall make the necessary appropriation in the Budget Act, and the appropriation shall be available during the entire three-year period. The appropriation made shall be equal to the greater of three million dollars (\$3,000,000), or the amount expended pursuant to this subdivision in the immediately preceding redistricting process, as each amount is adjusted by the cumulative change in the California Consumer Price Index, or its successor, since the date of the immediately preceding appropriation made pursuant to this

~~subdivision. The Legislature may make additional appropriations in any year in which it determines that the commission requires additional funding in order to fulfill its duties.~~

~~(b) The commission, with fiscal oversight from the Department of Finance or its successor, shall have procurement and contracting authority and may hire staff and consultants, exempt from the civil service requirements of Article VII of the California Constitution, for the purposes of this act, including legal representation.~~

SECTION 6. Conflicting Ballot Propositions.

(a) In the event that this measure and another measure(s) relating to the redistricting of Senate, Assembly, Congressional, or Board of Equalization districts are approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure(s), this measure shall control in its entirety and the other measure(s) shall be rendered void and without any legal effect. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than the other measure(s), this measure shall take effect to the extent permitted by law.

(b) If any provisions of this measure are superseded by the provisions of any other conflicting measure approved by the voters and receiving a greater number of affirmative votes at the same election, and the conflicting measure is subsequently held to be invalid, the provisions of this measure shall be self-executing and given full force of law.

SECTION 7. Severability.

The provisions of this act are severable. If any provision of this act or its application is held to be invalid, that invalidity shall not affect any other provisions or applications that can be given effect without the invalid provision or application.