

**Assembly Constitutional Amendment**

**No. 4**

**Introduced by Assembly Member Keene**

January 20, 2005

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Assembly Constitutional Amendment No. 4— A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 10 and 12 of Article IV thereof, by amending Section 6 of Article XIII B thereof, by amending Section 8 of Article XVI thereof, by amending Section 6 of Article XIX thereof, by repealing Section 1 of Article XIX A thereof, and by amending Section 1 of Article XIX B thereof, relating to state finance.

LEGISLATIVE COUNSEL'S DIGEST

ACA 4, as introduced, Keene. State finances.

(1) The California Constitution provides, commencing in the 2004–05 fiscal year, that if, following the enactment of the annual Budget Bill, the Governor determines either that General Fund revenues will decline substantially below the estimate of General Fund revenues upon which the Budget Bill for that fiscal year was based, or that General Fund expenditures will increase substantially above that estimate of General Fund revenues, or both, the Governor is authorized to issue a proclamation declaring a fiscal emergency and is thereupon required to cause the Legislature to assemble in special session. These provisions require that the proclamation identify the nature of the fiscal emergency and be accompanied by proposed legislation to address the fiscal emergency. If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the proclamation, the Legislature is prohibited from acting on any other

bills and may not adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor.

This measure would require, rather than authorize, the Governor to issue a proclamation declaring a fiscal emergency, and specify that the proclamation would be issued when the Governor determines either that General Fund revenues will decline below the estimate of General Fund revenues upon which the Budget Bill for that fiscal year was based, or that General Fund expenditures will increase above that estimate of General Fund revenues, or both, by at least \$250,000,000, adjusted to reflect the rate of inflation shown in the consumer price index. The measure would also require, as an additional consequence if the Legislature fails to pass a bill or bills to address the fiscal emergency by the 45th day, that reductions be imposed, on a pro rata basis, on all General Fund appropriations enacted on or before the date of the proclamation, by a percentage estimated by the Director of Finance to cause total General Fund appropriations not to exceed General Fund revenues by the end of that fiscal year, with specified exceptions. It would additionally require the amount of certain payments calculated pursuant to state statute to be reduced as necessary to reflect the reduction in General Fund appropriations. The reduction authority created pursuant to these provisions would apply until the effective date, no later than the end of that fiscal year, of a proclamation issued by the Governor declaring the end of the fiscal emergency.

(2) Existing provisions of the California Constitution authorize the Governor and the Governor-elect to require a state agency, officer, or employee to furnish whatever information is necessary to prepare the state budget.

This measure would specifically require the Director of Finance to advise the Governor on the current status of state revenues and expenditures in May and November of each year, and at the beginning of any fiscal year for which a budget bill has not been enacted.

(3) Existing provisions of the California Constitution require the Legislature to pass the budget bill by midnight on June 15 of each year.

This measure would provide, for the first full fiscal year following the effective date of the measure, and any subsequent fiscal year, that if the budget bill is not enacted by July 1, amounts equal to the amounts appropriated by the items of appropriation in the Budget Act and any amendments to the Budget Act for the immediately preceding

fiscal year would be appropriated, as specified, until a budget bill for the new fiscal year is enacted, subject to any applicable expenditure reductions.

(4) Existing provisions of the California Constitution and various statutes authorize the loan to the General Fund of moneys in specified funds and accounts, including loans from the Public Transportation Account in the State Transportation Fund.

This measure would, on and after July 1, 2006, prohibit the transfer of funds from a special fund to the General Fund as a loan, with specified exceptions. Any funds that were transferred prior to that date from a special fund to the General Fund for the purpose of making a loan to the General Fund and have not been repaid to that special fund by July 1, 2006, would be required to be repaid to that special fund by July 1, 2021.

(5) Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions. The California Constitution provides that payable claims for costs incurred prior to the 2004–05 fiscal year that have not been paid prior to the 2005–06 fiscal year may be paid over a term of years, as prescribed by law. Existing statutory law provides that these claims be paid over a period not to exceed 5 years.

This measure would provide that the term of years over which payable claims shall be paid shall not exceed 15 years.

(6) Existing provisions of the California Constitution require that specified state funds be applied annually for the support of school districts and community college districts in an amount not less than the greater of the amounts calculated under 3 different tests: (1) the amount that as a percentage of General Fund revenues appropriated for school districts and community college districts is equal to the percentage of General Fund revenues appropriated for that purpose in the 1986–87 fiscal year (Test 1), (2) the amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes and allocated local proceeds of taxes are not less than the total amount from these sources in the prior fiscal year adjusted for changes in enrollment and cost of living, operative only in a fiscal year in which the percentage growth in per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus .5% (Test 2), or (3)

the amount calculated pursuant to Test 2, but adjusted for changes in enrollment and the change in per capita General Fund revenues, operative only when the percentage growth in per capita personal income is greater than the percentage growth in per capita General Fund revenues plus .5% (Test 3).

Existing provisions of the California Constitution also permit the suspension of these provisions by the Legislature, with certain requirements, and provide that school districts or community college districts are entitled to a maintenance factor, as specified, if these provisions are suspended by the Legislature, or if funding of the public education system is computed pursuant to Test 3, as described above.

This measure would provide that the provisions setting forth Test 3 as an alternative calculation to be used in determining the minimum annual amount required to be appropriated for the support of school districts and community college districts are not operative in fiscal years succeeding the fiscal year in which this measure became effective, and would provide that the authority to suspend the requirement to appropriate that minimum annual funding guarantee applies only to those fiscal years preceding the fiscal year that commences subsequent to the effective date of this measure. This measure would require that the total amount of any maintenance factors be repaid in total no later than July 1, 2021, and that the amount of that repayment be excluded from consideration in calculating the minimum funding guarantee for any subsequent fiscal year.

This measure would provide, as specified, that appropriations made for a fiscal year that exceed the minimum funding guarantee for that fiscal year are excluded from consideration in calculating the minimum funding guarantee for any subsequent fiscal year, as determined under Test 2, unless the statute making such an appropriation specifies otherwise.

This measure would require any balance of amounts that were required to be allocated under the existing minimum annual funding guarantee for the 2003–04 fiscal year or any preceding fiscal year, but were not allocated as of the effective date of this measure, to be repaid in total, on a specified allocated basis, within 15 years from that date.

This measure would further provide that the balance of any amounts required under the annual funding guarantee to be allocated to school districts and community college districts for the 2004-05 fiscal year,

or any subsequent fiscal year, that were not allocated prior to the end of that fiscal year are continuously appropriated to the Controller from the General Fund for allocation to school districts and community college districts upon the certification of the final data necessary for the calculation of the annual funding guarantee by the Department of Finance and the Superintendent of Public Instruction, subject to certain requirements. The measure would permit the Legislature to require a school district or community college district to use those funds for a specified purpose.

(7) Existing provisions of the California Constitution require sales taxes on motor vehicle fuel that are deposited in the General Fund to be transferred to the Transportation Investment Fund for allocation to various transportation purposes. These provisions authorize the transfer of these revenues to the Transportation Investment Fund to be suspended, in whole or in part, for a fiscal year during a fiscal emergency pursuant to a proclamation issued by the Governor and the enactment of a statute by a  $\frac{2}{3}$  vote of both houses of the Legislature, if the statute does not contain any unrelated provision.

This measure instead would provide that the transfer of revenues from the General Fund to the Transportation Investment Fund may be suspended, in whole or in part, and subject to these conditions, for any fiscal year preceding the 2007–08 fiscal year.

The measure would also require that the total amount, as of July 1, 2007, of revenues that were not transferred from the General Fund to the Transportation Investment Fund because of a suspension pursuant to these provisions be repaid to the Transportation Investment Fund no later than June 30, 2022, and that until the total amount has been repaid, the amount of repayment to be made in each fiscal year shall not be less than  $\frac{1}{15}$  of the total amount due. It would authorize the Legislature to provide by statute for the issuance of bonds secured by these payments, with the proceeds to be used for purposes consistent with the provisions governing the Transportation Investment Fund, and for costs associated with the issuance and sale of the bonds.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

- 1 *Resolved by the Assembly, the Senate concurring,* That the
- 2 Legislature of the State of California at its 2005–06 Regular
- 3 Session commencing on the sixth day of December 2004,
- 4 two-thirds of the membership of each house concurring, hereby

1 proposes to the people of the State of California, that the  
2 Constitution of the State be amended as follows:

3 First—That Section 10 of Article IV thereof is amended to  
4 read:

5 SEC. 10. (a) Each bill passed by the Legislature shall be  
6 presented to the Governor. It becomes a statute if it is signed by  
7 the Governor. The Governor may veto it by returning it with any  
8 objections to the house of origin, which shall enter the objections  
9 in the journal and proceed to reconsider it. If each house then  
10 passes the bill by rollcall vote entered in the journal, two-thirds  
11 of the membership concurring, it becomes a statute.

12 (b) (1) Any bill, other than a bill which would establish or  
13 change boundaries of any legislative, congressional, or other  
14 election district, passed by the Legislature on or before the date  
15 the Legislature adjourns for a joint recess to reconvene in the  
16 second calendar year of the biennium of the legislative session,  
17 and in the possession of the Governor after that date, that is not  
18 returned within 30 days after that date becomes a statute.

19 (2) Any bill passed by the Legislature before September 1 of  
20 the second calendar year of the biennium of the legislative  
21 session and in the possession of the Governor on or after  
22 September 1 that is not returned on or before September 30 of  
23 that year becomes a statute.

24 (3) Any other bill presented to the Governor that is not  
25 returned within 12 days becomes a statute.

26 (4) If the Legislature by adjournment of a special session  
27 prevents the return of a bill with the veto message, the bill  
28 becomes a statute unless the Governor vetoes the bill within 12  
29 days after it is presented by depositing it and the veto message in  
30 the office of the Secretary of State.

31 (5) If the 12th day of the period within which the Governor is  
32 required to perform an act pursuant to paragraph (3) or (4) of this  
33 subdivision is a Saturday, Sunday, or holiday, the period is  
34 extended to the next day that is not a Saturday, Sunday, or  
35 holiday.

36 (c) Any bill introduced during the first year of the biennium of  
37 the legislative session that has not been passed by the house of  
38 origin by January 31 of the second calendar year of the biennium  
39 may no longer be acted on by the house. No bill may be passed  
40 by either house on or after September 1 of an even-numbered

1 year except statutes calling elections, statutes providing for tax  
2 levies or appropriations for the usual current expenses of the  
3 State, and urgency statutes, and bills passed after being vetoed by  
4 the Governor.

5 (d) The Legislature may not present any bill to the Governor  
6 after November 15 of the second calendar year of the biennium  
7 of the legislative session.

8 (e) The Governor may reduce or eliminate one or more items  
9 of appropriation while approving other portions of a bill. The  
10 Governor shall append to the bill a statement of the items  
11 reduced or eliminated with the reasons for the action. The  
12 Governor shall transmit to the house originating the bill a copy of  
13 the statement and reasons. Items reduced or eliminated shall be  
14 separately reconsidered and may be passed over the Governor's  
15 veto in the same manner as bills.

16 (f) (1) If, following the enactment of the budget bill for the  
17 2004–05 fiscal year or any subsequent fiscal year, the Governor  
18 determines that, for that fiscal year, General Fund revenues will  
19 decline ~~substantially~~ below the estimate of General Fund  
20 revenues upon which the budget bill for that fiscal year, as  
21 enacted, was based, or General Fund expenditures will increase  
22 ~~substantially~~ above that estimate of General Fund revenues, or  
23 both, *by at least two hundred fifty million dollars (\$250,000,000),*  
24 *adjusted to reflect the rate of inflation shown in the appropriate*  
25 *consumer price index as identified by the Director of Finance,*  
26 the Governor ~~may~~ *shall* issue a proclamation declaring a fiscal  
27 emergency and shall thereupon cause the Legislature to assemble  
28 in special session for this purpose. The proclamation shall  
29 identify the nature of the fiscal emergency and shall be submitted  
30 by the Governor to the Legislature, accompanied by proposed  
31 legislation to address the fiscal emergency.

32 (2) If the Legislature fails to pass and send to the Governor a  
33 bill or bills to address the fiscal emergency by the 45th day  
34 following the issuance of the proclamation, *or the 30th day if*  
35 *appropriation authority is currently provided pursuant to*  
36 *subdivision (g) of Section 12, all of the following shall occur:*

37 (A) The Legislature may not act on any other bill, nor may the  
38 Legislature adjourn for a joint recess, until that bill or those bills  
39 have been passed and sent to the Governor.

1 (B) (i) Notwithstanding any other provision of this  
2 Constitution, all General Fund appropriations enacted on or  
3 before the date of the issuance of the proclamation shall be  
4 reduced, on a pro rata basis, by that percentage that the Director  
5 of Finance estimates will cause total General Fund  
6 appropriations, and the amount of any General Fund moneys  
7 transferred to the Budget Stabilization Account for that fiscal  
8 year pursuant to Section 20 of Article XVI, not to exceed General  
9 Fund revenues by the end of that fiscal year. The Controller shall  
10 implement this subparagraph by applying the percentage  
11 estimated by the Director of Finance to every payment of  
12 General Fund moneys in a warrant that is issued under the  
13 authority of any affected appropriation. In addition, the amount  
14 of any payment that is calculated pursuant to state statute, and  
15 issued by a government entity other than the Controller, shall, to  
16 the extent funded from the General Fund of the State, be reduced  
17 as necessary to reflect the reduction required by this  
18 subparagraph.

19 (ii) This subparagraph shall not apply to a payment required  
20 by federal law, a payment required to meet obligations with  
21 respect to state bonded indebtedness, or a payment required  
22 under a contract, collective bargaining agreement, or other  
23 entitlement under law for which liability of the State for payment  
24 arose before the effective date of the measure that added this  
25 subparagraph.

26 (iii) Notwithstanding any other provision of this Constitution,  
27 this subparagraph shall apply to any General Fund payment  
28 made with respect to any contract, collective bargaining  
29 agreement, or other entitlement under law for which liability of  
30 the State to pay arises on or after the effective date of the  
31 measure that added this subparagraph. This subparagraph shall  
32 be deemed to be included in every contract or other agreement to  
33 which the State is a party and any provision of state law under  
34 which the State is to make any payment.

35 (iv) The reduction authority set forth in this subparagraph  
36 applies until the effective date, no later than the end of that fiscal  
37 year, of a proclamation issued by the Governor declaring the end  
38 of the fiscal emergency.

39 (3) A bill addressing the fiscal emergency declared pursuant to  
40 this section shall contain a statement to that effect.

1 Second—That Section 12 of Article IV thereof is amended to  
2 read:

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

10 (b) (1) The Governor and the Governor-elect may require a  
11 state agency, officer, or employee to furnish whatever  
12 information is deemed necessary to prepare the budget.

13 (2) *The Director of Finance shall advise the Governor on the*  
14 *current status of state revenues and expenditures in May and*  
15 *November of each year, and at the beginning of any fiscal year*  
16 *for which a budget bill has not been enacted.*

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

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

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

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

30 (d) No bill except the budget bill may contain more than one  
31 item of appropriation, and that for one certain, expressed  
32 purpose. Appropriations from the General Fund of the State,  
33 except appropriations for the public schools, are void unless  
34 passed in each house by rollcall vote entered in the journal,  
35 two-thirds of the membership concurring.

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

39 (f) For the 2004–05 fiscal year, or any subsequent fiscal year,  
40 the Legislature may not send to the Governor for consideration,

1 nor may the Governor sign into law, a budget bill that would  
2 appropriate from the General Fund, for that fiscal year, a total  
3 amount that, when combined with all appropriations from the  
4 General Fund for that fiscal year made as of the date of the  
5 budget bill's passage, and the amount of any General Fund  
6 moneys transferred to the Budget Stabilization Account for that  
7 fiscal year pursuant to Section 20 of Article XVI, exceeds  
8 General Fund revenues for that fiscal year estimated as of the  
9 date of the budget bill's passage. That estimate of General Fund  
10 revenues shall be set forth in the budget bill passed by the  
11 Legislature.

12 *(g) For the first full fiscal year following the effective date of*  
13 *the measure that added this subdivision, or any subsequent fiscal*  
14 *year, if the budget bill is not enacted prior to July 1, as of that*  
15 *date amounts equal to the amounts appropriated by each of the*  
16 *items of appropriation in the budget act and any amendments to*  
17 *the budget act for the immediately preceding fiscal year are*  
18 *hereby appropriated for the current fiscal year in the same*  
19 *proportions, for the same purposes, from the same funding*  
20 *sources, and under the same conditions that apply to those items*  
21 *under that budget act or amendment to the budget act. The*  
22 *appropriation authority set forth in this subdivision applies until*  
23 *the effective date of the budget act enacted for that fiscal year.*

24 *(h) (1) On and after July 1, 2006, funds may not be*  
25 *transferred from a special fund to the General Fund as a loan.*  
26 *Any funds transferred prior to that date from a special fund to*  
27 *the General Fund for the purpose of making a loan to the*  
28 *General Fund and not repaid to that special fund by July 1,*  
29 *2006, shall be repaid to that special fund no later than July 1,*  
30 *2021.*

31 *(2) The prohibition contained in this subdivision does not*  
32 *apply to loans made for the purpose of meeting the short-term*  
33 *cash flow needs of the State if any amount owed is to be repaid in*  
34 *full to the fund from which it was borrowed during the same*  
35 *fiscal year in which the loan was made, or if repayment is to be*  
36 *made no later than a date not more than 30 days after the date of*  
37 *enactment of the budget bill for the subsequent fiscal year.*

38 Third—That Section 6 of Article XIII B thereof is amended to  
39 read:

1 SEC. 6. (a) Whenever the Legislature or any state agency  
2 mandates a new program or higher level of service on any local  
3 government, the State shall provide a subvention of funds to  
4 reimburse that local government for the costs of the program or  
5 increased level of service, except that the Legislature may, but  
6 need not, provide a subvention of funds for the following  
7 mandates:

8 (1) Legislative mandates requested by the local agency  
9 affected.

10 (2) Legislation defining a new crime or changing an existing  
11 definition of a crime.

12 (3) Legislative mandates enacted prior to January 1, 1975, or  
13 executive orders or regulations initially implementing legislation  
14 enacted prior to January 1, 1975.

15 (b) (1) Except as provided in paragraph (2), for the 2005–06  
16 fiscal year and every subsequent fiscal year, for a mandate for  
17 which the costs of a local government claimant have been  
18 determined in a preceding fiscal year to be payable by the State  
19 pursuant to law, the Legislature shall either appropriate, in the  
20 annual Budget Act, the full payable amount that has not been  
21 previously paid, or suspend the operation of the mandate for the  
22 fiscal year for which the annual Budget Act is applicable in a  
23 manner prescribed by law.

24 (2) Payable claims for costs incurred prior to the 2004–05  
25 fiscal year that have not been paid prior to the 2005–06 fiscal  
26 year ~~may~~ shall be paid over a term of *not more than 15* years, as  
27 prescribed by law.

28 (3) Ad valorem property tax revenues shall not be used to  
29 reimburse a local government for the costs of a new program or  
30 higher level of service.

31 (4) This subdivision applies to a mandate only as it affects a  
32 city, county, city and county, or special district.

33 (5) This subdivision shall not apply to a requirement to  
34 provide or recognize any procedural or substantive protection,  
35 right, benefit, or employment status of any local government  
36 employee or retiree, or of any local government employee  
37 organization, that arises from, affects, or directly relates to future,  
38 current, or past local government employment and that  
39 constitutes a mandate subject to this section.

1 (c) A mandated new program or higher level of service  
 2 includes a transfer by the Legislature from the State to cities,  
 3 counties, cities and counties, or special districts of complete or  
 4 partial financial responsibility for a required program for which  
 5 the State previously had complete or partial financial  
 6 responsibility.

7 Fourth—That Section 8 of Article XVI thereof is amended to  
 8 read:

9 SEC. 8. (a) From all state revenues there shall first be set  
 10 apart the moneys to be applied by the State for support of the  
 11 public school system and public institutions of higher education.

12 (b) Commencing with the 1990–91 fiscal year, the moneys to  
 13 be applied by the State for the support of school districts and  
 14 community college districts shall be not less than the greater of  
 15 *either of* the following amounts:

16 (1) The amount ~~which~~*that*, as a percentage of General Fund  
 17 revenues ~~which~~*that* may be appropriated pursuant to Article  
 18 XIII B, equals the percentage of General Fund revenues  
 19 appropriated for school districts and community college districts,  
 20 respectively, in *the 1986–87* fiscal year~~1986–87~~.

21 (2) The amount required to ensure that the total allocations to  
 22 school districts and community college districts from General  
 23 Fund proceeds of taxes appropriated pursuant to Article XIII B  
 24 and allocated local proceeds of taxes ~~shall~~*are* not ~~be~~ less than  
 25 the total amount from these sources in the prior fiscal year,  
 26 excluding any revenues allocated pursuant to subdivision (a) of  
 27 Section 8.5, adjusted for changes in enrollment and adjusted for  
 28 the change in the cost of living pursuant to paragraph (1) of  
 29 subdivision (e) of Section 8 of Article XIII B. This paragraph  
 30 ~~shall be~~*is* operative only in a fiscal year in which the percentage  
 31 growth in California per capita personal income is less than or  
 32 equal to the percentage growth in per capita General Fund  
 33 revenues plus ~~one-half~~*one-half* of one percent.

34 (3) (A) The amount required to ensure that the total  
 35 allocations to school districts and community college districts  
 36 from General Fund proceeds of taxes appropriated pursuant to  
 37 Article XIII B and allocated local proceeds of taxes shall equal  
 38 the total amount from these sources in the prior fiscal year,  
 39 excluding any revenues allocated pursuant to subdivision (a) of

1 Section 8.5, adjusted for changes in enrollment and adjusted for  
2 the change in per capita General Fund revenues.

3 (B) In addition, an amount equal to one-half of one percent  
4 times the prior year total allocations to school districts and  
5 community colleges from General Fund proceeds of taxes  
6 appropriated pursuant to Article XIII B and allocated local  
7 proceeds of taxes, excluding any revenues allocated pursuant to  
8 subdivision (a) of Section 8.5, adjusted for changes in  
9 enrollment.

10 (C) This paragraph ~~(3)~~ shall be operative only in a fiscal year  
11 in which the percentage growth in California per capita personal  
12 income in a fiscal year is greater than the percentage growth in  
13 per capita General Fund revenues plus ~~one-half~~ *one-half* of one  
14 percent.

15 *(D) This paragraph is not operative in any fiscal year*  
16 *succeeding the fiscal year in which the measure that added this*  
17 *subparagraph became effective.*

18 (c) In any fiscal year, if the amount computed pursuant to  
19 paragraph (1) of subdivision (b) exceeds the amount computed  
20 pursuant to paragraph (2) of subdivision (b) by a difference that  
21 exceeds one and one-half percent of General Fund revenues, the  
22 amount in excess of one and one-half percent of General Fund  
23 revenues shall not be considered allocations to school districts  
24 and community colleges for purposes of computing the amount  
25 of state aid pursuant to paragraph (2) ~~or 3~~ of subdivision (b) in  
26 the subsequent fiscal year.

27 ~~(d) In any fiscal year in which school districts and community~~  
28 ~~college districts are allocated funding pursuant to paragraph (3)~~  
29 ~~of subdivision (b) or pursuant to subdivision (h), they shall be~~  
30 ~~entitled to a maintenance factor, equal to the difference between~~  
31 ~~(1) the amount of General Fund moneys which would have been~~  
32 ~~appropriated pursuant to paragraph (2) of subdivision (b) if that~~  
33 ~~paragraph had been operative or the amount of General Fund~~  
34 ~~moneys which would have been appropriated pursuant to~~  
35 ~~subdivision (b) had subdivision (b) not been suspended, and (2)~~  
36 ~~the amount of General Fund moneys actually appropriated to~~  
37 ~~school districts and community college districts in that fiscal~~  
38 ~~year.~~

39 ~~(e) The maintenance factor for school districts and community~~  
40 ~~college districts determined pursuant to subdivision (d) shall be~~

1 adjusted annually for changes in enrollment, and adjusted for the  
 2 change in the cost of living pursuant to paragraph (1) of  
 3 subdivision (c) of Section 8 of Article XIII B, until it has been  
 4 allocated in full. The maintenance factor shall be allocated in a  
 5 manner determined by the Legislature in each fiscal year in  
 6 which the percentage growth in per capita General Fund revenues  
 7 exceeds the percentage growth in California per capita personal  
 8 income. The maintenance factor shall be reduced each year by  
 9 the amount allocated by the Legislature in that fiscal year. The  
 10 minimum maintenance factor amount to be allocated in a fiscal  
 11 year shall be equal to the product of General Fund revenues from  
 12 proceeds of taxes and one-half of the difference between the  
 13 percentage growth in per capita General Fund revenues from  
 14 proceeds of taxes and in California per capita personal income,  
 15 not to exceed the total dollar amount of the maintenance factor.

16 ~~(f)~~

17 *(d) If, for any fiscal year, an amount is appropriated for the*  
 18 *support of school districts and community college districts in*  
 19 *excess of the minimum amount required to be appropriated for*  
 20 *that fiscal year pursuant to subdivision (b), the excess amount so*  
 21 *appropriated shall not be deemed an allocation to school*  
 22 *districts and community college districts for purposes of*  
 23 *calculating the moneys to be applied by the State for the support*  
 24 *of those entities for any subsequent fiscal year pursuant to*  
 25 *paragraph (2) of subdivision (b), unless the statute making that*  
 26 *excess appropriation specifies that this exclusion does not apply.*

27 *(e) (1) The total amount of any maintenance factors, arising*  
 28 *pursuant to former subdivision (d) for one or more fiscal years*  
 29 *preceding the fiscal year that commences subsequent to the*  
 30 *effective date of the measure that added this subdivision, shall be*  
 31 *repaid no later than July 1, 2021. The repayment of any*  
 32 *maintenance factor pursuant to this paragraph for any fiscal*  
 33 *year shall be divided between school districts and community*  
 34 *college districts in the same proportion that allocations for that*  
 35 *fiscal year that were made prior to the effective date of the*  
 36 *measure that added this subdivision were apportioned to school*  
 37 *districts and community college districts. The payment of a*  
 38 *maintenance factor amount in any fiscal year shall not be*  
 39 *deemed an allocation to school districts and community college*  
 40 *districts for purposes of calculating the moneys to be applied by*

1 *the State for the support of those entities for any subsequent*  
2 *fiscal year pursuant to paragraph (2) of subdivision (b).*

3 *(2) The balance of any amounts that were required by this*  
4 *section to be allocated to school districts and community college*  
5 *districts for the 2003–04 fiscal year, or any preceding fiscal*  
6 *year, but were not allocated as of the effective date of the*  
7 *measure that added this subdivision, shall be allocated no later*  
8 *than 15 years following that date. The total amount of*  
9 *augmentations allocated pursuant to this paragraph for any*  
10 *fiscal year shall be divided between school districts and*  
11 *community college districts in the same proportion that*  
12 *allocations for that fiscal year that were made prior to the*  
13 *effective date of the measure that added this subdivision were*  
14 *apportioned to school districts and community college districts.*

15 *(3) (A) The balance of any amounts that are required by this*  
16 *section to be allocated to school districts and community college*  
17 *districts, for the 2004–05 fiscal year, or any subsequent fiscal*  
18 *year, but are not allocated as of the end of that fiscal year, are*  
19 *continuously appropriated to the Controller from the General*  
20 *Fund of the State for allocation to school districts and*  
21 *community college districts upon the certification by the*  
22 *Department of Finance and the Superintendent of Public*  
23 *Instruction of the final data necessary to perform the calculations*  
24 *required pursuant to subdivision (b). That certification shall be*  
25 *completed within 24 months subsequent to the end of the fiscal*  
26 *year. The amount appropriated pursuant to this paragraph shall*  
27 *be divided between school districts and community college*  
28 *districts in the same proportion that allocations were made*  
29 *during that fiscal year to school districts and community college*  
30 *districts.*

31 *(B) The Legislature may require, in the budget act or any*  
32 *other statute, that a school district or community college district*  
33 *use funds allocated pursuant to this paragraph for a specified*  
34 *purpose.*

35 *(f) (1) Payable claims for state–mandated costs incurred*  
36 *prior to the 2004–05 fiscal year by a school district or*  
37 *community college district that have not been paid prior to the*  
38 *2005–06 fiscal year shall be paid no later than the 2020–21*  
39 *fiscal year.*

1 (2) Amounts allocated to a school district or community  
 2 college district for a fiscal year pursuant to subdivision (b) shall  
 3 first be expended by the district to pay the costs for state  
 4 mandates incurred during that fiscal year.

5 (g) (1) For purposes of this section, “changes in enrollment”  
 6 shall be measured by the percentage change in average daily  
 7 attendance. However, in any fiscal year, there shall be no  
 8 adjustment for decreases in enrollment between the prior fiscal  
 9 year and the current fiscal year unless there have been decreases  
 10 in enrollment between the second prior fiscal year and the prior  
 11 fiscal year and between the third prior fiscal year and the second  
 12 prior fiscal year.

13 (2) For purposes of this section, “maintenance factor” means  
 14 the difference between (A) the amount of General Fund moneys  
 15 that would have been appropriated for a fiscal year pursuant to  
 16 paragraph (2) of subdivision (b) if that paragraph, rather than  
 17 former paragraph (3) of that subdivision, had been operative or,  
 18 as applicable, the amount of General Fund moneys that would  
 19 have been appropriated for a fiscal year pursuant to subdivision  
 20 (b) had subdivision (b) not been suspended pursuant to a statute  
 21 enacted prior to January 1, 2005, and (B) the amount of General  
 22 Fund moneys actually appropriated to school districts and  
 23 community college districts for that fiscal year.

24 (h) (1) Subparagraph (B) of paragraph (3) of subdivision (b)  
 25 may be suspended for one year only when made part of or  
 26 included within any bill enacted pursuant to Section 12 of Article  
 27 IV. All other provisions of subdivision (b) may be suspended for  
 28 one year by the enactment of an urgency statute pursuant to  
 29 Section 8 of Article IV, provided that the urgency statute may not  
 30 be made part of or included within any bill enacted pursuant to  
 31 Section 12 of Article IV.

32 (2) This subdivision is not operative in any fiscal year  
 33 succeeding the fiscal year in which the measure that added this  
 34 paragraph became effective.

35 Fifth—That Section 6 of Article XIX thereof is amended to  
 36 read:

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

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

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

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

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

21 ~~(c) Nothing in this section prohibits the Legislature from~~  
 22 ~~authorizing *Nothing in subdivision (h) of Section 12 of Article IV*~~  
 23 ~~*prohibits the Legislature from authorizing*, by statute, loans to~~  
 24 ~~local transportation agencies, cities, counties, or cities and~~  
 25 ~~counties, from funds that are subject to this article, for the~~  
 26 ~~purposes authorized under this article. Any loan authorized as~~  
 27 ~~described by this ~~subdivision~~ *section* shall be repaid, with interest~~  
 28 ~~at the rate paid on money in the Pooled Money Investment~~  
 29 ~~Account, or any successor to that account, during the period of~~  
 30 ~~time that the money is loaned, to the fund from which it was~~  
 31 ~~borrowed, not later than four years after the date on which the~~  
 32 ~~loan was made.~~

33 ~~Sixth—That Section 1 of Article XIX A thereof is repealed.~~

34 ~~SECTION 1. The funds in the Public Transportation Account~~  
 35 ~~in the State Transportation Fund, or any successor to that~~  
 36 ~~account, may be loaned to the General Fund only if one of the~~  
 37 ~~following conditions is imposed:~~

38 ~~(a) That any amount loaned is to be repaid in full to the~~  
 39 ~~account during the same fiscal year in which the loan was made,~~  
 40 ~~except that repayment may be delayed until a date not more than~~

1 ~~30 days after the date of enactment of the budget bill for the~~  
 2 ~~subsequent fiscal year.~~

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

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

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

15 Seventh—That Section 1 of Article XIX B thereof is amended  
 16 to read:

17 SECTION 1. (a) For the 2003–04 fiscal year and each fiscal  
 18 year thereafter, all moneys that are collected during the fiscal  
 19 year from taxes under the Sales and Use Tax Law (Part 1  
 20 (commencing with Section 6001) of Division 2 of the Revenue  
 21 and Taxation Code), or any successor to that law, upon the sale,  
 22 storage, use, or other consumption in this State of motor vehicle  
 23 fuel, and that are deposited in the General Fund of the State  
 24 pursuant to that law, shall be transferred to the Transportation  
 25 Investment Fund, which is hereby created in the State Treasury.

26 (b) (1) For the 2003–04 to 2007–08 fiscal years, inclusive,  
 27 moneys in the Transportation Investment Fund shall be allocated,  
 28 upon appropriation by the Legislature, in accordance with  
 29 Section 7104 of the Revenue and Taxation Code as that section  
 30 read on ~~the operative date of this article~~ *March 6, 2002*.

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

34 (A) Public transit and mass transportation.

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

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

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

4 (c) For the 2008–09 fiscal year and each fiscal year thereafter,  
5 moneys in the Transportation Investment Fund shall be allocated,  
6 upon appropriation by the Legislature, as follows:

7 ~~(A)~~

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

10 ~~(B)~~

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

13 ~~(C)~~

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

16 ~~(D)~~

17 (4) Twenty percent of the moneys for the purpose set forth in  
18 subparagraph (D) of paragraph (2) of subdivision (b).

19 (d) ~~The~~ (1) *The* transfer of revenues from the General Fund of  
20 the State to the Transportation Investment Fund pursuant to  
21 subdivision (a) may be suspended, in whole or in part, for ~~a~~ *any*  
22 *fiscal year preceding the 2007–08* fiscal year if both of the  
23 following conditions are met:

24 ~~(1)~~

25 (A) The Governor has issued a proclamation that declares that  
26 the transfer of revenues pursuant to subdivision (a) will result in  
27 a significant negative fiscal impact on the range of functions of  
28 government funded by the General Fund of the State.

29 ~~(2)~~

30 (B) The Legislature enacts by statute, pursuant to a bill passed  
31 in each house of the Legislature by rollcall vote entered in the  
32 journal, two-thirds of the membership concurring, a suspension  
33 for that fiscal year of the transfer of revenues pursuant to  
34 subdivision (a), provided that the bill does not contain any other  
35 unrelated provision.

36 (2) (A) *The total amount, as of July 1, 2007, of revenues that*  
37 *were not transferred from the General Fund of the State to the*  
38 *Transportation Investment Fund because of a suspension*  
39 *pursuant to this subdivision shall be repaid to the Transportation*  
40 *Investment Fund no later than June 30, 2022. Until that total*

1 amount has been repaid, the amount of that repayment to be  
2 made in each fiscal year shall not be less than  $\frac{1}{15}$  of the total  
3 amount due.

4 (B) The Legislature may provide by statute for the issuance of  
5 bonds by the State or local agencies, as applicable, that are  
6 secured by the payments required by this paragraph. Proceeds of  
7 the sale of the bonds shall be applied for purposes consistent  
8 with this article, and for costs associated with the issuance and  
9 sale of the bonds.

10 (e) The Legislature may enact a statute that modifies the  
11 percentage shares set forth in subdivision (c) by a bill passed in  
12 each house of the Legislature by rollcall vote entered in the  
13 journal, two-thirds of the membership concurring, provided that  
14 the bill does not contain any other unrelated provision and that  
15 the moneys described in subdivision (a) are expended solely for  
16 the purposes set forth in paragraph (2) of subdivision (b).

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