AMENDED IN SENATE JULY 16, 2015

AMENDED IN SENATE JULY 8, 2015

AMENDED IN SENATE JUNE 9, 2015

Senate Constitutional Amendment No. 5

Introduced by Senators Hancock and Mitchell

March 26, 2015

Senate Constitutional Amendment No. 5—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 3.1 to Article XIII thereof, by adding Sections 2.5 and 8.8 to Article XIII A thereof, by adding Section 14 to Article XIII B thereof, and by adding Sections 8.6 and 8.7 to Article XVI thereof, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

SCA 5, as amended, Hancock. Local government finance.

The California Constitution provides that all property is taxable, unless exempted by the California Constitution or by federal law. The California Constitution authorizes the Legislature to classify personal property for differential taxation or for exemption by means of a statute approved by a $\frac{2}{3}$ vote of the membership of each house.

This measure would exempt from taxation *for each taxpayer* an amount up to $500,000 of tangible personal property used ~~exclusively~~ for business purposes. This measure would prohibit the Legislature from lowering this exemption amount or from changing its application, but would authorize it to be increased consistent with the authority described above. This measure would provide that this provision shall become operative on January 1, 2019.

This measure, for owners of commercial and industrial property subject to reassessment, who also operate a business or businesses on that property, where the increase in assessed value as a result of this measure exceeds 25% compared to the assessed value of the property prior to the operation of this measure, would exempt that portion of the assessed value that exceeds 25% as so described from taxation for a period of 5 years if specified conditions are met.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred.

This measure, commencing on the lien date for the 2018–19 fiscal year, would require the full cash value of commercial and industrial property, as defined, to be the fair market value of that property as of the lien date. This measure, for the 2018–19 fiscal year, would require only 50% of those properties that have not been reassessed at fair market value, as specified, to be assessed at fair market value, and by the 2019–20 fiscal year would require all other properties that have not been brought to fair market value to be assessed at fair market value. This measure would require owners of property subject to reassessment as so described to pay only a portion, as provided, of any increase in property tax due in the first year and second years after initial reassessment to fair market value.

This measure would establish the Local School and Community College Property Tax Fund in the State Treasury, which would be continuously appropriated for the support of school districts, charter schools, schools operated by county offices of education, and community college districts. The measure would require the Controller to allocate 11% of the moneys in the fund to community college districts based on an equal amount per unit of full-time equivalent student receiving educational services, and 89% of the moneys in the fund to school districts, charter schools, and county offices of education. For school districts, charter schools, and county offices of education, the measure would require the Superintendent of Public Instruction to allocate the moneys based on a formula that would include a base grant, a supplemental grant, and a concentration grant, as specified. The measure would require moneys from the fund to support the K–14 educational program for instructional improvement and accountability, and would prohibit them from being used to pay administrative costs. The measure would require school districts, charter schools, and county offices of education to demonstrate through their local control and accountability plans that they are increasing or improving services for unduplicated pupils in proportion to the increase in funds they receive pursuant to those supplemental and concentration grant allocations. The measure would prohibit moneys in the fund from being subject to appropriation, reversion, or a transfer by the Legislature, Governor, Director of Finance, or Controller for any purpose other than those specified in the measure, or from being loaned to the General Fund or any other fund of the state or any local government fund. The measure would, among other things, provide that moneys appropriated by the fund shall not be applied toward the minimum funding requirements for school districts and community college districts imposed by Section 8 of Article XVI of the California Constitution, and that they shall not be considered for purposes of calculations relating to the Budget Stabilization Account or the Public School System Stabilization Account.

This measure, for each fiscal year beginning with the 2018–19 fiscal year to the 2020–21 fiscal year, inclusive, would require the county assessor to make specified calculations to determine the total "baseline assessed value" and the "incremental assessed percentage" of commercial and industrial property, and to identify the "total revised assessed value" of all commercial and industrial property in the county as determined following the reassessment of commercial and industrial property. This measure would require the county assessor to make additional calculations using the total revised assessed value and the incremental assessed value to determine the incremental revenues available for distribution. This measure, beginning with the 2018–19 fiscal year and for each fiscal year thereafter, would require an amount equal to the reduction in revenues derived from the taxes imposed pursuant to the Personal Income Tax Law and the Corporation Tax Law for each county resulting from the higher property taxes due to the reassessment of commercial and industrial properties and the lower property taxes due to the exemptions described above as estimated by the Franchise Tax Board, to be transferred by each county auditor to the state General Fund and the Mental Health Services Fund, as provided. This measure, beginning with the 2018–19 fiscal year to the 2020–21 fiscal year, inclusive, would require the county auditor, after transferring the amounts as so described to the state General Fund and the Mental Health Services Fund, to make specified determinations and calculations with respect to the remaining incremental revenues, and to transfer specified amounts to the Controller for deposit in the Local School and Community College Property Tax Fund, for allocation and distribution, as described above. This measure would require the balance of the incremental revenues remaining after transferring the amounts as so described to the Controller to be allocated among local agencies. This measure would require the county auditor to report the incremental revenues available for distribution and calculation made, along with supporting documentation, to the Controller, and would require the Controller to certify that the calculation was properly made and to post the percentage figure for each county on the Controller's Internet Web site. This measure, for the 2021–22 fiscal year, would require the county assessor to perform the calculations described above, and would require the county auditor to report the resulting percentage to the Controller. This measure, for the 2021–22 fiscal year and each fiscal year thereafter, would require the county auditor to make the determinations and calculation described above, and to transfer the resulting property tax revenues to the Controller for deposit in the Local School and Community College Property Tax Fund, and would require the balance of the incremental revenues to be allocated among local agencies.

This measure would require all local education agencies, community colleges, counties, cities and counties, cities, and special districts that receive funds from the new revenues generated by the reassessment of commercial and industrial properties to publicly disclose the amount of property tax revenues received, as specified, and how those revenues were spent, and to publish online all public disclosures, with a copy of each disclosure to the Controller. This measure would require all annual public audits required of local education agencies, community colleges, counties, cities and counties, cities, and special districts that receive funds from the new revenues generated by the reassessment of commercial and industrial properties to disclose the amount of property tax revenues received, as specified, and to confirm whether the use of those revenues is consistent with the requirements of this measure.

This measure would authorize expenses incurred by local education agencies to comply with these audit and disclosure requirements to be paid with funding from the Local School and Community College Property Tax Fund.

The California Constitution prohibits the annual appropriations subject to limitation of any entity of state or local government from exceeding its adjusted annual appropriations limit. The California Constitution defines “appropriations subject to limitation” as any authorization to expend during a fiscal year the proceeds of taxes levied by or for that entity, and defines “proceeds of taxes” to include all tax revenues and the proceeds to an entity of government from specified sources.

This measure would prohibit proceeds of taxes, and appropriations subject to limitation of each entity of government, from including tax revenues generated by the reassessment of commercial and industrial property under this measure.

The California Constitution requires the state, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, to provide a subvention of funds to reimburse the local government, with specified exceptions.

This measure would exclude the duty to collect the tax revenues generated by the reassessment of commercial and industrial property under this measure from being considered a new program or higher level of service mandated by the state. This measure would, however, authorize the board of supervisors of a county or city and county to direct the county auditor to allocate to the county or city and county an amount equal to the actual direct administrative costs associated with the implementation of the reassessment of commercial and industrial property.

Vote: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

WHEREAS, The majority of commercial and industrial properties are assessed at or close to their actual market value, and their owners are paying their share of property taxes to help support schools and other local services. But many other commercial and industrial properties currently are assessed far below their actual value; and

WHEREAS, According to a recent study by USC Dornsife researchers, owners of these underassessed commercial and industrial properties are avoiding over $9 billion in local property taxes that should be going to support schools, community colleges, and other community services such as public safety, fire protection, libraries, and parks; and

WHEREAS, Proposition 13 was approved by voters in 1978 to protect homeowners from skyrocketing property taxes. But since then, ~~under-assessment~~ *underassessment* of commercial and industrial properties has contributed to a tax shift that has substantially increased the share of property taxes being paid by owners of residential properties, including both homeowners and residential rental property; and

WHEREAS, Since 1978 the residential share of assessed value statewide has increased from 55% to 72% of the total while the commercial, industrial, and agricultural share of assessed value has decreased from 45% to just 28%; and

WHEREAS, The combination of Proposition 13 and the Williamson Act have been effective tools in the preservation of agricultural land and should be protected; and

WHEREAS, When homeowners sell their homes, the property is reassessed to the full market value of the property based on the sales price. But many large corporations and wealthy individuals are able to take advantage of loopholes and complex stock manipulations to avoid reassessment when a commercial or industrial property changes hands. For example, in one widely publicized transaction, a wealthy CEO was able to structure the purchase of a $200 million hotel property in a way that prevented reassessment, avoiding more than $1.1 million a year in local property taxes; and

WHEREAS, California's current system of taxing commercial and industrial properties is an impediment to fair competition. It favors ~~under-assessed~~ *underassessed* businesses over other businesses competing for the same customers that are assessed at their actual value. It allows owners of ~~under-assessed~~ *underassessed* properties to avoid paying their share of taxes to support the local public services they benefit from just as much as the fully assessed businesses that are paying their fair share; and

WHEREAS, The current system of taxing commercial and industrial properties also creates perverse incentives that discourage owners from investing in improvements in order to avoid reassessment, while these same underassessed owners are being unfairly advantaged over other commercial and industrial property owners, starting up or expanding an existing business, who are assessed at the full market value of their property; and

WHEREAS, The current system of assessing commercial and industrial properties has had the unintended consequence of encouraging sprawl and discouraging "smart growth," which is an inefficient use of scarce resources such as energy, water, and land; and

WHEREAS, While the property tax on business equipment and fixtures is an irritating burden for small businesses, particularly for those attempting to start up or expand, it also provides revenues that support local services. Because this measure eliminates the ~~under-assessment~~ *underassessment* of commercial and industrial properties and thereby provides other revenue to support local services, it also can provide businesses with an exemption of up to $500,000 for equipment and fixtures. A $500,000 exemption helps all businesses, and will eliminate the tax on equipment and fixtures entirely for 90% of businesses whether they own and operate their own small business or rent their place of business; and

WHEREAS, If commercial and industrial properties pay their fair share of taxes, more money will be available for our public schools, which remain funded well below the national average. Because of the unique interactions between property tax revenues and the Proposition 98 minimum funding guarantee, however, the best way to ensure that all school districts benefit equally from these new property tax revenues is to place them in a special fund outside Proposition 98 and distribute them based on enrollment, with more revenues going to those districts that have higher proportions of low-income or English learner students and foster youth; and

WHEREAS, If California were a country, it would have the eighth largest economy in the world. California corporations are enjoying record profits and many businesses are starting up, expanding, and relocating here, even though some businesses do leave California. The complaints of some businesses and their spokespersons about high taxes are not an excuse for corporations and wealthy investors to avoid paying their fair share of local property taxes as do other businesses. Local communities are strengthened when everyone is contributing to the common good by paying their share to support schools, job training, public safety, fire protection, and other local services; and

WHEREAS, Reforming commercial and industrial property assessments to bring ~~under-assessed~~ *underassessed* properties up to their full value will remove tax-induced disincentives to investment in commercial and industrial property, provide a level playing field for businesses to compete, and require owners of ~~under-assessed~~ *underassessed* properties to join with the majority of businesses already paying their fair share to support local schools and other community services; and

WHEREAS, Proposition 13 limits property tax rates to 1% of assessed value. Requiring assessors to bring assessments of ~~under-assessed~~ *underassessed* commercial and industrial properties up to their actual market value will not affect the 1% limitation on rates in any way. Property tax rates on California businesses will continue to be among the lowest in the country; now, therefore, be it

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 2015–16 Regular Session commencing on the first day of December 2014, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

First— That it is the intent of the people of the State of California to do all of the following in this measure:

(a) Eliminate the inequities and impediments to economic growth caused by current laws governing the assessment of commercial and industrial properties, by requiring all commercial and industrial properties to be assessed at their full market value and reducing the property tax on business equipment and fixtures.

(b) Preserve in every way Proposition 13's protections for homeowners and for rental residential properties. This measure only affects the assessment of taxable commercial and industrial property.

(c) Make no change to existing laws affecting the taxation or preservation of agricultural land.

(d) Make sure schools, community colleges, counties, cities and counties, cities, and special districts are appropriately spending any new revenues they receive from this measure by requiring that new revenues and their expenditure be publicly disclosed and annually audited and that all required disclosures and audits are easily accessible online.

(e) Authorize the distribution among local governments of any new revenues resulting from the implementation of this law in the same manner as other property tax revenues.

(f) Ensure that the portion of any new revenues going to local schools and community colleges is treated as new revenues that are in addition to all other funding for schools and community colleges, and is allocated in a manner that benefits all schools and community colleges consistent with constitutional requirements. Accordingly, these additional funds for schools and community colleges shall not be considered funds of the State, shall not be subject to Proposition 98 or the Proposition 2 rainy day fund, and shall not be subject to appropriation by the Legislature. The funds will be allocated to school districts and community college districts based on enrollment. School districts with higher proportions of low-income and English learner students and foster youth will receive additional funds to provide more or better services to those students.

(g) Assist small businesses, whether they own or rent their place of business, by reducing the business tangible personal property tax on equipment and fixtures for each business by exempting $500,000 of that property from taxation. This would eliminate the tax on equipment and fixtures for about 90 percent of all California businesses. The Legislature would be prohibited from lowering this exemption but would be authorized to increase it.

(h) Provide for the phase in of the assessment of ~~under-assessed~~ *underassessed* commercial and industrial properties to give county assessors time to effectively implement the new law.

(i) Provide owners of under-assessed commercial and industrial properties time to meet their obligations under the law by phasing in assessment increases resulting from the initial implementation of this law. Small business owners will be eligible for additional assistance in complying with the law through an additional five-year phase-in for small business owner-operators.

Second— That Section 3.1 is added to Article XIII thereof, to read:

SEC. 3.1. (a) For each taxpayer paying the tax on tangible personal property used ~~exclusively~~ for business purposes, an amount of up to five hundred thousand dollars ($500,000) *per taxpayer* is exempt from taxation. Fixtures shall be included as tangible personal property subject to this exemption, but aircraft and vessels shall not be included. The Legislature shall not lower this exemption amount or change its application but otherwise may increase it consistent with the authority enumerated in Section 2.

(b) (1) For owners of property subject to reassessment under Section 2.5 of Article XIII A who operate a business or businesses on that property, where the increase in assessed value as a result of this measure exceeds 25 percent compared to the assessed value of the property prior to the operation of this measure, that portion of the assessed value that exceeds 25 percent compared to the assessed value of the property prior to the operation of this measure shall be exempt from taxation for a period of five years following the reassessment of the property as a result of this measure, provided that all of the following conditions are met:

(A) The owner uses a majority of the property for their own business purpose.

(B) The total fair market value is less than three million dollars ($3,000,000) for the entire property, including land and buildings. Property owners owning properties in a single county shall certify under penalty of perjury that the aggregate fair market value of all their properties in that county does not exceed three million dollars ($3,000,000) in order to qualify for this exemption. Property owners owning properties in more than one county must certify under penalty of perjury that the aggregate fair market value of all of their properties statewide does not exceed three million dollars ($3,000,000) in order to qualify for this exemption.

(2) This exemption shall expire five years from its initial application to a commercial or industrial property, at which time the property owner shall be liable for the full amount of property taxes levied on the property pursuant to the operation of this measure. However, property owners who have realized a reduction in property taxes as a result of the operation of this subdivision are not liable for the property taxes exempted for the duration of the operation of this exemption.

Third— That Section 2.5 is added to Article XIII A thereof, to read:

SEC. 2.5. (a) (1) This section shall not apply to residential property as defined in this section, whether it is occupied by a homeowner or a renter. Residential property as defined in this section shall be assessed consistent with Section 2 of Article XIII A. This section shall also not apply to real property used for commercial agricultural production as defined in this section. Property used for commercial agricultural production as defined in this section shall be assessed consistent with Section 2 of Article XIII A.

(2) Notwithstanding Section 2 of Article XIII A, for the lien date for the 2018–19 fiscal year and each lien date thereafter, the

"full cash value" of commercial and industrial real property that is not used for commercial agricultural production or is otherwise exempt under the Constitution or a statute enacted pursuant to the authority in Section 2 of Article XIII is the fair market value of that property as of that date, except as provided in subdivisions (b) and (c).

(b) (1) For the 2018–19 fiscal year only, the requirement that those commercial and industrial properties subject to reassessment under this section be assessed at fair market value shall apply only to the 50 percent of such properties that have not been brought to fair market value for any part of their property for the greatest number of years prior to the 2018–19 lien date.

(2) For the 2019–20 and 2020–21 fiscal years only, the assessed value of properties assessed at full market value pursuant to paragraph (1) shall be increased by the rate of inflation, but not more than 2 percent. *In no event, however, shall the assessed value of a property exceed the fair market value as of the lien date during this period.*

(3) Owners of property subject to this subdivision shall be required to pay one-third of the amount of any increase in property tax due and payable resulting from initial assessment to fair market value in the first year upon receiving the new valuation required by paragraph (1), two-thirds of the amount of any increase in property tax due and payable in the second year, and the full amount of any property tax due and payable in the third year after initial reassessment to fair market value and in subsequent years thereafter. The balance of the amounts due for the first and second years following initial assessment to full market value are hereby forgiven.

(c) (1) All other commercial and industrial properties subject to reassessment under this section shall be assessed at fair market value by the 2019–20 lien date.

(2) For the 2020–21 fiscal year only, the assessed value of properties assessed at full market value pursuant to paragraph (1) shall be increased by the rate of inflation, but not more than 2 percent. *In no event, however, shall the assessed value of a property exceed the fair market value as of the lien date during this period.*

(3) Owners of property subject to this subdivision shall be required to pay one-half of the amount of any increase in property tax due and payable resulting from initial assessment to fair market

value in the first year upon receiving the new valuation required by paragraph (1) and the full amount of any property tax due and payable in the year following initial reassessment and in subsequent years thereafter. The balance of the amount due for the first year following initial assessment to full market value are hereby forgiven.

(d) For purposes of this section:

(1) "Commercial and industrial real property" means any real property that is not residential property or not used for commercial agricultural production.

(2) "Residential property" shall include both single-family and multiunit structures, and the land on which such structures are ~~constructed,~~ *constructed or placed,* that are intended to be used and are used for long-term residential occupancy, but shall exclude hotels, motels, and similar structures that are used primarily for transient and nonpermanent residence.

(3) "Real property used for commercial agricultural production" is real property that is used and zoned for producing commercial agricultural commodities and ~~is real property for which either of the following applies:~~

~~(A) The real property is an unimproved parcel to which both of the following apply:~~

~~(i) The parcel is used and zoned for producing commercial agricultural commodities.~~

~~(ii) The~~ *the* parcel does not contain a single-family residence or a multifamily residence that was subdivided in accordance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), or any successor to that law, or that was described and conveyed in one or more deeds separating the parcel from all adjoining property.

~~(B) The parcel of real property contains only living improvements. Improvements other than those intended and used for habitation shall be considered commercial and industrial property for purposes of this section.~~

(e) Notwithstanding subdivision (a), it is the intent of the voters in this section to provide a transition to fair market value as provided in subdivisions (b) and (c), for the purposes of ensuring a reasonable workload and implementation period for county assessors and taxpayers.

Fourth— That Section 8.8 is added to Article XIII A thereof, to read:

SEC. 8.8. (a) All local education agencies, community colleges, counties, cities and counties, cities, and special districts that receive funds from the new revenues generated by Section 2.5 of Article XIII A shall publicly disclose each year, including in their annual budgets, the amount of property tax revenues they received for that fiscal year as the result of Section 2.5 of Article XIII A and how those revenues were spent.

(b) All annual public audits required of local education agencies, community colleges, counties, cities and counties, cities, and special districts that receive funds from the new revenues generated by Section 2.5 of Article XIII A shall disclose the amount of property tax revenues received for that fiscal year as the result of Section 2.5 of Article XIII A and confirm whether the use of those revenues is consistent with the requirements of this measure.

(c) All local education agencies, community colleges, counties, cities and counties, cities, and special districts receiving new revenues generated by Section 2.5 of Article XIII A shall publish online all public disclosures required by this section, with a copy of each disclosure to the Controller.

(d) Expenses incurred by local education agencies receiving new revenues generated by Section 2.5 of Article XIII A to comply with the audit and disclosure requirement of this section may be paid with funding from the Local School and Community College Property Tax Fund, and shall not be considered administrative costs for purposes of subdivision (b) of Section 8.7 of Article XVI.

Fifth— That Section 14 is added to Article XIII B thereof, to read:

SEC. 14. (a) For purposes of this article, "proceeds of taxes" shall not include the revenues generated by Section 2.5 of Article XIII A.

(b) For purposes of this article, "appropriations subject to limitation" of each entity of government shall not include appropriations of revenues generated by Section 2.5 of Article XIII A.

(c) The duty to collect the revenues generated by Section 2.5 of Article XIII A shall not be considered a new program or higher level of service mandated by the State for purposes of this article. The board of supervisors of a county or city and county, upon the adoption of a method identifying the actual direct administrative costs identified in Section 75.60 of the Revenue and Taxation Code, as that section read on July 1, 2015, that are associated with the implementation of Section 2.5 of Article XIII A, may direct the county auditor to allocate to the county or city and county, prior to any allocation of property tax revenues, an amount equal to the actual direct administrative costs, but not to exceed 3 percent of the revenues that have been collected as a result of the implementation of Section 2.5 of Article XIII A. The amount determined to provide reimbursement for the actual direct administrative costs of implementing Section 2.5 of Article XIII A shall be deducted proportionately from the allocations to be provided to cities, the county, and special districts, but not deducted from the school share of any increased allocation. The board of supervisors shall identify the ongoing costs of implementing Section 2.5 of Article XIII A annually.

Sixth— That Section 8.6 is added to Article XVI thereof, to read:

SEC. 8.6. (a) For each fiscal year beginning with the 2018–19 fiscal year to the 2020–21 fiscal year, inclusive, county assessors shall calculate the following:

(1) The total "baseline assessed value" of all commercial and industrial property in the county subject to Section 2.5 of Article XIII A. The total "baseline assessed value" shall be calculated as follows:

(A) The county assessor shall identify the total assessed value of commercial and industrial property as determined pursuant to Chapter 1 (commencing with Section 50) of Part 0.5 of Division 1 of the Revenue and Taxation Code, as that chapter read on July 1, 2015, for the 2017–18 fiscal year.

(B) The amount in subparagraph (A) shall be increased by the amount for that fiscal year determined pursuant to Section 51 of the Revenue and Taxation Code, as that section read on July 1, 2015.

(C) The county assessor shall add to the amount determined pursuant to subparagraph (B) the incremental increase in assessed value of commercial and industrial property resulting from the sale or transfer of properties for purposes of the respective January 1 lien dates beginning with the 2018–19 fiscal year to the 2020–21 fiscal year, inclusive, provided the sale or transfer would have triggered reassessment pursuant to Chapter 2 (commencing with Section 60) of Part 0.5 of Division 1 of the Revenue and Taxation Code, as that chapter read on July 1, 2015.

(D) The county assessor shall add to the amount determined pursuant to subparagraph (C) the incremental increase in assessed value of commercial and industrial property resulting in new construction for purposes of the respective January 1 lien dates beginning with the 2018–19 fiscal year to the 2020–21 fiscal year, inclusive, as determined pursuant to Chapter 3 (commencing with Section 70) of Part 0.5 of Division 1 of the Revenue and Taxation Code, as that chapter read on July 1, 2015.

(2) The county assessor shall identify the total "revised assessed value" of all commercial and industrial property in the county as determined following the reassessment required by Section 2.5 of Article XIII A for each fiscal year beginning with the 2018–19 fiscal year to the 2020–21 fiscal year, inclusive, except that for the 2018–19 and 2019–20 fiscal years, the amount of assessed value shall be reduced to reflect the amounts actually due and payable pursuant to subdivisions (b) and (c) of Section 2.5 of Article XIII A.

(3) For each fiscal year beginning with the 2018–19 fiscal year to the 2020–21 fiscal year, inclusive, the county assessor shall subtract the amount determined pursuant to subparagraph (D) of paragraph (1) from the amount determined pursuant to paragraph (2).

(4) For each fiscal year beginning with the 2018–19 fiscal year to the 2020–21 fiscal year, inclusive, the county assessor shall divide the amount determined pursuant to paragraph (3) by the amount determined pursuant to paragraph (2). The resulting percentage shall be known as the "incremental assessed percentage" of commercial and industrial property in the county subject to Section 2.5 of Article XIII A.

(b) For each fiscal year beginning with the 2018–19 fiscal year to the 2020–21 fiscal year, inclusive, county assessors shall multiply the total revised assessed value by the incremental assessed percentage and a tax rate of one percent to determine the incremental revenues available for distribution as the result of Section 2.5 of Article XIII A.

(c) For each fiscal year beginning with the 2018–19 fiscal year, all of the following shall apply:

(1) An amount equal to the reduction in revenues derived from the taxes imposed pursuant to the Personal Income Tax Law (Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code) and the Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code), as those laws read on July 1, 2015, for each county resulting from the higher property taxes due to the implementation of Section 2.5 of Article XIII A and the lower property taxes due to the implementation of Section 3.1 of Article XIII, as estimated by the Franchise Tax Board each year for that fiscal year, shall be transferred by May 15 of each year beginning with the 2018–19 fiscal year and each fiscal year thereafter by each county auditor to the Controller for deposit in the General Fund and the Mental Health Services Fund, respectively.

(2) An amount equal to the reduction in property taxes resulting from the exemption provided pursuant to subdivision (a) of Section 3.1 of Article XIII shall be calculated by the county auditor beginning with the 2019–20 fiscal year and each fiscal year thereafter. For purposes of calculating the aggregate amount of personal property taxes exempted under that subdivision for each fiscal year, the auditor shall apply the average annual rate of growth of tangible personal property used ~~exclusively~~ for business purposes for the period from the 2012–13 fiscal year to the 2017–18 fiscal year, inclusive, to the total tangible personal property used ~~exclusively~~ for business purposes for the prior fiscal year and subtract the amount of tangible personal property used ~~exclusively~~ for business purposes not exempted for that fiscal year.

(3) An amount equal to the value of foregone property tax revenues pursuant to subdivision (b) of Section 3.1 of Article XIII shall be calculated by the county auditor.

(d) For each fiscal year beginning with the 2018–19 fiscal year to the 2020–21 fiscal year, inclusive, the county auditor shall do the following with the incremental revenues remaining after deducting from those revenues the amounts determined pursuant to subdivision (c):

(1) Determine the combined weighted average tax rate in each county for K–12 school districts, county offices of education, and community college districts. The weighted average tax rate in each county for K–12 school districts, county offices of education, and community college districts shall be calculated by the county

auditor by averaging the effective combined tax rate for all of the K–12 school districts, the county office of education, and all community college districts in each tax rate area using weights for each tax rate area determined by calculating the share of the total assessed value of commercial and industrial property for each tax rate area of the total assessed value of commercial and industrial property as determined pursuant to Chapter 1 (commencing with Section 50) of Part 0.5 of Division 1 of the Revenue and Taxation Code, as that chapter read on July 1, 2015, for the 2017–18 fiscal year for all tax rate areas in the county.

(2) Multiply the incremental revenues remaining after deducting the amounts determined pursuant to subdivision (c) by the combined weighted average tax rate determined pursuant to paragraph (1). One-half of the resulting amount of property tax revenue shall be transferred by the county auditor to the Controller on February 1 of each fiscal year and one-half of the resulting amount of property tax revenue shall be transferred to the Controller on June 1 of each fiscal year, and shall be deposited into the Local School and Community College Property Tax Fund for allocation and distribution as set forth in Section 8.7 of Article XVI.

(3) The balance of the incremental revenues remaining after deducting the amounts determined pursuant to subdivision (c) and the amount transferred pursuant to paragraph (2) shall be allocated to local agencies pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code, as that chapter read on July 1, 2015.

(4) Report the incremental revenues available for distribution determined pursuant to subdivision (b), the deductions attributable to subdivision (c), and the combined weighted average tax rate in each county for K–12 school districts, county offices of education, and community college districts determined pursuant to paragraph (1), along with supporting documentation, to the Controller who shall certify that the calculation was properly calculated and post the percentage figure for each county on the Controller's Internet Web site.

(e) (1) For the 2021–22 fiscal year, the county assessor shall perform the calculations specified in paragraphs (1) to (4), inclusive, of subdivision (a) for that fiscal year. The county auditor shall report the resulting percentage figure to the Controller who shall certify that the calculation was properly calculated and post the percentage figure for each county on the Controller's Internet Web site.

(2) (A) For the 2021–22 fiscal year and each fiscal year thereafter, the county auditor shall perform the calculation specified in paragraph (2) of subdivision (d) using the result of the calculation in paragraph (1) and the percentage determined in paragraph (1) of subdivision (d) and shall transfer one-half *of* the resulting amount of property tax revenue to the Controller on February 1 of each fiscal year and transfer one-half of the resulting amount of property tax revenue to the Controller on June 1 of each fiscal year, for deposit in the Local School and Community College Property Tax Fund for allocation and distribution as set forth in Section 8.7 of Article XVI.

(B) The balance of the incremental revenues remaining after deducting the amounts determined pursuant to subdivision (c) and the amount transferred pursuant to subparagraph (A) shall be allocated to local agencies pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code as that chapter read on July 1, 2015.

(C) In making the calculation in subparagraph (A), the county auditor shall calculate the amount of total revised assessed value as if no exemption of property taxes were being provided pursuant to subdivision (b) of Section 3.1 of Article XIII.

Seventh— That Section 8.7 is added to Article XVI thereof, to read:

SEC. 8.7. (a) The Local School and Community College Property Tax Fund is hereby created in the State Treasury to be held in trust for the purposes set forth below and is continuously appropriated for the support of school districts, charter schools, schools operated by county offices of education, and community college districts, as follows:

(1) Eleven percent to community colleges. Each year the Controller shall allocate the funds to each community college district based on an equal amount per unit of full-time equivalent student receiving educational services.

(2) Eighty-nine percent to school districts, charter schools, and county offices of education for schools operated by the county superintendent of schools.

(3) Each year the Controller shall allocate the funds to school districts, charter schools, and county offices of education based on the following formula, to be calculated annually by the Superintendent of Public Instruction:

(A) A base grant based on an equal amount per enrolled student in each school district or charter school, provided, however, that the base grant shall be adjusted by grade span, as follows: no grade span adjustment per enrolled student in grades kindergarten to grade 3, inclusive; 1.5 percent more per enrolled student in grades 4 to 6, inclusive; 4.5 percent more per enrolled student in grades 7 and 8; and 21 percent more per enrolled student in grades 9 to 12, inclusive. County offices of education shall receive a base grant per student enrolled in schools operated by the county superintendent of schools that is 33 percent more per enrolled student than the base grant for school districts, but shall receive no grade span adjustments to the base grant.

(B) A supplemental grant add-on for school districts and charter schools equal to 20 percent of the base grant calculated pursuant to subparagraph (A), multiplied by the percentage of unduplicated pupils in that school district or charter school, and a supplemental grant add-on for county offices of education equal to 35 percent of the base grant calculated pursuant to subparagraph (A), multiplied by the percentage of unduplicated pupils enrolled in schools operated by the county superintendent of schools.

(C) A concentration grant add-on for school districts and charter schools equal to 50 percent of the base grant calculated pursuant to subparagraph (A), multiplied by the percentage of unduplicated pupils in that school district or charter school in excess of 55 percent of the total enrollment in that school district or charter school, and a concentration grant add-on for county offices of education equal to 35 percent of the base grant calculated pursuant to subparagraph (A), multiplied by the percentage of unduplicated pupils enrolled in schools operated by the county superintendent of schools in excess of 50 percent of the total enrollment in those schools.

(D) An amount equal to 10.4 percent of the base grant per enrolled student in kindergarten and grades 1 to 3, inclusive, for school districts and charter schools that maintain an average class enrollment of not more than 24 students for each schoolsite in kindergarten and grades 1 to 3, inclusive, unless a collectively bargained alternative annual average class enrollment for each schoolsite in those grades is agreed to by the school district or charter school.

(E) The Superintendent of Public Instruction shall subtract from the total of the amounts computed pursuant to subparagraphs (A) to (D), inclusive, the amount of property tax revenue received by a basic aid school district or basic aid charter school that exceeds the total amount of funding it would have been entitled to that fiscal year pursuant to the local control funding formula established pursuant to Article 2 (commencing with Section 42238) of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code, as that article read on July 1, 2015. For purposes of this section, a school district or charter school that does not receive an apportionment of state funds pursuant to the local control funding formula shall be considered a basic aid school district or a basic aid charter school.

(F) For purposes of this section, enrollment shall be measured in units of average daily attendance or its equivalent, and "unduplicated pupil" shall mean a student who is classified as either an English learner, eligible for a free or reduced-price meal, or a foster youth, as defined in Section 42238.01 of the Education Code, provided that a student may only be counted once for purposes of making supplemental and concentration grant adjustments, regardless of whether she or he falls within more than one of these student subgroups. Students shall not be counted as enrolled in a school operated by a county superintendent of schools if they are otherwise counted as enrolled in a school district for purposes of calculating that school district's local control funding formula allocation.

(b) Moneys in the Local School and Community College Property Tax Fund are dedicated to the support of the K–14 educational program for instructional improvement and accountability, and shall not be used to pay administrative costs. School districts, charter schools, and county offices of education shall demonstrate through their local control and accountability plans that they are increasing or improving services for unduplicated pupils in proportion to the increase in funds allocated pursuant to subparagraphs (B) and (C) of paragraph (3) of subdivision (a).

(c) Notwithstanding any other law, the moneys deposited in the Local School and Community College Property Tax Fund shall not be subject to appropriation, reversion, or transfer by the Legislature, the Governor, the Director of Finance, or the Controller for any purpose other than those specified in this section, nor shall such revenues be loaned to the General Fund or any other fund of the State or any local government fund.

(d) Moneys allocated to community college districts, county offices of education, school districts, or charter schools from the Local School and Community College Property Tax Fund shall supplement, and shall not replace, other funding for education. Funds deposited into the Local School and Community College Property Tax Fund and allocated from the Local School and Community College Property Tax Fund shall not be deemed to be part of "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes" for purposes of paragraphs (2) and (3) of subdivision (b) of Section 8 or for purposes of Section 21. Revenues generated by Section 2.5 of Article XIII A shall not be deemed to be "General Fund revenues which may be appropriated pursuant to Article XIII B" for purposes of paragraph (1) of subdivision (b) of Section 8, Section 20, or Section 21, nor shall they be considered in the determination of "per capita General Fund revenues" for purposes of subdivisions (b) and (e) of Section 8.

Eighth— This measure shall become operative on January 1, 2018, except that subdivision (a) of Section 3.1 of Article XIII shall become operative on January 1, 2019.

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