

**Assembly Constitutional Amendment**

**No. 37**

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**Introduced by Assembly Member Niello**

March 10, 2010

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Assembly Constitutional Amendment No. 37—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 12 of Article IV thereof, and by amending Section 20 of, and adding Section 21 to, Article XVI thereof, relating to state finance.

LEGISLATIVE COUNSEL'S DIGEST

ACA 37, as introduced, Niello. State finance.

Existing provisions of the California Constitution require the Governor to submit to the Legislature, within the first 10 days of each calendar year, a proposed budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated state revenues. In addition, the Constitution prohibits the Legislature from passing, and the Governor from signing, a Budget Bill that would appropriate from the General Fund 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 a reserve account, exceeds estimated General Fund revenues for that fiscal year. The estimate of General Fund revenues is required to be set forth in the Budget Bill.

This measure would require the Governor in his or her proposed budget to identify estimated total state resources available to meet recommended state expenditures and to further identify the amount of those resources that are anticipated to be one-time resources. The measure would prohibit passage of a Budget Bill that appropriates an

amount that, when combined with prior appropriations and transfers to the reserve account, exceeds the estimate of General Fund revenues, transfers, and balances available from the prior fiscal year. The measure would require the estimate of General Fund revenues, transfers, and balances to be set forth in the Budget Bill.

Existing provisions of the California Constitution establish the Budget Stabilization Account in the General Fund and currently require the Controller, no later than September 30 of each year, to transfer from the General Fund to the account a sum equal to 3% of the estimated amount of General Fund revenues for the current fiscal year. This transfer of moneys is not required, unless otherwise directed by the Legislature by statute, in any fiscal year to the extent that the resulting balance in the account would exceed 5% of the General Fund revenues estimate set forth in the Budget Bill for that fiscal year, as enacted, or \$8,000,000,000, whichever is greater. This transfer of moneys also may be suspended or reduced for a fiscal year as specified by an executive order issued by the Governor no later than June 1 of the preceding fiscal year. Of the moneys transferred to the account in each fiscal year, 50%, up to an aggregate amount of \$5,000,000,000 for all fiscal years, is deposited in the Deficit Recovery Bond Retirement Sinking Fund Subaccount and continuously appropriated to the Treasurer for the purpose of retiring deficit recovery bonds. All other moneys transferred to the account in a fiscal year are not deposited in the sinking fund subaccount and may, by statute, be transferred back to the General Fund.

This measure would rename this account the Budget Stabilization Fund. This measure would also provide that the transfer of moneys from the General Fund to the Budget Stabilization Fund is not required in any fiscal year to the extent that the resulting balance in the fund would exceed 12.5% of the General Fund revenues estimate set forth in the Budget Bill for that fiscal year, as enacted, and would delete the alternative \$8,000,000,000 limit on the fund. This measure would provide that, apart from a transfer made for the purpose of responding to an emergency declared by the Governor, as defined, or a loan to meet General Fund cash requirements which would be repaid within a fiscal year, the total amount that may be transferred from the Budget Stabilization Fund to the General Fund for any fiscal year shall not exceed the amount derived by subtracting the General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year from the expenditure forecast amount for the current fiscal year,

determined as total General Fund expenditures for the immediately preceding fiscal year adjusted for changes in population and the cost of living.

This measure would require the Director of Finance, on or before May 29 of each year, to report to the Legislature and the Governor (1) an estimate of the amount of General Fund revenues, transfers, and balances available from the prior fiscal year for the current fiscal year, (2) the revenue forecast amount, as defined, for the current fiscal year, and (3) an estimate of specified General Fund obligations for the public schools that have not yet been funded by the state. This measure would provide that if, pursuant to a formula based on those figures, there are unanticipated revenues in the current fiscal year, those revenues may be used only for specified purposes, and in a specified order of priority.

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 2009–10 Regular  
3     Session commencing on the first day of December 2008, two-thirds  
4     of the membership of each house concurring, hereby proposes to  
5     the people of the State of California that the Constitution of the  
6     State be amended as follows:

7     First—That Section 12 of Article IV thereof is amended to read:

8     SEC. 12. (a) Within the first 10 days of each calendar year,  
9     the Governor shall submit to the Legislature, with an explanatory  
10    message, a budget for the ensuing fiscal year containing itemized  
11    statements for recommended state expenditures and estimated ~~state~~  
12    ~~revenues~~ *total state resources available to meet those expenditures.*  
13    If recommended expenditures exceed estimated ~~revenues~~ *resources,*  
14    the Governor shall recommend the sources from which the  
15    additional ~~revenues~~ *resources* should be provided. *The itemized*  
16    *statement of estimated total state resources available to meet*  
17    *recommended expenditures submitted pursuant to this subdivision*  
18    *shall identify the amount, if any, of those resources anticipated to*  
19    *be one-time resources.*

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

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

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

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

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

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

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

21 (f) For the 2004–05 fiscal year, or any subsequent fiscal year,  
22 the Legislature may not send to the Governor for consideration,  
23 nor may the Governor sign into law, a budget bill that would  
24 appropriate from the General Fund, for that fiscal year, a total  
25 amount that, when combined with all appropriations from the  
26 General Fund for that fiscal year made as of the date of the budget  
27 bill's passage, and the amount of any General Fund moneys  
28 transferred to the Budget Stabilization ~~Account~~ *Fund* for that fiscal  
29 year pursuant to Section 20 of Article XVI, exceeds General Fund  
30 revenues, *transfers, and balances available from the prior fiscal*  
31 *year* for that fiscal year estimated as of the date of the budget bill's  
32 passage. That estimate of General Fund revenues, *transfers, and*  
33 *balances* shall be set forth in the budget bill passed by the  
34 Legislature.

35 Second—That Section 20 of Article XVI thereof is amended to  
36 read:

37 SEC. 20. (a) The Budget Stabilization ~~Account~~ *Fund* is hereby  
38 created in the General Fund.

1 (b) In each fiscal year as specified in paragraphs (1) to (3),  
2 inclusive, the Controller shall transfer from the General Fund to  
3 the Budget Stabilization ~~Account~~ *Fund* the following amounts:

4 (1) No later than September 30, 2006, a sum equal to 1 percent  
5 of the estimated amount of General Fund revenues for the 2006–07  
6 fiscal year.

7 (2) No later than September 30, 2007, a sum equal to 2 percent  
8 of the estimated amount of General Fund revenues for the 2007–08  
9 fiscal year.

10 (3) No later than September 30, 2008, and annually thereafter,  
11 a sum equal to 3 percent of the estimated amount of General Fund  
12 revenues for the current fiscal year.

13 (c) The transfer of moneys shall not be required by subdivision  
14 (b) in any fiscal year to the extent that the resulting balance in the  
15 ~~account~~ *Budget Stabilization Fund* would exceed ~~5~~ 12.5 percent  
16 of the General Fund revenues estimate set forth in the budget bill  
17 for that fiscal year, as enacted, ~~or eight billion dollars~~  
18 ~~(\$8,000,000,000), whichever is greater.~~ The Legislature may, by  
19 statute, direct the Controller, for one or more fiscal years, to  
20 transfer into the ~~account~~ *Budget Stabilization Fund* amounts in  
21 excess of the ~~levels~~ *level* prescribed by this subdivision.

22 (d) Subject to any restriction imposed by this section, funds  
23 transferred to the Budget Stabilization ~~Account~~ *Fund* shall be  
24 deemed to be General Fund revenues for all purposes of this  
25 Constitution.

26 (e) The transfer of moneys from the General Fund to the Budget  
27 Stabilization ~~Account~~ *Fund* may be suspended or reduced for a  
28 fiscal year as specified by an executive order issued by the  
29 Governor no later than ~~June 1 of the preceding fiscal year~~ *one day*  
30 *prior to the date of the transfer set forth in subdivision (b).* For a  
31 *fiscal year commencing on or after July 1, 2011, this subdivision*  
32 *shall be operative only if a transfer of moneys from the Budget*  
33 *Stabilization Fund to the General Fund is authorized for that fiscal*  
34 *year pursuant to subparagraph (A) of paragraph (2) of subdivision*  
35 *(f).*

36 (f) (1) Of the moneys transferred to the ~~account~~ *Budget*  
37 *Stabilization Fund* in each fiscal year, 50 percent, up to the  
38 aggregate amount of five billion dollars (\$5,000,000,000) for all  
39 fiscal years, shall be deposited in the Deficit Recovery Bond  
40 Retirement Sinking Fund Subaccount, which is hereby created in

1 the ~~account~~ *Budget Stabilization Fund* for the purpose of retiring  
2 deficit recovery bonds authorized and issued as described in  
3 Section 1.3, in addition to any other payments provided for by law  
4 for the purpose of retiring those bonds. The moneys in the sinking  
5 fund subaccount are continuously appropriated to the Treasurer to  
6 be expended for that purpose in the amounts, at the times, and in  
7 the manner deemed appropriate by the Treasurer. Any funds  
8 remaining in the sinking fund subaccount after all of the deficit  
9 recovery bonds are retired shall be transferred to the ~~account~~  
10 *Budget Stabilization Fund*, and may be transferred to the General  
11 Fund pursuant to paragraph (2).

12 (2) All other funds transferred to the ~~account~~ *Budget*  
13 *Stabilization Fund* in a fiscal year shall not be deposited in the  
14 sinking fund subaccount and may, ~~by statute~~, be transferred to the  
15 General Fund *by statute as specified in this paragraph*.

16 (A) *Apart from a transfer pursuant to subparagraph (B), the*  
17 *total amount that may be transferred to the General Fund pursuant*  
18 *to this paragraph for any fiscal year shall not exceed the amount*  
19 *derived by subtracting the General Fund revenues, transfers, and*  
20 *balances available from the prior fiscal year for that fiscal year*  
21 *from the expenditure forecast amount for the current fiscal year.*  
22 *For purposes of this subparagraph, “General Fund revenues,*  
23 *transfers, and balances available from the prior fiscal year for*  
24 *that fiscal year” does not include revenues transferred from the*  
25 *General Fund to the Budget Stabilization Fund pursuant to*  
26 *subdivision (b) for that fiscal year. For purposes of this*  
27 *subparagraph, Section 21, and Section 12 of Article IV, “balances*  
28 *available from the prior fiscal year for that fiscal year” means the*  
29 *funds in the Special Fund for Economic Uncertainties, or a*  
30 *successor fund, as of June 30 of the prior fiscal year. The*  
31 *“expenditure forecast amount” for a fiscal year is the total General*  
32 *Fund expenditures for the immediately preceding fiscal year*  
33 *adjusted for the change in population of the State, as defined in*  
34 *Section 8 of Article XIII B, and the change in the cost of living for*  
35 *the State, as measured by the California Consumer Price Index,*  
36 *between the immediately preceding fiscal year and the fiscal year*  
37 *in which the transfer is made. “Total General Fund expenditures*  
38 *for the immediately preceding fiscal year” do not include, for this*  
39 *purpose, the expenditure of unanticipated revenues pursuant to*

1 *subparagraph (B) or pursuant to paragraph (3) or (4) of*  
2 *subdivision (c) of Section 21.*

3 *(B) Any funds necessary for the purpose of responding to an*  
4 *emergency declared by the Governor may be transferred by statute.*  
5 *For purposes of this subparagraph, “emergency” has the same*  
6 *meaning as set forth in paragraph (2) of subdivision (c) of Section*  
7 *3 of Article XIII B.*

8 *(g) In addition to any transfer authorized by this section, funds*  
9 *in the Budget Stabilization Fund may be loaned to meet General*  
10 *Fund cash requirements on the condition that the funds are repaid*  
11 *within the same fiscal year in which the loan is made.*

12 Third—That Section 21 is added to Article XVI thereof, to read:

13 SEC. 21. (a) On or before May 29 of each year, the Director  
14 of Finance shall do all of the following, reporting the result in each  
15 case to the Legislature and the Governor:

16 (1) Separately estimate General Fund revenues, transfers, and  
17 balances available from the prior fiscal year for the current fiscal  
18 year.

19 (2) Determine the revenue forecast amount for the current fiscal  
20 year in the manner set forth in subdivision (d).

21 (3) Estimate the amount, as of that date, of any General Fund  
22 obligations arising under Section 8 for the current fiscal year,  
23 including any maintenance factor allocation for the current fiscal  
24 year required pursuant to subdivision (e) of Section 8, that have  
25 not yet been funded by the State.

26 (b) (1) Except as provided in paragraph (2), “unanticipated  
27 revenues” for a fiscal year, for purposes of this section, shall be  
28 the lesser of the following:

29 (A) Estimated General Fund revenues for the current fiscal year  
30 reported pursuant to paragraph (1) of subdivision (a) minus the  
31 revenue forecast amount for the current fiscal year.

32 (B) Estimated General Fund revenues, transfers, and balances  
33 available from the prior fiscal year for the current fiscal year  
34 reported pursuant to paragraph (1) of subdivision (a) minus the  
35 expenditure forecast amount for the current fiscal year determined  
36 pursuant to subparagraph (A) of paragraph (2) of subdivision (f)  
37 of Section 20.

38 (2) If the amount determined pursuant to paragraph (1) is less  
39 than zero, the amount of unanticipated revenues shall be zero.

1 (c) Unanticipated revenues, as determined pursuant to this  
2 section, may be used only as follows:

3 (1) Unanticipated revenues shall be appropriated to satisfy any  
4 unfunded General Fund obligations arising under Section 8 for the  
5 current fiscal year, as estimated pursuant to paragraph (3) of  
6 subdivision (a).

7 (2) Any unanticipated revenues that remain after deducting, in  
8 accordance with paragraph (1), the amount of the estimate required  
9 by paragraph (3) of subdivision (a) shall be transferred by the  
10 Controller no later than June 27 of the current fiscal year to the  
11 Budget Stabilization Fund, not exceeding the amount needed to  
12 increase the balance in the fund to an amount equal to 12.5 percent  
13 of the estimate of General Fund revenues as set forth in the enacted  
14 budget bill for that fiscal year. Notwithstanding any other provision  
15 of this Constitution:

16 (A) If the Director of Finance determines at any time that the  
17 total amount of General Fund obligations arising under Section 8  
18 for a fiscal year, including any maintenance factor allocation for  
19 that fiscal year required pursuant to subdivision (e) of Section 8,  
20 exceeds the total amount of those General Fund obligations as  
21 calculated for that fiscal year for purposes of the estimate required  
22 by paragraph (3) of subdivision (a), he or she shall so report to the  
23 Legislature, the Governor, and the Controller. The Controller shall  
24 thereupon transfer funds in the amount of that difference from the  
25 Budget Stabilization Fund to the General Fund, and the funds so  
26 transferred shall be appropriated only for purposes of funding the  
27 additional amount of General Fund obligations under Section 8  
28 determined pursuant to this paragraph.

29 (B) If the Director of Finance determines at any time that the  
30 total amount of General Fund obligations arising under Section 8  
31 for a fiscal year, including any maintenance factor allocation for  
32 that fiscal year required pursuant to subdivision (e) of Section 8,  
33 is less than the total amount of those General Fund obligations as  
34 calculated for that fiscal year for purposes of the estimate required  
35 by paragraph (3) of subdivision (a), he or she shall so report to the  
36 Legislature, the Governor, and the Controller. The Controller shall  
37 thereupon transfer funds in the amount of that difference from the  
38 General Fund to the Budget Stabilization Fund, not exceeding the  
39 amount needed to increase the balance in the latter fund to an

1 amount equal to 12.5 percent of the estimate of General Fund  
2 revenues as set forth in the enacted budget bill for that fiscal year.

3 (3) Any unanticipated revenues remaining after any  
4 appropriations and transfers described in paragraphs (1) and (2)  
5 shall be appropriated to retire outstanding budgetary obligations.  
6 For purposes of this paragraph, “budgetary obligations” means  
7 any of the following:

8 (A) Unfunded prior fiscal year General Fund obligations  
9 pursuant to Section 8.

10 (B) Any repayment obligations created by the suspension of  
11 subparagraph (A) of paragraph (1) of subdivision (a) of Section  
12 25.5 of Article XIII.

13 (C) Any repayment obligations created by the suspension of  
14 subdivision (a) of Section 1 of Article XIX B.

15 (D) Bonded indebtedness authorized pursuant to Section 1.3.

16 (4) Any unanticipated revenues remaining after any  
17 appropriations and transfers described in paragraphs (1), (2), and  
18 (3) are made to retire all outstanding budgetary obligations shall  
19 be used as follows:

20 (A) Transfer by statute to the Budget Stabilization Fund.

21 (B) Appropriation for one-time infrastructure or other capital  
22 outlay purposes.

23 (C) Appropriation to retire, redeem, or defease outstanding  
24 general obligation or other bonded indebtedness of the State.

25 (D) Return to taxpayers within the current or immediately  
26 following fiscal year by a one-time revision of tax rates or fee  
27 schedules.

28 (E) Appropriation for unfunded liabilities for vested nonpension  
29 benefits for state annuitants.

30 (d) For the 2011–12 fiscal year, and for each fiscal year  
31 thereafter, the revenue forecast amount shall be determined as  
32 follows:

33 (1) The General Fund revenues for the current fiscal year shall  
34 be forecast by extrapolating from the trend line derived by a linear  
35 regression of General Fund revenues as a function of fiscal year  
36 for the period of the 10 preceding fiscal years. For purposes of this  
37 paragraph, General Fund revenues shall exclude both of the  
38 following:

1 (A) The General Fund revenue effect of a change in state taxes  
2 that affects General Fund revenues for less than the entire period  
3 of the 10 preceding fiscal years.

4 (B) Any proceeds of bonds authorized by subdivision (a) of  
5 Section 1.3.

6 (2) The amount forecast pursuant to paragraph (1) shall be  
7 increased or decreased, as applicable, to reflect the net current  
8 fiscal year General Fund revenue effect of a change in state taxes  
9 for which General Fund revenue effects were excluded pursuant  
10 to subparagraph (A) of paragraph (1).