

**Introduced by Senators Cannella, Berryhill, Emmerson, and
Harman**

June 28, 2011

Senate Constitutional Amendment No. 14—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, by repealing and adding Article XIII B thereof, and by amending Sections 8, 8.5, and 20 of, and adding Section 21 to, Article XVI thereof, relating to expenditure limitations.

LEGISLATIVE COUNSEL'S DIGEST

SCA 14, as introduced, Cannella. Expenditure limitations.

(1) The California Constitution prohibits the annual appropriations subject to limitation, as defined, of any entity of state or local government from exceeding its adjusted annual appropriations limit and provides for the disposition of excess revenues received by the state, as specified. The California Constitution also establishes the Budget Stabilization Account, commonly known as the rainy day fund, in the General Fund, and requires 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 revenue estimate set forth in the Budget Bill for that fiscal year, as enacted, or \$8 billion, whichever is greater. This transfer of moneys may also be suspended or reduced for a fiscal year, as specified, by an executive order issued by the Governor.

This measure would repeal the existing provisions imposing annual appropriations limits. Commencing in the 2013–14 fiscal year, the measure would instead impose an annual state expenditure limit based on total expenditures in the prior fiscal year, excluding specified amounts allocated to school districts and community college districts to meet a constitutional minimum funding obligation, from General Fund revenues and special fund revenues, adjusted for the percentage change in state population and the percentage change in the cost of living, as specified. The measure would authorize the expenditure limit to be exceeded for an emergency, as defined, declared by the Governor, not including revenue shortfalls, excessive spending, or other similar conditions limiting the ability to fund government operations. The measure would require the Director of Finance to report quarterly on the state’s compliance with the expenditure limits for the current fiscal year.

This measure would provide for the state expenditure limit discussed above to become permanently inoperative on the date that the Director of Finance determines that (A) the state’s Budget Stabilization Account, which the measure would rename as the Budget Stabilization Fund, has a balance at least equal to 10% of the estimate of General Fund revenues, (B) all remaining current and future obligations from state budgetary debt, as defined, have been reduced to zero, and (C) the state is no longer deferring payments, as defined. Upon making this determination, the Director of Finance would be required to so notify the Joint Legislative Budget Committee.

The provisions governing the Budget Stabilization Fund, as modified by this measure, would continue in operation after the state expenditure limit becomes inoperative, as discussed above. This measure would prohibit funds from being deposited into the Budget Stabilization Fund in any fiscal year in which all remaining obligations from state budgetary debt have not been reduced to zero. 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 10% of the General Fund revenues estimate set forth in the Budget Bill for that fiscal year, as enacted, and would delete the alternative \$8 billion 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 lesser of the shortfall amount for the current fiscal year, as defined, or 50% of the balance of the Budget Stabilization Fund, depending upon specified criteria.

In addition, this measure would create in the General Fund the Supplemental Budget Stabilization Account and would direct the Controller to transfer, on October 1 of each year beginning in 2013, from the Budget Stabilization Fund to the Supplemental Budget Stabilization Account a sum equal to 1.5% of the estimated amount of General Fund revenues for the current fiscal year, except that this transfer would not be made in a fiscal year for which funds were not required to be deposited into the Budget Stabilization Fund, as specified, or for which the Governor issues an executive order to suspend or reduce the transfer of moneys from the General Fund to the Budget Stabilization Fund. The measure would permit appropriations to be made from the Supplemental Budget Stabilization Account only for capital outlay purposes or to retire bonded indebtedness of the state.

After the state expenditure limit described above becomes inoperative, the measure would provide for the calculation of “unanticipated revenues” for each fiscal year, and would authorize those revenues to be used only to meet constitutional school funding obligations, for deposit in the Budget Stabilization Fund, and for other specified purposes, in a specified order of priority. For purposes of this calculation this measure would require the Director of Finance, on or before the May 29 preceding each fiscal year to report to the Legislature and the Governor (A) an estimate of the amount of General Fund revenues, transfers, and balances available from the prior fiscal year for the current fiscal year, (B) the revenue forecast amount, as defined, for the current fiscal year, and (C) an estimate of specified General Fund obligations for the public schools.

(2) The California Constitution requires that whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse the local government for the costs of the program or increased level of service. For the 2005–06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year to be payable by the state pursuant to law, the Legislature is required to either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the

mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law.

This measure would prohibit a claim from being filed for reimbursement for any mandate if the mandate has been in effect for more than 2 years and no claim for that reimbursement was filed in that period.

This measure would provide, as to specified mandates, that if the Legislature fails to either appropriate funds or suspend a mandate, any affected local government may commence an action in court for relief for the purpose of securing its rights pursuant to these provisions and, if that relief is granted in a final decision of a court of competent jurisdiction from which no further review is available, would require the state to provide the same subvention as is required by that court to any other local government that has a substantially similar claim or claims pending against the state.

This measure would also provide that any taxpayer shall have standing to bring a legal action against the state for violating any of these provisions, subject to specified criteria.

(3) The California Constitution establishes a minimum funding requirement for moneys to be applied by the state for the support of school districts and community college districts based on one of 3 tests in any given fiscal year (Proposition 98). The first test applies, to the amount of General Fund revenues that may be appropriated pursuant to Article XIII B of the California Constitution, the percentage of General Fund revenues that were appropriated for school districts and community college districts in the 1986–87 fiscal year. The 2nd and 3rd tests compute the minimum funding requirement based on the allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution, adjusted for changes in enrollment, cost of living, or per capita General Fund revenues, in the prior fiscal year.

This measure instead would base these computations on the amount of General Fund revenues that may be expended pursuant to Article XIII B of the California Constitution, in accordance with the changes to that article discussed above.

(4) The California Constitution requires 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. The California 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, further, to 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.

(5) This measure would state that its provisions are severable.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

1 WHEREAS, This measure shall be known and may be cited as
2 the “Government Overspending Prevention Act”; and

3 WHEREAS, The state and its political subdivisions continue to
4 suffer chronic budget deficits, and the existing state and local
5 appropriations limits have failed to prevent this from occurring;
6 and

7 WHEREAS, These budget deficits are the result of politicians
8 failing to responsibly manage state finances, enact budgets limited
9 to available revenues, and set aside a portion of the surpluses during
10 good fiscal years to ensure stable government resources in the lean
11 fiscal years; and

12 WHEREAS, Between the 1998–99 and 2007–08 fiscal years,
13 state spending was allowed to grow from just over \$75 billion to
14 over \$145 billion, even though revenues were not available to
15 support the increased spending; and

16 WHEREAS, To support the unrestrained spending growth,
17 politicians raided revenues from local governments, enacted new
18 and expanded taxes disguised as fees, and pursued massive

1 borrowing, the costs of which will be borne by future generations;
2 and

3 WHEREAS, Proposition 13 and Proposition 26 require that
4 increases in state taxes be adopted by not less than a two-thirds
5 vote of the members elected to each house of the Legislature, and
6 Proposition 13, Proposition 26, and Proposition 218 require that
7 increases in local taxes be approved by the voters; and

8 WHEREAS, The Government Overspending Prevention Act
9 will force rational fiscal management on state politicians by
10 limiting the growth in state spending to the combined growth of
11 population and inflation, and local governments will be prohibited
12 from spending beyond their available revenues; and

13 WHEREAS, The increasing interdependence of state and local
14 finances necessitates limitations on the expenditures of both
15 because, without state and local limitations restraints on spending,
16 one level of government could be circumvented and nullified by
17 increasing expenditures by another; and

18 WHEREAS, For all these reasons, the Government
19 Overspending Prevention Act will provide better fiscal
20 management for the taxpayers of California; and

21 WHEREAS, The Government Overspending Prevention Act
22 shall be liberally construed to effectuate its purpose of ensuring
23 that the state enact responsible, balanced budgets that are
24 sustainable over time within available resources; now, therefore,
25 be it

26 *Resolved by the Senate, the Assembly concurring,* That the
27 Legislature of the State of California at its 2011–12 Regular
28 Session commencing on the sixth day of December 2010,
29 two-thirds of the membership of each house concurring, hereby
30 proposes to the people of the State of California, that the
31 Constitution of the State be amended as follows:

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

33 SEC. 12. (a) Within the first 10 days of each calendar year,
34 the Governor shall submit to the Legislature, with an explanatory
35 message, a budget for the ensuing fiscal year containing itemized
36 statements for recommended state expenditures and estimated *total*
37 ~~state revenues~~ *resources available to meet those expenditures*. If
38 recommended expenditures exceed estimated ~~revenues~~ *resources*,
39 the Governor shall recommend the sources from which the
40 additional ~~revenues~~ *resources* should be provided. *The itemized*

1 *statement of estimated total state resources available to meet*
2 *recommended expenditures submitted pursuant to this subdivision*
3 *shall identify the amount, if any, of those resources that are*
4 *anticipated to be one-time resources.*

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

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

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

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

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

21 (d) No bill except the budget bill may contain more than one
22 item of appropriation, and that for one certain, expressed purpose.
23 Appropriations from the General Fund of the State, except
24 appropriations for the public schools and appropriations in the
25 budget bill and in other bills providing for appropriations related
26 to the budget bill, are void unless passed in each house by rollcall
27 vote entered in the journal, two-thirds of the membership
28 concurring.

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

38 (2) For purposes of this section, “other bills providing for
39 appropriations related to the budget bill” shall consist only of bills

1 identified as related to the budget in the budget bill passed by the
2 Legislature.

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

6 (g) For the 2004–05 fiscal year, or any subsequent fiscal year,
7 the Legislature may not send to the Governor for consideration,
8 nor may the Governor sign into law, a budget bill that would
9 appropriate from the General Fund, for that fiscal year, a total
10 amount that, when combined with all appropriations from the
11 General Fund for that fiscal year made as of the date of the budget
12 bill’s passage, and the amount of any General Fund moneys
13 transferred to the Budget Stabilization ~~Account~~ *Fund* for that fiscal
14 year pursuant to Section 20 of Article XVI, exceeds General Fund
15 revenues, *transfers*, and *balances available from the prior fiscal*
16 *year* for that fiscal year estimated as of the date of the budget bill’s
17 passage. That estimate of General Fund revenues, *transfers*, and
18 *balances* shall be set forth in the budget bill passed by the
19 Legislature.

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

31 Second—That Article XIII B thereof is repealed.

32 Third—That Article XIII B is added thereto, to read:

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ARTICLE XIII B
STATE EXPENDITURE LIMIT

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SECTION 1. As used in this article, the following terms have
the following meanings:

(a) “Emergency” means the existence, as declared by the
Governor, of conditions of disaster or of extreme peril to the safety

1 of persons and property within the State, or parts thereof, caused
2 by an attack or probable or imminent attack by an enemy of the
3 United States, epidemic, fire, flood, drought, storm, civil disorder,
4 earthquake, or volcanic eruption. “Emergency” does not include
5 revenue shortfalls, excessive spending, or other similar conditions
6 limiting the ability to fund government operations.

7 (b) Except as specifically excluded in this article, “General Fund
8 revenues and special fund revenues” means state revenues that are
9 generated by any tax as that term is defined in subdivision (b) of
10 Section 3 of Article XIII A, and any other source of state revenue
11 that was considered a “General Fund” or “special fund” source of
12 revenue for the 2010–11 fiscal year. “General Fund revenues and
13 special fund revenues” do not include revenues from
14 nongovernmental cost funds, as defined by the Director of Finance
15 or his or her successor, federal funds, trust and agency funds,
16 retirement funds, enterprise funds, or proceeds of state general
17 obligation bonds. It is the intent of this subdivision to ensure that
18 all state revenues received in any fiscal year and not specifically
19 excluded by this article, whether or not characterized by any state
20 law as General Fund revenues or special fund revenues, are subject
21 to the expenditure limit prescribed by this article.

22 (c) “Percentage change in the cost of living” means the
23 percentage change from April 1 of the immediately preceding
24 calendar year to April 1 of the current calendar year in the
25 California Consumer Price Index for all items, as determined by
26 the Department of Industrial Relations or its successor, but not to
27 exceed the percentage change in California per capita personal
28 income for the immediately preceding calendar year. The
29 Department of Finance, or its successor agency, shall determine
30 the change in per capita personal income based upon the California
31 personal income statistics compiled by the Bureau of Economic
32 Analysis in the United States Department of Commerce, or its
33 successor agency. For purposes of this subdivision, “current
34 calendar year” means the calendar year in which the fiscal year
35 commences.

36 (d) “Percentage change in state population” means the change
37 in population of the State as determined by the Department of
38 Finance, or its successor agency, revised, as necessary, to reflect
39 the periodic census conducted by the United States Department of
40 Commerce, or its successor agency.

1 SEC. 2. (a) (1) (A) For the 2013–14 fiscal year and each
2 subsequent fiscal year, the total expenditures made from General
3 Fund revenues and special fund revenues, in the aggregate, shall
4 not exceed the expenditure limit for that fiscal year computed
5 pursuant to paragraph (2).

6 (B) For purposes of this article, “the total expenditures made
7 from General Fund revenues and special fund revenues, in the
8 aggregate” shall not include the amount allocated in a fiscal year
9 to school districts and community college districts to fund the
10 minimum funding obligation set forth in Section 8 of Article XVI.

11 (2) The expenditure limit for the 2013–14 fiscal year and each
12 subsequent fiscal year shall be computed by multiplying the total
13 expenditures from General Fund revenues and special fund
14 revenues, in the aggregate, for the immediately preceding fiscal
15 year by the sum of one plus the percentage change in state
16 population, and multiplying that product by the sum of one plus
17 the percentage change in the cost of living.

18 (3) For purposes of establishing the expenditure limit for the
19 2013–14 fiscal year and each subsequent fiscal year, the Director
20 of Finance, or his or her successor, shall certify the total amount
21 of expenditures from General Fund revenues and special fund
22 revenues, in the aggregate, for the immediately preceding fiscal
23 year. The amount certified shall not be greater than the expenditure
24 limit for that fiscal year under this article.

25 (b) The expenditure limit imposed by this article may be
26 exceeded for a fiscal year to address an emergency. Any such
27 excess expenditure made to address an emergency shall first be
28 paid from any funds accumulated in the Budget Stabilization Fund
29 created by Section 20 of Article XVI. Any expenditure exceeding
30 the expenditure limit imposed by this article that is made to address
31 an emergency shall be for that purpose only, shall be directly
32 related to the emergency, and shall not exceed the costs necessary
33 to address the emergency. Funds expended pursuant to this
34 subdivision shall not supplant or replace funds previously
35 appropriated to any state agency. Expenditures in excess of the
36 expenditure limit for a fiscal year that are made pursuant to this
37 subdivision to address an emergency shall not be considered under
38 paragraph (3) of subdivision (a) for purposes of determining the
39 expenditure limit for the next fiscal year. Any bill proposing an
40 expenditure in excess of the expenditure limit for a fiscal year to

1 address an emergency pursuant to this subdivision shall contain a
2 statement to that effect.

3 (c) If after the conclusion of a fiscal year the Director of Finance,
4 or his or her successor, determines, and so reports to the
5 Legislature, that the total expenditures made from General Fund
6 revenues and special fund revenues, in the aggregate, for that fiscal
7 year, not including any amount expended to address an emergency,
8 have exceeded the expenditure limit for that year, the expenditure
9 limit for the fiscal year immediately following the fiscal year for
10 which that determination is made shall be reduced by the amount
11 of the excess. In determining the expenditure limit for the fiscal
12 year following the fiscal year for which that reduction is made,
13 the amount of the reduction shall be added to the amount of
14 expenditures in the immediately preceding fiscal year certified
15 pursuant to paragraph (3) of subdivision (a).

16 (d) The expenditure limit otherwise calculated for a fiscal year
17 shall be reduced by an amount equal to the reduction, in the
18 immediately preceding fiscal year, in those “General Fund revenues
19 and special fund revenues” other than those revenues allocated to
20 school districts and community college districts to fund the
21 minimum funding obligation set forth in Section 8 of Article XVI,
22 which reduction resulted from the expiration of any temporary tax
23 increase. For purposes of this subdivision, “temporary tax increase”
24 means an increase in any state tax, whether by a change in the rate
25 or method of calculation, imposed for a limited period of time by
26 a law enacted or adopted on or after January 1, 2011.

27 (e) The Director of Finance, or his or her successor, shall on a
28 quarterly basis report, to the Members of the Legislature who are
29 members of the committee in each house that considers the budget,
30 on the state’s compliance with the expenditure limit imposed by
31 this article for the current fiscal year. The report shall include
32 updated estimates of revenues and expenditures and the expenditure
33 limit for the current fiscal year. If the director, or his or her
34 successor, estimates that current fiscal year total expenditures may
35 exceed the limit imposed by this article, the report shall include
36 recommendations for corrective action.

37 (f) (1) The expenditure limit imposed by this article shall
38 become inoperative, for the current fiscal year and all subsequent
39 fiscal years, upon a determination by the Director of Finance (A)
40 that the state’s Budget Stabilization Fund has a balance equal to

1 10 percent or more of the estimate of General Fund revenues,
2 transfers, and balances from the prior fiscal year set forth in the
3 budget bill for the current fiscal year, (B) that all remaining current
4 and future obligations from state budgetary debt have been reduced
5 to zero, and (C) that the State is no longer deferring payments.
6 Upon making this determination, the Director of Finance shall so
7 notify the Joint Legislative Budget Committee.

8 (2) As used in this subdivision, “budgetary debt” means all of
9 the following:

10 (A) Bonds issued pursuant to the Economic Recovery Bond
11 Act.

12 (B) Loans from special transportation funds and accounts to the
13 General Fund.

14 (C) Amounts required to be transferred from the General Fund
15 to the Transportation Investment Fund pursuant to subdivision (e)
16 of Section 2 of Article XIX B.

17 (D) Loans from other special funds and accounts to the General
18 Fund.

19 (E) Prior-year education funding obligations determined
20 pursuant to Section 8 of Article XVI.

21 (F) Outstanding education maintenance factor amounts pursuant
22 to Section 8 of Article XVI.

23 (G) Amounts required to meet any repayment obligations created
24 by the suspension of subparagraph (A) of paragraph (1) of
25 subdivision (a) of Section 25.5 of Article XIII.

26 (3) “Deferring payments” means the payment, on a temporary
27 basis, of a state obligation in a fiscal year subsequent to the fiscal
28 year in which the payment would otherwise be made pursuant to
29 law.

30 (g) On and after the date that the expenditure limit imposed by
31 this article becomes inoperative pursuant to subdivision (f), Section
32 21 of Article XVI shall become operative and Section 20 of Article
33 XVI shall continue to be operative.

34 SEC. 3. As used in Section 7.5 of Article IV, “the percentage
35 increase in the appropriations limit for the State established
36 pursuant to Article XIII B” means the percentage increase in the
37 state expenditure limit established pursuant to this article.

38 SEC. 4. (a) Whenever the Legislature or any state agency
39 mandates a new program or higher level of service on any local
40 government, the State shall provide a subvention of funds to

1 reimburse that local government for the costs of the mandate,
2 except that the Legislature may, but is not required to, provide a
3 subvention of funds for the following mandates:

4 (1) A legislative mandate requested by the local agency affected.

5 (2) Legislation defining a new crime or changing an existing
6 definition of a crime.

7 (3) A legislative mandate enacted prior to January 1, 1975, or
8 an executive order or regulation initially implementing legislation
9 enacted prior to January 1, 1975.

10 (b) A claim shall not be filed for reimbursement pursuant to
11 subdivision (a) for any mandate if the mandate has been in effect
12 for more than two years and a claim for that reimbursement was
13 not filed during that period.

14 (c) (1) Beginning in the 2013–14 fiscal year, the Legislature
15 shall either appropriate in the annual budget act reimbursement
16 funds for each state mandate in effect and for which reimbursement
17 was provided in any fiscal year prior to July 1, 2013, or it shall
18 suspend operation of the mandate for the fiscal year for which the
19 annual budget bill is applicable in a manner prescribed by law.

20 (2) The subvention of funds required by this section shall be
21 provided no later than the end of the fiscal year in which the costs
22 were incurred, in the case of mandates for which reimbursements
23 have been provided by the State in any fiscal year prior to July 1,
24 2013. With regard to state mandates first imposed in a subsequent
25 fiscal year, and those not first reimbursed until a subsequent fiscal
26 year, the State shall provide a subvention of funds no later than
27 the end of the fiscal year next succeeding the fiscal year in which
28 the Commission on State Mandates, or its successor, finally
29 determines that the State is required to provide reimbursement.

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

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

39 (d) If the Legislature fails to either appropriate funds or suspend
40 a mandate as required by subdivision (c), any affected local

1 government may commence an action in court for declaratory
 2 relief, injunctive relief, or any other appropriate relief for the
 3 purpose of securing its rights pursuant to this section. If a
 4 suspension of the mandate is ordered in a final decision of a court
 5 of competent jurisdiction from which no further review is available,
 6 the same suspension of the mandate as is required by that court
 7 shall apply to any other local government that has a substantially
 8 similar claim or claims pending against the State.

9 (e) A mandated new program or higher level of service includes
 10 a transfer by the Legislature from the State to cities, counties, cities
 11 and counties, or special districts of complete or partial financial
 12 responsibility for a required program for which the State previously
 13 had complete or partial financial responsibility.

14 (f) Ad valorem property tax revenues shall not be used to
 15 reimburse a local government for the costs of a new program or
 16 higher level of service.

17 (g) For the purposes of this section, “local government” means
 18 a city, county, city and county, school district, special district,
 19 authority, or other political subdivision of the State, except to the
 20 extent otherwise specified for purposes of subdivision (c).

21 SEC. 5. Notwithstanding any other provision of this
 22 Constitution, any taxpayer shall have standing to bring a legal
 23 action against the State for violating any provision of this article.
 24 The action may seek declaratory relief, injunctive relief, a writ of
 25 mandate, or any other relief that a court may deem appropriate. In
 26 any such action, the State shall have the burden of proving
 27 compliance with this article. Actions brought pursuant to this
 28 section shall have calendar preference over all other actions.

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

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

34 (b) Commencing with the 1990–91 fiscal year, the moneys to
 35 be applied by the State for the support of school districts and
 36 community college districts shall be not less than the greater of
 37 the following amounts:

38 (1) The amount which, as a percentage of General Fund revenues
 39 ~~which that may be appropriated~~ *expended* pursuant to Article
 40 XIII B, equals the percentage of General Fund revenues

1 ~~appropriated~~ *expended* for school districts and community college
2 districts, respectively, in *the 1986–87* fiscal year ~~1986–87~~.

3 (2) The amount required to ensure that the total allocations to
4 school districts and community college districts from General Fund
5 ~~proceeds of taxes appropriated~~ *revenues that may be expended*
6 pursuant to Article XIII B and allocated local proceeds of taxes
7 shall not be less than the total amount from these sources in the
8 prior fiscal year, ~~excluding any revenues allocated pursuant to~~
9 ~~subdivision (a) of Section 8.5~~, adjusted for changes in enrollment
10 and adjusted for the change in the cost of living ~~pursuant to~~
11 ~~paragraph (1) of subdivision (e) of Section 8 of Article XIII B~~.
12 *“Change in the cost of living,” for purposes of this section, means*
13 *the percentage change in California per capita personal income*
14 *from the preceding fiscal year.* This paragraph shall be operative
15 only in a fiscal year in which the percentage growth in California
16 per capita personal income is less than or equal to the percentage
17 growth in per capita General Fund revenues plus one half of one
18 percent.

19 (3) (A) The amount required to ensure that the total allocations
20 to school districts and community college districts from General
21 Fund ~~proceeds of taxes appropriated~~ *revenues that may be expended*
22 pursuant to Article XIII B and allocated local proceeds of taxes
23 shall equal the total amount from these sources in the prior fiscal
24 year, ~~excluding any revenues allocated pursuant to subdivision (a)~~
25 ~~of Section 8.5~~, adjusted for changes in enrollment and adjusted
26 for the change in per capita General Fund revenues.

27 (B) In addition *to the amount calculated in subparagraph (A)*,
28 an amount equal to one-half of one percent times the prior *fiscal*
29 year total allocations to school districts and community colleges
30 from General Fund ~~proceeds of taxes appropriated~~ *revenues that*
31 *may be expended* pursuant to Article XIII B and allocated local
32 proceeds of taxes, ~~excluding any revenues allocated pursuant to~~
33 ~~subdivision (a) of Section 8.5~~, adjusted for changes in enrollment.

34 (C) This paragraph ~~(3)~~ shall be operative only in a fiscal year
35 in which the percentage growth in California per capita personal
36 income in a fiscal year is greater than the percentage growth in
37 per capita General Fund revenues plus one half of one percent.

38 (c) In any fiscal year, if the amount computed pursuant to
39 paragraph (1) of subdivision (b) exceeds the amount computed
40 pursuant to paragraph (2) of subdivision (b) by a difference that

1 exceeds one and one-half percent of General Fund revenues, the
2 amount in excess of one and one-half percent of General Fund
3 revenues shall not be considered allocations to school districts and
4 community colleges for purposes of computing the amount of state
5 aid pursuant to paragraph (2) or ~~3~~ (3) of subdivision (b) in the
6 subsequent fiscal year.

7 (d) In any fiscal year in which school districts and community
8 college districts are allocated funding pursuant to paragraph (3)
9 of subdivision (b) or pursuant to subdivision ~~(h)~~, they shall be (g),
10 *those districts are* entitled to a maintenance factor, equal to the
11 difference between (1) the amount of General Fund moneys ~~which~~
12 *that* would have been appropriated pursuant to paragraph (2) of
13 subdivision (b) if that paragraph had been operative or the amount
14 of General Fund moneys ~~which that~~ would have been appropriated
15 pursuant to subdivision (b) had subdivision (b) not been suspended,
16 and (2) the amount of General Fund moneys actually appropriated
17 to school districts and community college districts in that fiscal
18 year.

19 (e) The maintenance factor for school districts and community
20 college districts determined pursuant to subdivision (d) shall be
21 adjusted annually for changes in enrollment, and adjusted for the
22 change in the cost of living ~~pursuant to paragraph (1) of subdivision~~
23 ~~(e) of Section 8 of Article XIII B~~, until it has been allocated in full.
24 The maintenance factor shall be allocated in a manner determined
25 by the Legislature in each fiscal year in which the percentage
26 growth in per capita General Fund revenues exceeds the percentage
27 growth in California per capita personal income. The maintenance
28 factor shall be reduced each year by the amount allocated by the
29 Legislature in that fiscal year. The minimum maintenance factor
30 amount to be allocated in a fiscal year shall be equal to the product
31 of General Fund revenues ~~from proceeds of taxes that may be~~
32 *expended pursuant to Article XIII B* and one-half of the difference
33 between the percentage growth in per capita General Fund revenues
34 ~~from proceeds of taxes that may be expended pursuant to Article~~
35 *XIII B* and in California per capita personal income, not to exceed
36 the total dollar amount of the maintenance factor.

37 (f) For purposes of this section, “changes in enrollment” shall
38 be measured by the percentage change in average daily attendance.
39 However, in any fiscal year, there shall be no adjustment for
40 decreases in enrollment between the prior fiscal year and the

1 current fiscal year unless there have been decreases in enrollment
2 between the second prior fiscal year and the prior fiscal year and
3 between the third prior fiscal year and the second prior fiscal year.

4 (h)

5 (g) Subparagraph (B) of paragraph (3) of subdivision (b) may
6 be suspended for one year only when made part of or included
7 within any bill enacted pursuant to Section 12 of Article IV. All
8 other provisions of subdivision (b) may be suspended for one year
9 by the enactment of an urgency statute pursuant to Section 8 of
10 Article IV, provided that the urgency statute may not be made part
11 of or included within any bill enacted pursuant to Section 12 of
12 Article IV.

13 Fifth—That Section 8.5 of Article XVI thereof is amended to
14 read:

15 ~~SEC. 8.5. (a) In addition to the amount required to be applied~~
16 ~~for the support of school districts and community college districts~~
17 ~~pursuant to Section 8, the Controller shall during each fiscal year~~
18 ~~transfer and allocate all revenues available pursuant to paragraph~~
19 ~~1 of subdivision (a) of Section 2 of Article XIII B to that portion~~
20 ~~of the State School Fund restricted for elementary and high school~~
21 ~~purposes, and to that portion of the State School Fund restricted~~
22 ~~for community college purposes, respectively, in proportion to the~~
23 ~~enrollment in school districts and community college districts~~
24 ~~respectively.~~

25 ~~(1) With respect to funds allocated to that portion of the State~~
26 ~~School Fund restricted for elementary and high school purposes,~~
27 ~~no transfer or allocation of funds pursuant to this section shall be~~
28 ~~required at any time that the Director of Finance and the~~
29 ~~Superintendent of Public Instruction mutually determine that~~
30 ~~current annual expenditures per student equal or exceed the average~~
31 ~~annual expenditure per student of the 10 states with the highest~~
32 ~~annual expenditures per student for elementary and high schools,~~
33 ~~and that average class size equals or is less than the average class~~
34 ~~size of the 10 states with the lowest class size for elementary and~~
35 ~~high schools.~~

36 ~~(2) With respect to funds allocated to that portion of the State~~
37 ~~School Fund restricted for community college purposes, no transfer~~
38 ~~or allocation of funds pursuant to this section shall be required at~~
39 ~~any time that the Director of Finance and the Chancellor of the~~
40 ~~California Community Colleges mutually determine that current~~

1 ~~annual expenditures per student for community colleges in this~~
2 ~~State equal or exceed the average annual expenditure per student~~
3 ~~of the 10 states with the highest annual expenditures per student~~
4 ~~for community colleges.~~

5 ~~(b) Notwithstanding the provisions of Article XIII B, funds~~
6 ~~allocated pursuant to this section shall not constitute appropriations~~
7 ~~subject to limitation.~~

8 ~~(c) From any funds transferred to the State School Fund pursuant~~
9 ~~to subdivision (a), the Controller shall each year allocate to each~~
10 ~~school district and community college district an equal amount~~
11 ~~per enrollment in school districts from the amount in that portion~~
12 ~~of the State School Fund restricted for elementary and high school~~
13 ~~purposes and an equal amount per enrollment in community college~~
14 ~~districts from that portion of the State School Fund restricted for~~
15 ~~community college purposes.~~

16 ~~(d) All revenues allocated pursuant to subdivision (a) shall be~~
17 ~~expended solely for the purposes of instructional improvement~~
18 ~~and accountability as required by law.~~

19 ~~(e)~~

20 *SEC. 8.5.*— Any school district maintaining an elementary or
21 secondary school shall develop and cause to be prepared an annual
22 audit accounting for such funds and shall adopt a School
23 Accountability Report Card for each school.

24 Sixth—That Section 20 of Article XVI thereof is amended to
25 read:

26 *SEC. 20.* (a) The *Budget Stabilization Fund and the*
27 *Supplemental Budget Stabilization Account* are hereby created in
28 the General Fund.

29 (b) In each fiscal year as specified in paragraphs (1) to ~~(3)~~ (4),
30 inclusive, the Controller shall transfer from the General Fund to
31 the Budget Stabilization ~~Account~~ *Fund* the following amounts:

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

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

38 (3) No later than September 30, 2008, and annually thereafter
39 through *September 30, 2012*, a sum equal to 3 percent of the

1 estimated amount of General Fund revenues for the current fiscal
2 year.

3 (4) *On September 23, 2013, and on September 23 annually*
4 *thereafter, a sum equal to 3 percent of the estimated amount of*
5 *General Fund revenues for the current fiscal year, but only if on*
6 *that date all remaining obligations from state budgetary debt, as*
7 *defined in paragraph (2) of subdivision (f) of Section 2 of Article*
8 *XIII B, have been reduced to zero.*

9 (c) The transfer of moneys shall not be required by subdivision
10 (b) in any fiscal year to the extent that the resulting balance in the
11 ~~account~~ *Budget Stabilization Fund* would exceed ~~5~~ 10 percent of
12 the General Fund revenues estimate set forth in the budget bill for
13 that fiscal year, as enacted, ~~or eight billion dollars~~
14 ~~(\$8,000,000,000), whichever is greater.~~ The Legislature may, by
15 statute, direct the Controller, for one or more fiscal years, to
16 transfer into the ~~account~~ *Budget Stabilization Fund* amounts in
17 excess of the levels prescribed by this subdivision.

18 (d) Subject to any restriction imposed by this section, funds
19 transferred to the *Budget Stabilization Fund or the Supplemental*
20 *Budget Stabilization Account* shall be deemed to be General Fund
21 revenues for all purposes of this Constitution.

22 (e) The transfer of moneys from the General Fund to the Budget
23 ~~Stabilization Account~~ *Fund* may be suspended or reduced for a
24 fiscal year as specified by an executive order issued by the
25 Governor no later than ~~June 1 of the preceding fiscal year~~ *the date*
26 *of the transfer set forth in subdivision (b).* For a fiscal year
27 commencing on or after July 1, 2013, this subdivision shall be
28 operative only if a transfer of moneys from the Budget Stabilization
29 Fund to the General Fund is authorized pursuant to paragraph
30 (1) of subdivision (g).

31 ~~(f) (1) Of the moneys transferred to the account in each fiscal~~
32 ~~year, 50 percent, up to the aggregate amount of five billion dollars~~
33 ~~(\$5,000,000,000) for all fiscal years, shall be deposited in the~~
34 ~~Deficit Recovery Bond Retirement Sinking Fund Subaccount,~~
35 ~~which is hereby created in the account for the purpose of retiring~~
36 ~~deficit recovery bonds authorized and issued as described in~~
37 ~~Section 1.3, in addition to any other payments provided for by law~~
38 ~~for the purpose of retiring those bonds. The moneys in the sinking~~
39 ~~fund subaccount are continuously appropriated to the Treasurer to~~
40 ~~be expended for that purpose in the amounts, at the times, and in~~

1 ~~the manner deemed appropriate by the Treasurer. Any funds~~
2 ~~remaining in the sinking fund subaccount after all of the deficit~~
3 ~~recovery bonds are retired shall be transferred to the account, and~~
4 ~~may be transferred to the General Fund pursuant to paragraph (2).~~

5 ~~(2) All other~~

6 *All funds transferred to the ~~account~~ Budget Stabilization Fund*
7 *in a fiscal year ~~shall not be deposited in the sinking fund~~*
8 *subaccount and may, by statute, be transferred to the General Fund*
9 *by statute pursuant to subdivision (g) or (h).*

10 *(g) (1) Subject to paragraph (2), the total amount that may be*
11 *transferred from the Budget Stabilization Fund to the General*
12 *Fund pursuant to this subdivision for any fiscal year shall not*
13 *exceed the lesser of the following:*

14 *(A) The shortfall amount for the current fiscal year.*

15 *(B) Fifty percent of the balance of the Budget Stabilization Fund.*

16 *(2) If a transfer was made pursuant to this subdivision in both*
17 *the prior fiscal year and the fiscal year immediately preceding*
18 *that year, the total amount that may be transferred from the Budget*
19 *Stabilization Fund to the General Fund pursuant to this subdivision*
20 *for the current fiscal year shall not exceed the shortfall amount*
21 *for the current fiscal year.*

22 *(3) For purposes of this subdivision, the “shortfall amount for*
23 *the current fiscal year” is the amount derived by subtracting the*
24 *General Fund revenues, transfers, and balances available from*
25 *the prior fiscal year for the current fiscal year from the expenditure*
26 *forecast amount for the current fiscal year.*

27 *(4) For purposes of this subdivision, “General Fund revenues,*
28 *transfers, and balances available from the prior fiscal year” for*
29 *a fiscal year does not include revenues transferred from the*
30 *General Fund to the Budget Stabilization Fund for that fiscal year*
31 *pursuant to subdivision (b).*

32 *(5) For purposes of this subdivision, Section 21, and Section*
33 *12 of Article IV, “balances available from the prior fiscal year”*
34 *for a fiscal year means the funds in the Special Fund for Economic*
35 *Uncertainties, or a successor fund, as of June 30 of the immediately*
36 *preceding fiscal year.*

37 *(6) For purposes of this subdivision and Section 21, the*
38 *“expenditure forecast amount” for the current fiscal year is the*
39 *total General Fund expenditures for the prior fiscal year adjusted*
40 *for the change in population of the State, as defined in Section 8*

1 of Article XIII B, and the change in the cost of living for the State,
2 as measured by the California Consumer Price Index, between the
3 prior fiscal year and the current fiscal year.

4 (7) For purposes of this subdivision, “total General Fund
5 expenditures for the prior fiscal year” does not include the
6 expenditure of funds transferred pursuant to subdivision (h), or
7 the expenditure of unanticipated revenues pursuant to paragraph
8 (3) or (4) of subdivision (c) of Section 21.

9 (h) Any funds necessary for the purpose of responding to an
10 emergency declared by the Governor may be transferred from the
11 Budget Stabilization Fund to the General Fund by statute. For
12 purposes of this subdivision, “emergency” has the same meaning
13 as set forth in subdivision (a) of Section 1 of Article XIII B.

14 (i) In addition to any transfer authorized by this section, funds
15 in the Budget Stabilization Fund or the Supplemental Budget
16 Stabilization Account may be loaned to meet General Fund
17 cashflow requirements on the condition that the funds are repaid
18 within the same fiscal year in which the loan is made.

19 (j) (1) Except as provided in paragraph (3), on October 1, 2013,
20 and on October 1 annually thereafter, the Controller shall transfer
21 from the Budget Stabilization Fund to the Supplemental Budget
22 Stabilization Account a sum equal to 1.5 percent of the estimated
23 amount of General Fund revenues for the current fiscal year.

24 (2) Funds in the Supplemental Budget Stabilization Account
25 may be appropriated only for the purposes set forth in
26 subparagraphs (B) and (C) of paragraph (4) of subdivision (c) of
27 Section 21.

28 (3) Paragraph (1) shall not be operative in a fiscal year in which
29 the deposit of funds into the Budget Stabilization Fund under
30 paragraph (4) of subdivision (b) is not required, or for which the
31 Governor issues an executive order pursuant to subdivision (e) to
32 suspend or reduce the transfer of moneys from the General Fund
33 to the Budget Stabilization Fund.

34 Seventh—That Section 21 is added to Article XVI thereof, to
35 read:

36 SEC. 21. (a) On or before the May 29 preceding the first fiscal
37 year to which this section applies, and on or before each May 29
38 thereafter, the Director of Finance shall do all of the following,
39 reporting the result in each case to the Legislature and the
40 Governor:

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

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

6 (3) Estimate the amount, as of that date, of any General Fund
7 obligations arising under Section 8 for the current fiscal year,
8 including any maintenance factor allocation for the current fiscal
9 year required pursuant to subdivision (e) of Section 8, that are
10 attributable to unanticipated revenues in the current fiscal year.

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

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

17 (B) Estimated General Fund revenues, transfers, and balances
18 available from the prior fiscal year for the current fiscal year
19 reported pursuant to paragraph (1) of subdivision (a) minus the
20 expenditure forecast amount for the current fiscal year determined
21 pursuant to paragraph (6) of subdivision (g) of Section 20.

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

24 (c) Unanticipated revenues, as determined pursuant to this
25 section, may be used only for the following purposes and in the
26 following order of priority:

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

31 (2) An amount shall be transferred by the Controller no later
32 than June 27 of the current fiscal year to the Budget Stabilization
33 Fund, not exceeding the amount needed to increase the balance in
34 the fund to an amount equal to 10 percent of the General Fund
35 revenues estimate set forth in the budget bill for that fiscal year,
36 as enacted. Notwithstanding any other provision of this
37 Constitution, the following shall apply:

38 (A) If the Director of Finance determines at any time that the
39 total amount of General Fund obligations arising under Section 8
40 for a fiscal year, including any maintenance factor allocation for

1 that fiscal year required pursuant to subdivision (e) of Section 8,
2 exceeds the total amount of those General Fund obligations as
3 calculated for that fiscal year for purposes of the estimate required
4 by paragraph (3) of subdivision (a), he or she shall so report to the
5 Legislature, the Governor, and the Controller. The Controller shall
6 thereupon transfer funds in the amount of that difference from the
7 Budget Stabilization Fund to the General Fund, and the funds so
8 transferred shall be appropriated only for purposes of funding the
9 additional amount of General Fund obligations under Section 8
10 determined pursuant to this paragraph.

11 (B) If the Director of Finance determines at any time that the
12 total amount of General Fund obligations arising under Section 8
13 for a fiscal year, including any maintenance factor allocation for
14 that fiscal year required pursuant to subdivision (e) of Section 8,
15 is less than the total amount of those General Fund obligations as
16 calculated for that fiscal year for purposes of the estimate required
17 by paragraph (3) of subdivision (a), he or she shall so report to the
18 Legislature, the Governor, and the Controller. The Controller shall
19 thereupon transfer funds in the amount of that difference from the
20 General Fund to the Budget Stabilization Fund, but not exceeding
21 the amount needed to increase the balance in the latter fund to an
22 amount equal to 10 percent of the estimate of General Fund
23 revenues as set forth in the enacted budget bill for that fiscal year.
24 The remaining difference, if any, may be used in the same manner
25 as other unanticipated revenues pursuant to paragraphs (3) and
26 (4).

27 (3) An amount shall be appropriated to retire outstanding
28 budgetary obligations of the state. For purposes of this paragraph,
29 “budgetary obligations” means either of the following:

30 (A) Unfunded General Fund obligations pursuant to Section 8
31 for one or more prior fiscal years.

32 (B) Any repayment obligations created by the suspension of
33 subparagraph (A) of paragraph (1) of subdivision (a) of Section
34 25.5 of Article XIII.

35 (4) Any remaining unanticipated revenues shall be used for one
36 or more of the following purposes:

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

38 (B) Appropriation for one-time infrastructure or other capital
39 outlay purposes.

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

3 (D) Return to taxpayers within the current or immediately
4 following fiscal year by a one-time revision of tax rates, or by
5 rebates.

6 (E) Appropriation for unfunded liabilities for vested nonpension
7 benefits for state annuitants.

8 (d) For each fiscal year to which this section applies, the revenue
9 forecast amount shall be determined as follows:

10 (1) The General Fund revenues for the current fiscal year shall
11 be forecast by extrapolating from the trend line derived by a linear
12 regression of General Fund revenues as a function of the fiscal
13 year for the period of the 20 preceding fiscal years. For purposes
14 of this paragraph, General Fund revenues shall exclude both of
15 the following:

16 (A) The General Fund revenue effect of a change in state taxes
17 that affects General Fund revenues for less than the entire period
18 of the 20 preceding fiscal years.

19 (B) Any proceeds of bonds authorized by subdivision (a) of
20 Section 1.3.

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

26 (e) This section shall become operative when the expenditure
27 limit imposed by Section 2 of Article XIII B becomes inoperative,
28 and shall apply to the first fiscal year following the final fiscal
29 year to which that expenditure limit applied, and to each fiscal
30 year thereafter.

31 Eighth—The provisions of this measure are severable. If any
32 provision of this measure or its application is held invalid, that
33 invalidity shall not affect other provisions or applications that can
34 be given effect without the invalid provision or application.