

Proposition 32: Text of Proposed Law

This law proposed by Assembly Bill 2305 (Statutes of 2000, Ch. 51) is submitted to the people in accordance with the provisions of Article XVI of the California Constitution.

This proposed law adds sections to the Military and Veterans Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Article 5w (commencing with Section 998.300) is added to Chapter 6 of Division 4 of the Military and Veterans Code, to read:

Article 5w. Veterans' Bond Act of 2000

998.300. *This article may be cited as the Veterans' Bond Act of 2000.*

998.301. (a) *The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), except as otherwise provided herein, is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this article, and the provisions of that law are included in this article as though set out in full in this article. All references in this article to "herein" refer both to this article and that law.*

(b) *For purposes of the State General Obligation Bond Law, the Department of Veterans Affairs is designated the board.*

998.302. *As used herein, the following words have the following meanings:*

(a) *"Board" means the Department of Veterans Affairs.*

(b) *"Bond" means veterans' bond, a state general obligation bond, issued pursuant to this article adopting the provisions of the State General Obligation Bond Law.*

(c) *"Bond act" means this article authorizing the issuance of state general obligation bonds and adopting the State General Obligation Bond Law by reference.*

(d) *"Committee" means the Veterans' Finance Committee of 1943, established by Section 991.*

(e) *"Fund" means the Veterans' Farm and Home Building Fund of 1943, established by Section 998.*

998.303. *For the purpose of creating a fund to provide farm and home aid for veterans in accordance with the Veterans' Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50)), and of all acts amendatory thereof and supplemental thereto, the committee may create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of not more than five hundred million dollars (\$500,000,000), exclusive of refunding bonds, in the manner provided herein.*

998.304. (a) *All bonds authorized by this article, when duly sold and delivered as provided herein, constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.*

(b) *There shall be collected annually, in the same manner and at the same time as other state revenue is collected, a sum of money, in addition to the ordinary revenues of the state, sufficient to pay the principal of, and interest on, these bonds as provided herein, and all officers required by law to perform any duty in regard to the collection of state revenues shall collect this additional sum.*

(c) *On the dates on which funds are remitted pursuant to Section 16676 of the Government Code for the payment of the then maturing principal of, and interest on, the bonds in each fiscal year, there shall be returned to the General Fund all of the money in the fund, not in excess of the principal of, and interest on, any bonds then due and payable. If the money so returned on the remittance dates is less than the principal and interest then due and payable, the balance remaining unpaid shall be returned*

to the General Fund out of the fund as soon as it shall become available, together with interest thereon from the dates of maturity until returned, at the same rate of interest as borne by the bonds, compounded semiannually.

Notwithstanding any other provision of law to the contrary, this subdivision shall apply to all veterans farm and home purchase contracts pursuant to this chapter. This subdivision does not grant any lien on the fund or the moneys therein to holders of any bonds issued under this article. For the purposes of the subdivision, "debt service" means the principal (whether due at maturity, by redemption, or acceleration), premium, if any, or interest payable on any date to any series of bonds. This subdivision shall not apply, however, in the case of any debt service that is payable from the proceeds of any refunding bonds.

998.305. *There is hereby appropriated from the General Fund, for purposes of this article, a sum of money that will equal both of the following:*

(a) *That sum annually necessary to pay the principal of, and the interest on, the bonds issued and sold as provided herein, as that principal and interest become due and payable.*

(b) *That sum necessary to carry out Section 998.306, appropriated without regard to fiscal years.*

998.306. *For the purposes of this article, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of a sum of money not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold pursuant to this article. Any sums withdrawn shall be deposited in the fund. All moneys made available under this section to the board shall be returned by the board to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from the sale of bonds for the purpose of carrying out this article.*

998.307. *The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this article. The amount of the request shall not exceed the amount of unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of carrying out this article. The board shall execute whatever documents are required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this article.*

998.308. *Upon request of the board, supported by a statement of its plans and projects approved by the Governor, the committee shall determine whether to issue any bonds authorized under this article in order to carry out the board's plans and projects, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out these plans and projects progressively, and it is not necessary that all of the bonds be issued or sold at any one time.*

998.309. *As long as any bonds authorized under this article are outstanding, the Secretary of Veterans Affairs shall, at the close of each fiscal year, require a survey of the financial condition of the Division of Farm and Home Purchases, together with a projection of the division's operations, to be made by an independent public accountant of recognized standing. The results of each survey and projection shall be reported in writing by the public accountant to the Secretary of Veterans Affairs, the California Veterans Board, the appropriate policy committees dealing with veterans affairs in the Senate and the Assembly, and the committee.*

The Division of Farm and Home Purchases shall reimburse the public accountant for these services out of any money which the division may have available on deposit with the Treasurer.

998.310. *The committee may authorize the Treasurer to sell all or any part of the bonds authorized by this article at the time or times established by the Treasurer.*

Whenever the committee deems it necessary for an effective sale of the bonds, the committee may authorize the Treasurer to sell any issue of bonds at less than their par value, notwithstanding

Section 16754 of the Government Code. However, the discount on the bonds shall not exceed 3 percent of the par value thereof.

998.311. Out of the first money realized from the sale of bonds as provided herein, there shall be redeposited in the General Obligation Bond Expense Revolving Fund, established by Section 16724.5 of the Government Code, the amount of all expenditures made for the purposes specified in that section, and this money may be used for the same purpose and repaid in the same manner whenever additional bond sales are made.

998.312. Any bonds issued and sold pursuant to this article may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. The approval of the voters for the issuance of bonds under this article includes approval for the issuance of bonds issued to refund bonds originally issued or any previously issued refunding bonds.

998.313. Notwithstanding any provision of the bond act, if the Treasurer sells bonds under this article for which bond counsel has issued an opinion to the effect that the interest on the bonds is excludable from gross income for purposes of federal income tax, subject to any conditions which may be designated, the Treasurer

may establish separate accounts for the investment of bond proceeds and for the earnings on those proceeds, and may use those proceeds or earnings to pay any rebate, penalty, or other payment required by federal law or take any other action with respect to the investment and use of bond proceeds required or permitted under federal law necessary to maintain the tax-exempt status of the bonds or to obtain any other advantage under federal law on behalf of the funds of this state.

998.314. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this article are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by Article XIII B.

998.315. Notwithstanding any other provision of law, any bonds issued and sold under the Veterans Bond Act of 1982, and the Veterans Bond Act of 1984 may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, without regard to the first sentence of Section 16786 of the Government Code.

Proposition 33: Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 12 of the 1999–2000 Regular Session (Resolution Chapter 83, Statutes of 2000) expressly amends the California Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO SECTION 4.5 OF ARTICLE IV

SEC. 4.5. Notwithstanding any other provision of this Constitution or existing law, a person elected to or serving in the Legislature on or after November 1, 1990, shall participate in the Federal Social Security (Retirement, Disability, Health Insurance) ~~Program~~ System, and ~~he~~ may elect to participate in

the Public Employees' Retirement System in any state retirement plan in which a majority of the employees of the state may participate. The State shall pay only the employer's share of the contribution contributions necessary to such that participation. No other pension or retirement benefit shall accrue as a result of service in the Legislature, such that service not being intended as a career occupation. This Section section shall not be construed to abrogate or diminish any vested pension or retirement benefit which that may have accrued under an existing law to a person holding or having held office in the Legislature, but upon adoption of this Act act no further entitlement to nor vesting in any existing program programs shall accrue to any such person, other than the Social Security System and the Public Employees' Retirement System to the extent herein provided.

Proposition 34: Text of Proposed Law

This law proposed by Senate Bill 1223 (Statutes of 2000, Chapter 102) is submitted to the people in accordance with the provisions of Article II, Section 10 of the California Constitution.

This proposed law amends, adds, repeals, and repeals and adds sections to the Government Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. (a) The people find and declare all of the following:

(1) Monetary contributions to political campaigns are a legitimate form of participation in the American political process, but large contributions may corrupt or appear to corrupt candidates for elective office.

(2) Increasing costs of political campaigns have forced many candidates to devote a substantial portion of their time to raising campaign contributions and less time to public policy.

(3) Political parties play an important role in the American political process and help insulate candidates from the potential corrupting influence of large contributions.

(b) The people enact the Campaign Contribution and Voluntary Expenditure Limits Without Taxpayer Financing Amendments to the Political Reform Act of 1974 to accomplish all of the following purposes:

(1) To ensure that individuals and interest groups in our society have a fair and equitable opportunity to participate in the elective and governmental processes.

(2) To minimize the potentially corrupting influence and appearance of corruption caused by large contributions by providing reasonable contribution and voluntary expenditure limits.

(3) To reduce the influence of large contributors with an interest in matters before state government by prohibiting lobbyist contributions.

(4) To provide voluntary expenditure limits so that candidates and officeholders can spend a lesser proportion of their time on fundraising and a greater proportion of their time conducting public policy.

(5) To increase public information regarding campaign contributions and expenditures.

(6) To enact increased penalties to deter persons from violating the Political Reform Act of 1974.

(7) To strengthen the role of political parties in financing political campaigns by means of reasonable limits on contributions to political party committees and by limiting restrictions on contributions to, and expenditures on behalf of, party candidates, to a full, complete, and timely disclosure to the public.

SEC. 2. Section 82016 of the Government Code is amended to read:

82016. (a) "Controlled committee" means a committee ~~which~~ that is controlled directly or indirectly by a candidate or state measure proponent or ~~which~~ that acts jointly with a

candidate, controlled committee, or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.

(b) Notwithstanding subdivision (a), a political party committee, as defined in Section 85205, is not a controlled committee.

SEC. 3. Section 82053 of the Government Code is amended to read:

82053. "Statewide elective office" means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, and Superintendent of Public Instruction and member of the State Board of Equalization.

SEC. 4. Section 83116 of the Government Code, as added by Proposition 9 at the June 4, 1974, statewide primary election, is repealed.

~~83116. When the Commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if such a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 5, Sections 11500 et seq.). The Commission shall have all the powers granted by that chapter.~~

~~When the Commission determines on the basis of the hearing that a violation has occurred, it shall issue an order which may require the violator to:~~

- ~~(a) Cease and desist violation of this title;~~
- ~~(b) File any reports, statements or other documents or information required by this title;~~
- ~~(c) Pay a monetary penalty of up to two thousand dollars (\$2,000) to the General Fund of the state.~~

~~When the Commission determines that no violation has occurred, it shall publish a declaration so stating.~~

SEC. 5. Section 83116 of the Government Code, as amended by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~83116. When the Commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if such a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 5, Sections 11500 et seq.). The Commission shall have all the powers granted by that chapter. When the Commission determines on the basis of the hearing that a violation has occurred, it shall issue an order which may require the violator to:~~

- ~~(a) Cease and desist violation of this title;~~
- ~~(b) File any reports, statements or other documents or information required by this title;~~
- ~~(c) Pay a monetary penalty of up to five thousand dollars (\$5,000) per violation to the General Fund of the state. When the Commission determines that no violation has occurred, it shall publish a declaration so stating.~~

SEC. 6. Section 83116 is added to the Government Code, to read:

83116. When the commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). The commission shall have all the powers granted by that chapter. When the commission determines on the basis of the hearing that a violation has occurred, it shall issue an order that may require the violator to do all or any of the following:

- (a) Cease and desist violation of this title.
- (b) File any reports, statements, or other documents or information required by this title.
- (c) Pay a monetary penalty of up to five thousand dollars (\$5,000) per violation to the General Fund of the state. When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

SEC. 7. Section 83116.5 of the Government Code, as added by Chapter 670 of the Statutes of 1984, is repealed.

~~83116.5. Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this chapter. Provided, however, that this section shall apply only to persons who have filing or reporting obligations under this title, or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by this title, and that a violation of this section shall not constitute an additional violation under Chapter 11.~~

SEC. 8. Section 83116.5 of the Government Code, as amended by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~83116.5. Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this chapter and Chapter 11 (commencing with Section 91000).~~

SEC. 9. Section 83116.5 is added to the Government Code, to read:

83116.5. Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this chapter. However, this section shall apply only to persons who have filing or reporting obligations under this title, or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by this title, and a violation of this section shall not constitute an additional violation under Chapter 11 (commencing with Section 91000).

SEC. 10. Section 83124 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~83124. The commission shall adjust the contribution limitations and expenditure limitations provisions in Sections 85100 et seq. in January of every even numbered year to reflect any increase or decrease in the California Consumer Price Index. Such adjustments shall be rounded to the nearest 50 for the limitations on contributions and the nearest 1,000 for the limitations on expenditures.~~

SEC. 11. Section 83124 is added to the Government Code, to read:

83124. The commission shall adjust the contribution limitations and voluntary expenditure limitations provisions in Sections 85301, 85302, 85303, and 85400 in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100) for limitations on contributions and one thousand dollars (\$1,000) for limitations on expenditures.

SEC. 12. Section 84201 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~84201. The threshold for contributions and expenditures reported in the campaign statements designated in Sections 84203.5, 84211, and 84219, except for subdivision (i) of Section 84219, and for cash contributions and anonymous contributions designated in Sections 84300 and 84304, shall be set at no more than one hundred dollars (\$100) notwithstanding any other provision of law or any legislative amendment to such sections.~~

SEC. 13. Section 84204 of the Government Code is amended to read:

84204. (a) A candidate or committee that makes a late independent expenditure, as defined in Section 82036.5, shall report the late independent expenditure by facsimile transmission, telegram, guaranteed overnight mail through the United States Postal Service or personal delivery within 24 hours of the time it is made. A late independent expenditure shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

Article 1. Title of Chapter

(b) A candidate or committee that makes a late independent expenditure shall report its full name and street address, as well as the name, office, and district of the candidate if the report is related to a candidate, or if the report is related to a measure, the number or letter of the measure, the jurisdiction in which the measure is to be voted upon, and the amount and the date, as well as a description of goods or services for which the late independent expenditure was made. *In addition to the information required by this subdivision, a committee that makes a late independent expenditure shall include with its late independent expenditure report the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, covering the period from the day after the closing date of the last campaign report filed to the date of the late independent expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the late independent expenditure. No information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, that is required to be reported with a late independent expenditure report by this subdivision, is required to be reported on more than one late independent expenditure report.*

(c) A candidate or committee that makes a late independent expenditure shall file a late independent expenditure report in the places where it would be required to file campaign statements under this article as if it were formed or existing primarily to support or oppose the candidate or measure for or against which it is making the late independent expenditure.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this article.

SEC. 14. Section 84305.6 is added to the Government Code, to read:

84305.6. In addition to the requirements of Section 84305.5, a slate mailer organization or committee primarily formed to support or oppose one or more ballot measures may not send a slate mailer unless any recommendation in the slate mailer to support or oppose a ballot measure or to support a candidate that is different from the official recommendation to support or oppose by the political party that the mailer appears by representation or indicia to represent is accompanied, immediately below the ballot measure or candidate recommendation in the slate mailer, in no less than nine-point roman boldface type in a color or print that contrasts with the background so as to be easily legible, the following notice: "THIS IS NOT THE OFFICIAL POSITION OF THE (political party that the mailer appears by representation or indicia to represent) PARTY."

SEC. 15. Section 84511 is added to the Government Code, to read:

84511. Any individual who appears in an advertisement to support or oppose the qualification, passage, or defeat of a ballot measure and who has been paid or promised payment of five thousand dollars (\$5,000) or more for that appearance shall disclose that payment or promised payment in a manner prescribed by the commission. The advertisement shall include the statement "(spokesperson's name) is being paid by this campaign or its donors" in highly visible roman font shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephone message.

SEC. 16. Article 1 (commencing with Section 85100) of Chapter 5 of Title 9 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

SEC. 17. Article 1 (commencing with Section 85100) of Chapter 5 of Title 9 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 18. Article 1 (commencing with Section 85100) is added to Chapter 5 of Title 9 of the Government Code, to read:

85100. This chapter shall be known as the "Campaign Financing and Voluntary Expenditure Limits Without Taxpayer Financing Amendments to the Political Reform Act of 1974."

SEC. 19. Article 2 (commencing with Section 85202) of Chapter 5 of Title 9 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 20. Article 2.5 (commencing with Section 85202) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 2.5. Applicability of the Political Reform Act of 1974

85202. Unless specifically superseded by the act that adds this section, the definitions and provisions of this title shall govern the interpretation of this chapter.

85203. "Small contributor committee" means any committee that meets all of the following criteria:

(a) The committee has been in existence for at least six months.

(b) The committee receives contributions from 100 or more persons.

(c) No one person has contributed to the committee more than two hundred dollars (\$200) per calendar year.

(d) The committee makes contributions to five or more candidates.

85204. "Election cycle" for purposes of Sections 85309 and 85500, means the period of time commencing 90 days prior to an election and ending on the date of the election.

85204.5. With respect to special elections, the following terms have the following meanings:

(a) "Special election cycle" means the day on which the office becomes vacant until the day of the special election.

(b) "Special runoff election cycle" means the day after the special election until the day of the special runoff election.

85205. "Political party committee" means the state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 of the Elections Code.

85206. "Public moneys" has the same meaning as defined in Section 426 of the Penal Code.

SEC. 21. Section 85301 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

~~85301. (a) No person shall make, and no candidate for elective office, or campaign treasurer, shall solicit or accept any contribution or loan which would cause the total amount contributed or loaned by that person to that candidate, including contributions or loans to all committees controlled by the candidate, to exceed one thousand dollars (\$1,000) in any fiscal year.~~

~~(b) The provisions of this section shall not apply to a candidate's contribution of his or her personal funds to his or her own campaign contribution account.~~

SEC. 22. Section 85301 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~85301. (a) Except as provided in subdivision (a) of Section 85402 and Section 85706, no person, other than small contributor committees and political party committees, shall make to any candidate or the candidate's controlled committee for local office in districts with fewer than 100,000 residents, and no such candidate or the candidate's controlled committee shall accept from any person a contribution or contributions totaling more than one hundred dollars (\$100) for each election in which the candidate is attempting to be on the ballot or is a write in candidate.~~

~~(b) Except as provided in subdivision (b) of Section 85402 and Section 85706, no person, other than small contributor committees and political party committees, shall make to any~~

~~candidate or the candidate's controlled committee campaigning for office in districts of 100,000 or more residents, and no such candidate or the candidate's controlled committee shall accept from any such person a contribution or contributions totaling more than two hundred fifty dollars (\$250) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.~~

~~(c) Except as provided in subdivision (c) of Section 85402, no person, other than small contributor committees and political party committees, shall make to any candidate or the candidate's controlled committee for statewide office, and no such candidate or the candidate's controlled committee shall accept from any such person a contribution or contributions totaling more than five hundred dollars (\$500) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.~~

~~(d) No person shall make to any committee that contributes to any candidate and no such committee shall accept from each such person a contribution or contributions totaling more than five hundred dollars (\$500) per calendar year. This subdivision shall not apply to candidate controlled committees, political party committees, and independent expenditure committees.~~

~~(e) The provisions of this section shall not apply to a candidate's contribution of his or her personal funds to his or her own campaign committee, but shall apply to contributions from a spouse.~~

SEC. 23. Section 85301 is added to the Government Code, to read:

85301. (a) A person, other than a small contributor committee or political party committee, may not make to any candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office other than a candidate for statewide elective office may not accept from a person, any contribution totaling more than three thousand dollars (\$3,000) per election.

(b) Except to a candidate for Governor, a person, other than a small contributor committee or political party committee, may not make to any candidate for statewide elective office, and except a candidate for Governor, a candidate for statewide elective office may not accept from a person other than a small contributor committee or a political party committee, any contribution totaling more than five thousand dollars (\$5,000) per election.

(c) A person, other than a small contributor committee or political party committee, may not make to any candidate for Governor, and a candidate for Governor may not accept from any person other than a small contributor committee or political party committee, any contribution totaling more than twenty thousand dollars (\$20,000) per election.

(d) The provisions of this section do not apply to a candidate's contributions of his or her personal funds to his or her own campaign.

SEC. 24. Section 85302 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

~~85302. No person shall make and no political committee, broad based political committee, or political party shall solicit or accept, any contribution or loan from a person which would cause the total amount contributed or loaned by that person to the same political committee, broad based political committee, or political party to exceed two thousand five hundred dollars (\$2,500) in any fiscal year to make contributions to candidates for elective office.~~

SEC. 25. Section 85302 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~85302. No small contributor committee shall make to any candidate or the controlled committee of such a candidate, and no such candidate or the candidate's controlled committee shall accept from a small contributor committee, a contribution or contributions totaling more than two times the applicable contribution limit for persons prescribed in Section 85301 or 85402, whichever is applicable.~~

SEC. 26. Section 85302 is added to the Government Code, to read:

85302. (a) A small contributor committee may not make to any candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office, other than a candidate for statewide elective office may not accept from a small contributor committee, any contribution totaling more than six thousand dollars (\$6,000) per election.

(b) Except to a candidate for Governor, a small contributor committee may not make to any candidate for statewide elective office and except for a candidate for Governor, a candidate for statewide elective office may not accept from a small contributor committee, any contribution totaling more than ten thousand dollars (\$10,000) per election.

(c) A small contributor committee may not make to any candidate for Governor, and a candidate for Governor may not accept from a small contributor committee, any contribution totaling more than twenty thousand dollars (\$20,000) per election.

SEC. 27. Section 85303 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

~~85303. (a) No political committee shall make, and no candidate or campaign treasurer shall solicit or accept, any contribution or loan which would cause the total amount contributed or loaned by that committee to that candidate for elective office or any committee controlled by that candidate to exceed two thousand five hundred dollars (\$2,500) in any fiscal year.~~

~~(b) No broad based political committee or political party shall make and no candidate or campaign treasurer shall solicit or accept, any contribution or loan which would cause the total amount contributed or loaned by that committee or political party to that candidate or any committee controlled by that candidate to exceed five thousand dollars (\$5,000) in any fiscal year.~~

~~(c) Nothing in this Chapter shall limit a person's ability to provide financial or other support to one or more political committees or broad based political committees provided the support is used for purposes other than making contributions directly to candidates for elective office.~~

SEC. 28. Section 85303 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~85303. No person shall give in the aggregate to political party committees of the same political party, and no such party committees combined shall accept from any person, a contribution or contributions totaling more than five thousand dollars (\$5,000) per calendar year; except a candidate may distribute any surplus, residual, or unexpended campaign funds to a political party committee.~~

SEC. 29. Section 85303 is added to the Government Code, to read:

85303. (a) A person may not make to any committee, other than a political party committee, and a committee other than a political party committee may not accept, any contribution totaling more than five thousand dollars (\$5,000) per calendar year for the purpose of making contributions to candidates for elective state office.

(b) A person may not make to any political party committee, and a political party committee may not accept, any contribution totaling more than twenty-five thousand dollars (\$25,000) per calendar year for the purpose of making contributions for the support or defeat of candidates for elective state office.

(c) Except as provided in Section 85310, nothing in this chapter shall limit a person's contributions to a committee or political party committee provided the contributions are used for purposes other than making contributions to candidates for elective state office.

(d) Nothing in this chapter limits a candidate for elected state office from transferring contributions received by the candidate in excess of any amount necessary to defray the candidate's expenses for election related activities or holding office to a political party

committee, provided those transferred contributions are used for purposes consistent with paragraph (4) of subdivision (b) of Section 89519.

SEC. 30. Section 85304 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

~~85304. No candidate for elective office or committee controlled by that candidate or candidates for elective office shall transfer any contribution to any other candidate for elective office. Transfers of funds between candidates or their controlled committees are prohibited.~~

SEC. 31. Section 85304 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~85304. No more than 25 percent of the recommended expenditure limits specified in this act at the time of adoption by the voters, subject to cost of living adjustments as specified in Section 83124, shall be accepted in cumulative contributions for any election from all political party committees by any candidate or the controlled committee of such a candidate. Any expenditures made by a political party committee in support of a candidate shall be considered contributions to the candidate.~~

SEC. 32. Section 85304 is added to the Government Code, to read:

85304. (a) A candidate for elective state office or an elected state officer may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or officer's legal defense if the candidate or officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. These funds may be used only to defray those attorney fees and other related legal costs.

(b) A candidate may receive contributions to this account that are not subject to the contribution limits set forth in this article. However, all contributions shall be reported in a manner prescribed by the commission.

(c) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

SEC. 33. Section 85305 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

~~85305. (a) This Section shall apply to candidates who seek elective office during a special election or a special runoff election.~~

~~(b) As used in this Section, the following terms have the following meanings:~~

~~(1) "Special election cycle" means the day on which the office becomes vacant until the day of the special election.~~

~~(2) "Special runoff election cycle" means the day after the special election until the day of the special runoff election.~~

~~(c) Notwithstanding Section 85301 or 85303 the following contribution limitations shall apply during special election cycles and special runoff election cycles.~~

~~(1) No person shall make, and no candidate for elective office, or campaign treasurer, shall solicit or accept any contribution or loan which would cause the total amount contributed or loaned by that person to that candidate, including contributions or loans to all committees controlled by the candidate, to exceed one thousand dollars (\$1,000) during any special election cycle or special runoff election cycle.~~

~~(2) No political committee shall make, and no candidate or campaign treasurer shall solicit or accept, any contribution or loan which would cause the total amount contributed or loaned by that committee to that candidate for elective office or any committee controlled by that candidate to exceed two thousand five hundred dollars (\$2,500) during any special election cycle or special runoff election cycle.~~

~~(3) No broad-based political committee or political party shall make and no candidate or campaign treasurer shall solicit or accept, any contribution or loan which would cause the total amount contributed or loaned by that committee or political party to that candidate or any committee controlled by that candidate to exceed five thousand dollars (\$5,000) during any special election cycle or special runoff election cycle.~~

SEC. 34. Section 85305 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~85305. (a) In districts of fewer than 1,000,000 residents, no candidate or the candidate's controlled committee shall accept contributions more than six months before any primary or special primary election or, in the event there is no primary or special primary election, any regular election or special election in which the candidate is attempting to be on the ballot or is a write in candidate.~~

~~(b) In districts of 1,000,000 residents or more and for statewide elective office, no candidate or the candidate's controlled committee shall accept contributions more than 12 months before any primary or special primary election or, in the event there is no primary or special primary election, any regular election or special election in which the candidate is attempting to be on the ballot or is a write in candidate.~~

~~(c) No candidate or the controlled committee of such candidate shall accept contributions more than 90 days after the date of withdrawal, defeat, or election to office. Contributions accepted immediately following such an election or withdrawal and up to 90 days after that date shall be used only to pay outstanding bills or debts owed by the candidate or controlled committee. This section shall not apply to retiring debts incurred with respect to any election held prior to the effective date of this act, provided such funds are collected pursuant to the contribution limits specified in Article 3 (commencing with Section 85300) of this act, applied separately for each prior election for which debts are being retired, and such funds raised shall not count against the contribution limitations applicable for any election following the effective date of this act.~~

~~(d) Notwithstanding subdivision (c), funds may be collected at any time to pay for attorney's fees for litigation or administrative action which arises directly out of a candidate's or elected officer's alleged violation of state or local campaign, disclosure, or election laws or for a fine or assessment imposed by any governmental agency for violations of this act or this title, or for a recount or contest of the validity of an election, or for any expense directly associated with an external audit or unresolved tax liability of the campaign by the candidate or the candidate's controlled committee; provided such funds are collected pursuant to the contribution limits of this act.~~

~~(e) Contributions pursuant to subdivisions (c) and (d) of this provision shall be considered contributions raised for the election in which the debts, fines, assessments, recounts, contests, audits, or tax liabilities were incurred and shall be subject to the contribution limits of that election.~~

SEC. 35. Section 85305 is added to the Government Code, to read:

85305. A candidate for elective state office or committee controlled by that candidate may not make any contribution to any other candidate for elective state office in excess of the limits set forth in subdivision (a) of Section 85301.

SEC. 36. Section 85306 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

~~85306. Any person who possesses campaign funds on the effective date of this chapter may expend these funds for any lawful purpose other than to support or oppose a candidacy for elective office.~~

SEC. 37. Section 85306 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~85306. No candidate and no committee controlled by a candidate or officeholder, other than a political party~~

~~committee, shall make any contribution to any other candidate running for office or his or her controlled committee. This section shall not prohibit a candidate from making a contribution from his or her own personal funds to his or her own candidacy or to the candidacy of any other candidate for elective office.~~

SEC. 38. Section 85306 is added to the Government Code, to read:

85306. (a) A candidate may transfer campaign funds from one controlled committee to a controlled committee for elective state office of the same candidate. Contributions transferred shall be attributed to specific contributors using a "last in, first out" or "first in, first out" accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor may not exceed the limits set forth in Section 85301 or 85302.

(b) Notwithstanding subdivision (a), a candidate for elective state office, other than a candidate for statewide elective office who possesses campaign funds on January 1, 2001, may use those funds to seek elective office without attributing the funds to specific contributors.

(c) Notwithstanding subdivision (a), a candidate for statewide elective office who possesses campaign funds on November 6, 2002, may use those funds to seek elective office without attributing the funds to specific contributors.

SEC. 39. Section 85307 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

~~85307. The provisions of this article regarding loans shall apply to extensions of credit, but shall not apply to loans made to the candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.~~

SEC. 40. Section 85307 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~85307. (a) A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to all contribution limitations.~~

~~(b) Extensions of credit for a period of more than 30 days, other than loans from financial institutions given in the normal course of business, are subject to all contribution limitations.~~

~~(c) No candidate shall personally make outstanding loans to his or her campaign or campaign committee that total at any one point in time more than twenty thousand dollars (\$20,000) in the case of any candidate, except for candidates for governor, or fifty thousand dollars (\$50,000) in the case of candidates for governor. Nothing in this chapter shall prohibit a candidate from making unlimited contributions to his or her own campaign.~~

SEC. 41. Section 85307 is added to the Government Code, to read:

85307. (a) The provisions of this article regarding loans apply to extensions of credit, but do not apply to loans made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

(b) A candidate for elective state office may not personally loan to his or her campaign an amount, the outstanding balance of which exceeds one hundred thousand dollars (\$100,000). A candidate may not charge interest on any loan he or she made to his or her campaign.

SEC. 42. Section 85308 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~85308. (a) Contributions by a husband and wife shall not be aggregated.~~

~~(b) Contributions by children under 18 shall be treated as contributions attributed equally to each parent or guardian.~~

SEC. 43. Section 85308 is added to the Government Code, to read:

85308. (a) Contributions made by a husband and wife may not be aggregated.

(b) A contribution made by a child under 18 years of age is presumed to be a contribution from the parent or guardian of the child.

SEC. 44. Section 85309 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~85309. No more than 25 percent of the recommended voluntary expenditure limits specified in this act at the time of adoption by the voters, subject to cost of living adjustments as specified in Section 83124, for any election shall be accepted in contributions from other than individuals, small contributor committee, and political party committees in the aggregate by any candidate or the controlled committee of such a candidate. The limitation in this section shall apply whether or not the candidate agrees to the expenditure ceilings specified in Section 85400.~~

SEC. 45. Section 85309 is added to the Government Code, to read:

85309. (a) In addition to any other report required by this title, candidates for elective state office who are required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars (\$1,000) or more received during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

(b) In addition to any other reports required by this title, any committee primarily formed to support one or more state ballot measures that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars (\$1,000) or more received during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

SEC. 46. Section 85310 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~85310. No person shall contribute in the aggregate more than twenty five thousand dollars (\$25,000) to all state candidates and the state candidates' controlled committees and political party committees in any two year period. Contributions from political parties shall be exempt from this provision.~~

SEC. 47. Section 85310 is added to the Government Code, to read:

85310. (a) Any person who makes a payment or a promise of payment totaling fifty thousand dollars (\$50,000) or more for a communication that clearly identifies a candidate for elective state office, but does not expressly advocate the election or defeat of the candidate, and that is disseminated, broadcast, or otherwise published within 45 days of an election, shall file online or electronically with the Secretary of State a report disclosing the name of the person, address, occupation, and employer, and amount of the payment. The report shall be filed within 48 hours of making the payment or the promise to make the payment.

(b) (1) Except as provided in paragraph (2), if any person has received a payment or a promise of a payment from other persons totaling five thousand dollars (\$5,000) or more for the purpose of making a communication described in subdivision (a), the person receiving the payments shall disclose on the report the name, address, occupation and employer, and date and amount received from the person.

(2) A person who receives or is promised a payment that is otherwise reportable under paragraph (1) is not required to report the payment if the person is in the business of providing goods or

services and receives or is promised the payment for the purpose of providing those goods or services.

(c) Any payment received by a person who makes a communication described in subdivision (a) is subject to the limits specified in subdivision (b) of Section 85303 if the communication is made at the behest of the clearly identified candidate.

SEC. 48. Section 85311 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~85311. All payments made by a person established, financed, maintained, or controlled by any business entity, labor organization, association, political party, or any other person or group of such persons shall be considered to be made by a single person.~~

SEC. 49. Section 85311 is added to the Government Code, to read:

85311. (a) For purposes of this chapter the following terms have the following meanings:

(1) "Entity" means any person, other than an individual.

(2) "Majority-owned" means a direct or indirect ownership of more than 50 percent.

(b) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.

(c) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(d) Contributions made by entities that are majority-owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority-owned by that person, unless those entities act independently in their decisions to make contributions.

SEC. 50. Section 85312 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~85312. The costs of internal communications to members, employees, or shareholders of an organization, other than a political party, for the purpose of supporting or opposing a candidate or candidates for elective office or a ballot measure or measures shall not be considered a contribution or independent expenditure under the provisions of this act, provided such payments are not for the costs of campaign materials or activities used in connection with broadcasting, newspaper, billboard, or similar type of general public communication.~~

SEC. 51. Section 85312 is added to the Government Code, to read:

85312. For purpose of this title, payments for communications for purpose of this title to members, employees, shareholders, or families of members, employees, or shareholders of an organization for the purpose of supporting or opposing a candidate or a ballot measure are not contributions or independent expenditures, provided those payments are not made for general public advertising such as broadcasting, billboards, and newspaper advertisements.

SEC. 52. Section 85313 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~85313. (a) Each elected officer may be permitted to establish one segregated officerholder expense fund for expenses related to assisting, serving, or communicating with constituents, or with carrying out the official duties of the elected officer, provided aggregate contributions to such a fund do not exceed ten thousand dollars (\$10,000) within any calendar year and that the expenditures are not made in connection with any campaign for elective office or ballot measure.~~

~~(b) No person shall make, and no elected officer or officerholder account shall solicit or accept from any person, a~~

~~contribution or contributions to the officerholder account totaling more than two hundred fifty dollars (\$250) during any calendar year. Contributions to an officerholder account shall not be considered campaign contributions.~~

~~(c) No elected officerholder or officerholder account shall solicit or accept a contribution to the officerholder account from, through, or arranged by a registered state or local lobbyist or a state or local lobbyist employer if that lobbyist or lobbyist employer finances, engages, or is authorized to engage in lobbying the governmental agency of the officerholder.~~

~~(d) All expenditures from, and contributions to, an officerholder account are subject to the campaign disclosure and reporting requirements of this title.~~

~~(e) Any funds in an officerholder account remaining after leaving office shall be turned over to the General Fund.~~

SEC. 53. Section 85314 is added to the Government Code, to read:

85314. The contribution limits of this chapter apply to special elections and apply to special runoff elections. A special election and a special runoff election are separate elections for purposes of the contribution and voluntary expenditure limits set forth in this chapter.

SEC. 54. Section 85315 is added to the Government Code, to read:

85315. (a) Notwithstanding any other provision of this chapter, an elected state officer may establish a committee to oppose the qualification of a recall measure, and the recall election. This committee may be established when the elected state officer receives a notice of intent to recall pursuant to Section 11021 of the Elections Code. An elected state officer may accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contributions limits set forth in this chapter. The voluntary expenditure limits do not apply to expenditures made to oppose the qualification of a recall measure or to oppose the recall election.

(b) After the failure of a recall petition or after the recall election, the committee formed by the elected state officer shall wind down its activities and dissolve. Any remaining funds shall be treated as surplus funds and shall be expended within 30 days after the failure of the recall petition or after the recall election for a purpose specified in subdivision (b) of Section 89519.

SEC. 55. Section 85316 is added to the Government Code, to read:

85316. A contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

SEC. 56. Section 85317 is added to the Government Code, to read:

85317. Notwithstanding subdivision (a) of Section 85306, a candidate for state elective office may carry over contributions raised in connection with one election for elective state office to pay campaign expenditures incurred in connection with a subsequent election for the same elective state office.

SEC. 57. Section 85318 is added to the Government Code, to read:

85318. A candidate for state elective office may raise contributions for a general election prior to the primary election for the same elective state office if the candidate set aside these contributions and uses these contributions for the general election. If the candidate for state elective office is defeated in the primary election or otherwise withdraws from the general election, the general election funds shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election contributions.

SEC. 58. Section 85319 is added to the Government Code, to read:

85319. A candidate for state elective office may return all or part of any contribution to the donor who made the contribution at any time, whether or not other contributions are returned.

SEC. 59. Article 4 (commencing with Section 85400) of Chapter 5 of Title 9 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 60. Article 4 (commencing with Section 85400) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 4. Voluntary Expenditure Ceilings

85400. (a) A candidate for elective state office, other than the Board of Administration of the Public Employees' Retirement System, who voluntarily accepts expenditure limits may not make campaign expenditures in excess of the following:

(1) For an Assembly candidate, four hundred thousand dollars (\$400,000) in the primary or special primary election and seven hundred thousand dollars (\$700,000) in the general, special, or special runoff election.

(2) For a Senate candidate, six hundred thousand dollars (\$600,000) in the primary or special primary election and nine hundred thousand dollars (\$900,000) in the general, special, or special runoff election.

(3) For a candidate for the State Board of Equalization, one million dollars (\$1,000,000) in the primary election and one million five hundred thousand dollars (\$1,500,000) in the general election.

(4) For a statewide candidate other than a candidate for Governor or the State Board of Equalization, four million dollars (\$4,000,000) in the primary election and six million dollars (\$6,000,000) in the general election.

(5) For a candidate for Governor, six million dollars (\$6,000,000) in the primary election and ten million dollars (\$10,000,000) in the general election.

(b) For purposes of this section "campaign expenditures" has the same meaning as "election related activities" as defined in subparagraph (C) of paragraph (2) of subdivision (b) of Section 82015.

(c) A campaign expenditure made by a political party on behalf of a candidate may not be attributed to the limitations on campaign expenditures set forth in this section.

85401. (a) Each candidate for elective state office shall file a statement of acceptance or rejection of the voluntary expenditure limits set forth in Section 85400 at the time he or she files the statement of intention specified in Section 85200.

(b) Any candidate for elective state office who declined to accept the voluntary expenditure limits but who nevertheless does not exceed the limits in the primary, special primary, or special election, may file a statement of acceptance of the expenditure limits for a general or special runoff election within 14 days following the primary, special primary, or special election.

85402. (a) Any candidate for elective state office who has filed a statement accepting the voluntary expenditure limits is not bound by those limits if an opposing candidate contributes personal funds to his or her own campaign in excess of the limits set forth in Section 85400.

(b) The commission shall require by regulation timely notification by candidates for elective state office who make personal contributions to their own campaign.

85403. Any candidate who files a statement of acceptance pursuant to Section 85401 and makes campaign expenditures in excess of the limits shall be subject to the remedies in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000).

SEC. 61. Article 5 (commencing with Section 85500) of Chapter 5 of Title 9 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 62. Article 5 (commencing with Section 85500) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 5. Independent Expenditures

85500. (a) In addition to any other report required by this title, committees, including political party committees, which are required to file reports pursuant to Section 84605 and that make independent expenditures of one thousand dollars (\$1,000) or more during an election cycle in connection with a candidate for elective state office, shall file online or electronically a report with the Secretary of State disclosing the making of the independent expenditure. Those reports shall disclose the same information required by subdivision (b) of Section 84204 and shall be filed within 24 hours of the time the independent expenditure is made.

(b) An expenditure may not be considered independent, and shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure is made, if the expenditure is made under any of the following circumstances:

(1) The expenditure is made with the cooperation of, or in consultation with, any candidate or any authorized committee or agent of the candidate.

(2) The expenditure is made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of the candidate.

(3) The expenditure is made under any arrangement, coordination, or direction with respect to the candidate or the candidate's agent and the person making the expenditure.

85501. A controlled committee of a candidate may not make independent expenditures and may not contribute funds to another committee for the purpose of making independent expenditures.

SEC. 63. Article 6 (commencing with Section 85600) of Chapter 5 of Title 9 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 64. Article 6 (commencing with Section 85600) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 6. Ballot Pamphlet

85600. The Secretary of State and local election officers shall designate in the ballot pamphlet those candidates for elective state office who have voluntarily agreed to expenditure limitations set forth in Section 85400.

85601. A candidate for elective state office who accepts voluntary expenditure limits may purchase the space to place a statement in the ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth in the Elections Code for the preparation of ballot pamphlets.

SEC. 65. Article 7 (commencing with Section 85700) of Chapter 5 of Title 9 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 66. Article 7 (commencing with Section 85700) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 7. Additional Contribution Requirements

85700. A candidate or committee shall return within 60 days any contribution of one hundred dollars (\$100) or more for which the candidate or committee does not have on file in the records of the candidate or committee the name, address, occupation, and employer of the contributor.

85701. Any candidate or committee that receives a contribution in violation of Section 84301 shall pay to the General Fund of the state the amount of the contribution.

85702. An elected state officer or candidate for elected state office may not accept a contribution from a lobbyist, and a lobbyist may not make a contribution to an elected state officer or candidate for elected state office, if that lobbyist is registered to

lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.

85703. Nothing in this act shall nullify contribution limitations or prohibitions of any local jurisdiction that apply to elections for local elective office, except that these limitations and prohibitions may not conflict with the provisions of Section 85312.

85704. A person may not make any contribution to a committee on the condition or with the agreement that it will be contributed to any particular candidate unless the contribution is fully disclosed pursuant to Section 84302.

SEC. 67. Section 89510 of the Government Code is amended to read:

89510. (a) A candidate may only accept contributions from persons, political committees, broad based political committees, and political parties and only in the amounts specified in Article 3 (commencing with Section 85300). A candidate shall not accept contributions from any other source in accordance with the provision set forth in Chapter 5 (commencing with Section 85100).

(b) All contributions deposited into the campaign account shall be deemed to be held in trust for expenses associated with the election of the candidate to the specific office for which the candidate has stated, pursuant to Section 85200, that he or she intends to seek or expenses associated with holding that office for purposes set forth in Chapter 5 (commencing with Section 85100).

(c) In the event that the numerical reference to a district changes due to a reapportionment subsequent to a candidate declaring an intention to seek a specific office, the candidate may use the contribution raised under the old numbered district to seek office, and for office expenses, in the new numbered district.

(d) In the event that the boundaries of the district for a specific office change as a result of a reapportionment which is enacted after a candidate files a statement of intention to be a candidate for that specific office, the candidate may use any contributions received for that specific office for expenses associated with the election of the candidate to any other equivalent district office of the agency body which includes the specific office, at the next election for that other district office, and for expenses associated with holding that other district office.

SEC. 68. Section 89519 of the Government Code, as added by Chapter 84 of the Statutes of 1990, is repealed.

89519. Upon leaving any elected office, or at the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds raised after January 1, 1989, under the control of the former candidate or elected officer shall be considered surplus campaign funds and shall be disclosed pursuant to Chapter 4 (commencing with Section 84100) and shall be used only for the following purposes:

(a) The payment of outstanding campaign debts or elected officer's expenses.

(b) The pro rata repayment of contributions.

(c) Donations to any bona fide charitable, educational, civic, religious, or similar tax exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer.

(d) Contributions to a political party or committee so long as the funds are not used to make contributions in support of or opposition to a candidate for elective office.

(e) Contributions to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure.

SEC. 69. Section 89519 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

89519. Any campaign funds in excess of expenses incurred for the campaign or for expenses specified in subdivision (d) of Section 85305, received by or on behalf of an individual who seeks nomination for election, or election to office, shall be deemed to be surplus campaign funds and shall

be distributed within 90 days after withdrawal, defeat, or election to office in the following manner:

(a) No more than ten thousand dollars (\$10,000) may be deposited in the candidate's officeholder account, except such surplus from a campaign fund for the general election shall not be deposited into the officeholder account within 60 days immediately following the election.

(b) Any remaining surplus funds shall be distributed to any political party, returned to contributors on a pro rata basis, or turned over to the General Fund.

SEC. 70. Section 89519 is added to the Government Code, to read:

89519. (a) Upon leaving any elected office, or at the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds raised after January 1, 1989, under the control of the former candidate or elected officer shall be considered surplus campaign funds and shall be disclosed pursuant to Chapter 4 (commencing with Section 84100).

(b) Surplus campaign funds shall be used only for the following purposes:

(1) The payment of outstanding campaign debts or elected officer's expenses.

(2) The repayment of contributions.

(3) Donations to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer.

(4) Contributions to a political party committee, provided the campaign funds are not used to support or oppose candidates for elective office. However, the campaign funds may be used by a political party committee to conduct partisan voter registration, partisan get-out-the-vote activities, and slate mailers as that term is defined in Section 82048.3.

(5) Contributions to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure.

(6) The payment for professional services reasonably required by the committee to assist in the performance of its administrative functions, including payment for attorney's fees for litigation which arises directly out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action brought of a violation of state or local campaign, disclosure, or election laws, and an action from an election contest or recount.

(c) For purposes of this section, the payment for, or the reimbursement to the state of, the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety shall be deemed an outstanding campaign debt or elected officer's expense, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission. The report to the commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and the telephone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars (\$5,000) in surplus campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. Payments made pursuant to this subdivision shall be made during the two years immediately following the date upon which the campaign funds become surplus campaign funds. The candidate or elected officer shall reimburse the surplus fund account for the fair market value of the security system no later than two years immediately following the date upon which the campaign funds became surplus campaign funds. The campaign funds become surplus campaign funds upon sale of the property on which the system is installed, or prior to the closing of the surplus campaign fund account, whichever comes

first. The electronic security system shall be the property of the campaign committee of the candidate or elected officer.

SEC. 71. Section 91000 of the Government Code, added by Proposition 9 at the June 4, 1974, statewide primary election, is repealed.

~~91000. (a) Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.~~

~~(b) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars (\$10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.~~

~~(c) Prosecution for violation of this title must be commenced within two years after the date on which the violation occurred.~~

SEC. 72. Section 91000 of the Government Code, as amended by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~91000. (a) Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.~~

~~(b) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars (\$10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.~~

~~(c) Prosecution for violation of this title must be commenced within four years after the date on which the violation occurred.~~

~~(d) The commission has concurrent jurisdiction in enforcing the criminal misdemeanor provisions of this title.~~

SEC. 73. Section 91000 is added to the Government Code, to read:

91000. (a) Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.

(b) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars (\$10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.

(c) Prosecution for violation of this title must be commenced within four years after the date on which the violation occurred.

SEC. 74. Section 91004 of the Government Code, added by Proposition 9 at the June 4, 1974, statewide primary election, is repealed.

~~91004. Any person who intentionally or negligently violates any of the reporting requirements of this act shall be liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount not more than the amount or value not properly reported.~~

SEC. 75. Section 91004 of the Government Code, as amended by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~91004. Any person who intentionally or negligently violates any of the reporting requirements of this act, or who aids and abets any person who violates any of the reporting requirements of this act, shall be liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount not more than the amount or value not properly reported.~~

SEC. 76. Section 91004 is added to the Government Code, to read:

91004. Any person who intentionally or negligently violates any of the reporting requirements of this title shall be liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount not more than the amount or value not properly reported.

SEC. 77. Section 91005.5 of the Government Code, as added by Chapter 727 of the Statutes of 1982, is repealed.

~~91005.5. Any person who violates any provision of this title, except Sections 84305, 84307, and 89001, for which no specific civil penalty is provided, shall be liable in a civil action~~

~~brought by the commission or the district attorney pursuant to subdivision (b) of Section 91001, or the elected city attorney pursuant to Section 91001.5, for an amount up to two thousand dollars (\$2,000).~~

~~No civil action alleging a violation of this title may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000.~~

~~The provisions of this section shall be applicable only as to violations occurring after the effective date of this section.~~

SEC. 78. Section 91005.5 of the Government Code, as amended by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~91005.5. Any person who violates any provision of this title, except Sections 84305, 84307, and 89001, for which no specific civil penalty is provided, shall be liable in a civil action brought by the commission or the district attorney pursuant to subdivision (b) of Section 91001, or the elected city attorney pursuant to Section 91001.5, for an amount up to five thousand dollars (\$5,000) per violation.~~

~~No civil action alleging a violation of this title may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000.~~

~~The provisions of this section shall be applicable only as to violations occurring after the effective date of this section.~~

SEC. 79. Section 91005.5 is added to the Government Code, to read:

91005.5. Any person who violates any provision of this title, except Sections 84305, 84307, and 89001, for which no specific civil penalty is provided, shall be liable in a civil action brought by the commission or the district attorney pursuant to subdivision (b) of Section 91001, or the elected city attorney pursuant to Section 91001.5, for an amount up to five thousand dollars (\$5,000) per violation.

~~No civil action alleging a violation of this title may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000.~~

~~The provisions of this section shall be applicable only as to violations occurring after the effective date of this section.~~

SEC. 80. Section 91006 of the Government Code, added by Proposition 9 at the June 4, 1974, statewide primary election, is repealed.

~~91006. If two or more persons are responsible for any violation, they shall be jointly and severally liable.~~

SEC. 81. Section 91006 of the Government Code, as amended by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

~~91006. Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this chapter and Chapter 3 (commencing with Section 83100) of this title. If two or more persons are responsible for any violation, they shall be jointly and severally liable.~~

SEC. 82. Section 91006 is added to the Government Code, to read:

91006. If two or more persons are responsible for any violation, they shall be jointly and severally liable.

SEC. 83. This act shall become operative on January 1, 2001. However, Chapter 5 (commencing with Section 85100) of Title 9 of the Government Code, except subdivision (a) of Section 85309 of the Government Code, shall apply to candidates for statewide elective office beginning on and after November 6, 2002.

SEC. 84. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 85. (a) A special election is hereby called to be held throughout the state on November 7, 2000. The election shall be consolidated with the statewide general election to be held on that date. The consolidated election shall be held and conducted in all respects as if there were only one election and only one form of ballot shall be used.

(b) Notwithstanding Section 9040 of the Elections Code or any other provision of law, the Secretary of State, pursuant to

subdivision (b) of Section 81012 of the Government Code shall submit this act for approval to the voters at the November 7, 2000, statewide general election.

SEC. 86. This is an act calling an election pursuant to paragraph (3) of subdivision (c) of Section 8 of Article IV of the California Constitution, and shall take effect immediately.

Proposition 35: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the California Constitution and the Government Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

FAIR COMPETITION AND TAXPAYER SAVINGS INITIATIVE

SECTION 1. TITLE

This measure shall be known and may be cited as the "Fair Competition and Taxpayer Savings Act."

SEC. 2. PURPOSE AND INTENT

It is the intent of the people of the State of California in enacting this measure:

(a) To remove existing restrictions on contracting for architectural and engineering services and to allow state, regional and local governments to use qualified private architectural and engineering firms to help deliver transportation, schools, water, seismic retrofit and other infrastructure projects safely, cost effectively and on time;

(b) To encourage the kind of public/private partnerships necessary to ensure that California taxpayers benefit from the use of private sector experts to deliver transportation, schools, water, seismic retrofit and other infrastructure projects;

(c) To promote fair competition so that both public and private sector architects and engineers work smarter, more efficiently and ultimately deliver better value to taxpayers;

(d) To speed the completion of a multi-billion dollar backlog of highway, bridge, transit and other projects;

(e) To ensure that contracting for architectural and engineering services occurs through a fair, competitive selection process, free of undue political influence, to obtain the best quality and value for California taxpayers; and

(f) To ensure that private firms contracting for architectural and engineering services with governmental entities meet established design and construction standards and comply with standard accounting practices and permit financial and performance audits as necessary to ensure contract services are delivered within the agreed schedule and budget.

SEC. 3. Article XXII is added to the California Constitution, to read:

SECTION 1. The State of California and all other governmental entities, including, but not limited to, cities, counties, cities and counties, school districts and other special districts, local and regional agencies and joint power agencies, shall be allowed to contract with qualified private entities for architectural and engineering services for all public works of improvement. The choice and authority to contract shall extend to all phases of project development including permitting and environmental studies, rights-of-way services, design phase services and construction phase services. The choice and authority shall exist without regard to funding sources whether federal, state, regional, local or private, whether or not the project is programmed by a state, regional or local governmental entity, and whether or not the completed project is a part of any state owned or state operated system or facility.

SEC. 2. Nothing contained in Article VII of this Constitution shall be construed to limit, restrict or prohibit the State or any other governmental entities, including, but not limited to, cities, counties, cities and counties, school districts and other special districts, local and regional agencies and joint power agencies, from contracting with private entities for the performance of architectural and engineering services.

SEC. 4. Chapter 10.1 (commencing with Section 4529.10) is added to Division 5 of Title 1 of the Government Code, to read:

4529.10. For purposes of Article XXII of the California Constitution and this act, the term "architectural and engineering services" shall include all architectural, landscape architectural, environmental, engineering, land surveying, and construction project management services.

4529.11. All projects included in the State Transportation Improvement Program programmed and funded as interregional improvements or as regional improvements shall be subject to Article XXII of the California Constitution. The sponsoring governmental entity shall have the choice and the authority to contract with qualified private entities for architectural and engineering services. For projects programmed and funded as regional improvements, the sponsoring governmental entity shall be the regional or local project sponsor. For projects programmed and funded as interregional improvements, the sponsoring governmental entity shall be the State of California, unless there is a regional or local project sponsor, in which case the sponsoring governmental entity shall be the regional or local project sponsor. The regional or local project sponsor shall be a regional or local governmental entity.

4529.12. All architectural and engineering services shall be procured pursuant to a fair, competitive selection process which prohibits governmental agency employees from participating in the selection process when they have a financial or business relationship with any private entity seeking the contract, and the procedure shall require compliance with all laws regarding political contributions, conflicts of interest or unlawful activities.

4529.13. Nothing contained in this act shall be construed to change project design standards, seismic safety standards or project construction standards established by state, regional or local governmental entities. Nor shall any provision of this act be construed to prohibit or restrict the authority of the Legislature to statutorily provide different procurement methods for design-build projects or design-build-and-operate projects.

4529.14. Architectural and engineering services contracts procured by public agencies shall be subject to standard accounting practices and may require financial and performance audits as necessary to ensure contract services are delivered within the agreed schedule and budget.

4529.15. This act only applies to architectural and engineering services defined in Government Code Section 4529.10. Nothing contained in this act shall be construed to expand or restrict the authority of governmental entities to contract for fire, ambulance, police, sheriff, probation, corrections or other peace officer services. Nor shall anything in this act be construed to expand or restrict the authority of governmental entities to contract for education services including but not limited to, teaching services, services of classified school personnel and school administrators.

4529.16. This act shall not be applied in a manner that will result in the loss of federal funding to any governmental entity.

4529.17. *The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.*

4529.18. *If any act of the Legislature conflicts with the provisions of this act, this act shall prevail.*

4529.19. *This act shall be liberally construed to accomplish its purposes.*

4529.20. *This act seeks to comprehensively regulate the matters which are contained within its provisions. These are matters of statewide concern and when enacted are intended to apply to charter cities as well as all other governmental entities.*

SEC. 5. This initiative may be amended to further its purposes by statute, passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, and signed by the Governor.

SEC. 6. If there is a conflicting initiative measure on the same ballot, which addresses and seeks to comprehensively regulate the same subject, only the provisions of this measure shall become operative if this measure receives the highest affirmative vote.

Proposition 36: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8, of the California Constitution.

This initiative measure adds sections to the Health and Safety Code and the Penal Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SUBSTANCE ABUSE AND CRIME PREVENTION ACT OF 2000

SECTION 1. Title

This act shall be known and may be cited as the "Substance Abuse and Crime Prevention Act of 2000."

SEC. 2. Findings and Declarations

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

(a) Substance abuse treatment is a proven public safety and health measure. Nonviolent, drug-dependent criminal offenders who receive drug treatment are much less likely to abuse drugs and commit future crimes, and are likelier to live healthier, more stable and more productive lives.

(b) Community safety and health are promoted, and taxpayer dollars are saved, when nonviolent persons convicted of drug possession or drug use are provided appropriate community-based treatment instead of incarceration.

(c) In 1996, Arizona voters by a 2–1 margin passed the Drug Medicalization, Prevention, and Control Act, which diverted nonviolent drug offenders into drug treatment and education services rather than incarceration. According to a Report Card prepared by the Arizona Supreme Court, the Arizona law: is "resulting in safer communities and more substance abusing probationers in recovery," has already saved state taxpayers millions of dollars, and is helping more than 75 percent of program participants to remain drug free.

SEC. 3. Purpose and Intent

The People of the State of California hereby declare their purpose and intent in enacting this act to be as follows:

(a) To divert from incarceration into community-based substance abuse treatment programs nonviolent defendants, probationers and parolees charged with simple drug possession or drug use offenses;

(b) To halt the wasteful expenditure of hundreds of millions of dollars each year on the incarceration—and reincarceration—of nonviolent drug users who would be better served by community-based treatment; and

(c) To enhance public safety by reducing drug-related crime and preserving jails and prison cells for serious and violent offenders, and to improve public health by reducing drug abuse and drug dependence through proven and effective drug treatment strategies.

SEC. 4. Section 1210 is added to the Penal Code, to read:

1210. Definitions

As used in Sections 1210.1 and 3063.1 of this code, and Division 10.8 (commencing with Section 11999.4) of the Health and Safety Code:

(a) *The term "nonviolent drug possession offense" means the unlawful possession, use, or transportation for personal use of any controlled substance identified in Section 11054, 11055, 11056, 11057 or 11058 of the Health and Safety Code, or the offense of being under the influence of a controlled substance in violation of Section 11550 of the Health and Safety Code. The term "nonviolent drug possession offense" does not include the possession for sale, production, or manufacturing of any controlled substance.*

(b) *The term "drug treatment program" or "drug treatment" means a licensed and/or certified community drug treatment program, which may include one or more of the following: outpatient treatment, half-way house treatment, narcotic replacement therapy, drug education or prevention courses and/or limited inpatient or residential drug treatment as needed to address special detoxification or relapse situations or severe dependence. The term "drug treatment program" or "drug treatment" does not include drug treatment programs offered in a prison or jail facility.*

(c) *The term "successful completion of treatment" means that a defendant who has had drug treatment imposed as a condition of probation has completed the prescribed course of drug treatment and, as a result, there is reasonable cause to believe that the defendant will not abuse controlled substances in the future.*

(d) *The term "misdemeanor not related to the use of drugs" means a misdemeanor that does not involve (1) the simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or (2) any activity similar to those listed in paragraph (1).*

SEC. 5. Section 1210.1 is added to the Penal Code, to read:

1210.1. Possession of Controlled Substances; Probation; Exceptions

(a) *Notwithstanding any other provision of law, and except as provided in subdivision (b), any person convicted of a nonviolent drug possession offense shall receive probation.*

As a condition of probation the court shall require participation in and completion of an appropriate drug treatment program. The court may also impose, as a condition of probation, participation in vocational training, family counseling, literacy training and/or community service. A court may not impose incarceration as an additional condition of probation. Aside from the limitations imposed in this subdivision, the trial court is not otherwise limited in the type of probation conditions it may impose.

In addition to any fine assessed under other provisions of law, the trial judge may require any person convicted of a nonviolent drug possession offense who is reasonably able to do so to contribute to the cost of his or her own placement in a drug treatment program.

(b) *Subdivision (a) does not apply to either of the following:*

(1) *Any defendant who previously has been convicted of one or more serious or violent felonies in violation of subdivision (c) of Section 667.5 or Section 1192.7, unless the nonviolent drug possession offense occurred after a period of five years in which the defendant remained free of both prison custody and the commission of an offense that results in (A) a felony conviction other than a nonviolent drug possession offense, or (B) a*

misdemeanor conviction involving physical injury or the threat of physical injury to another person.

(2) Any defendant who, in addition to one or more nonviolent drug possession offenses, has been convicted in the same proceeding of a misdemeanor not related to the use of drugs or any felony.

(3) Any defendant who:

(A) While using a firearm, unlawfully possesses any amount of (i) a substance containing either cocaine base, cocaine, heroin, methamphetamine, or (ii) a liquid, non-liquid, plant substance, or hand-rolled cigarette, containing phencyclidine.

(B) While using a firearm, is unlawfully under the influence of cocaine base, cocaine, heroin, methamphetamine or phencyclidine.

(4) Any defendant who refuses drug treatment as a condition of probation.

(5) Any defendant who (A) has two separate convictions for nonviolent drug possession offenses, (B) has participated in two separate courses of drug treatment pursuant to subdivision (a), and (C) is found by the court, by clear and convincing evidence, to be unamenable to any and all forms of available drug treatment. Notwithstanding any other provision of law, the trial court shall sentence such defendants to 30 days in jail.

(c) Within seven days of an order imposing probation under subdivision (a), the probation department shall notify the drug treatment provider designated to provide drug treatment under subdivision (a). Within 30 days of receiving that notice, the treatment provider shall prepare a treatment plan and forward it to the probation department. On a quarterly basis after the defendant begins the drug treatment program, the treatment provider shall prepare and forward a progress report to the probation department.

(1) If at any point during the course of drug treatment the treatment provider notifies the probation department that the defendant is unamenable to the drug treatment being provided, but may be amenable to other drug treatments or related programs, the probation department may move the court to modify the terms of probation to ensure that the defendant receives the alternative drug treatment or program.

(2) If at any point during the course of drug treatment the treatment provider notifies the probation department that the defendant is unamenable to the drug treatment provided and all other forms of drug treatment, the probation department may move to revoke probation. At the revocation hearing, unless the defendant proves by a preponderance of the evidence that there is a drug treatment program to which he or she is amenable, the court may revoke probation.

(3) Drug treatment services provided by subdivision (a) as a required condition of probation may not exceed 12 months, provided, however, that additional aftercare services as a condition of probation may be required for up to six months.

(d) Dismissal of charges upon successful completion of drug treatment

(1) At any time after completion of drug treatment, a defendant may petition the sentencing court for dismissal of the charges. If the court finds that the defendant successfully completed drug treatment, and substantially complied with the conditions of probation, the conviction on which the probation was based shall be set aside and the court shall dismiss the indictment or information against the defendant. In addition, the arrest on which the conviction was based shall be deemed never to have occurred. Except as provided in paragraph (2) or (3), the defendant shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted.

(2) Dismissal of an indictment or information pursuant to paragraph (1) does not permit a person to own, possess, or have in his or her custody or control any firearm capable of being concealed upon the person or prevent his or her conviction under Section 12021.

(3) Except as provided below, after an indictment or information is dismissed pursuant to paragraph (1), the defendant may indicate in response to any question concerning his or her

prior criminal record that he or she was not arrested or convicted for the offense. Except as provided below, a record pertaining to an arrest or conviction resulting in successful completion of a drug treatment program under this section may not, without the defendant's consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate.

Regardless of his or her successful completion of drug treatment, the arrest and conviction on which the probation was based may be recorded by the Department of Justice and disclosed in response to any peace officer application request or any law enforcement inquiry. Dismissal of an information or indictment under this section does not relieve a defendant of the obligation to disclose the arrest and conviction in response to any direct question contained in any questionnaire or application for public office, for a position as a peace officer as defined in Section 830, for licensure by any state or local agency, for contracting with the California State Lottery, or for purposes of serving on a jury.

(e) Violation of probation

(1) If probation is revoked pursuant to the provisions of this subdivision, the defendant may be incarcerated pursuant to otherwise applicable law without regard to the provisions of this section.

(2) Non-drug-related probation violations

If a defendant receives probation under subdivision (a), and violates that probation either by being arrested for an offense that is not a nonviolent drug possession offense, or by violating a non-drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The court may modify or revoke probation if the alleged violation is proved.

(3) Drug-related probation violations

(A) If a defendant receives probation under subdivision (a), and violates that probation either by being arrested for a nonviolent drug possession offense or by violating a drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence that the defendant poses a danger to the safety of others. If the court does not revoke probation, it may intensify or alter the drug treatment plan.

(B) If a defendant receives probation under subdivision (a), and for the second time violates that probation either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves for a second time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence either that the defendant poses a danger to the safety of others or is unamenable to drug treatment. In determining whether a defendant is unamenable to drug treatment, the court may consider, to the extent relevant, whether the defendant (i) has committed a serious violation of rules at the drug treatment program, (ii) has repeatedly committed violations of program rules that inhibit the defendant's ability to function in the program, or (iii) has continually refused to participate in the program or asked to be removed from the program. If the court does not revoke probation, it may intensify or alter the drug treatment plan.

(C) If a defendant receives probation under subdivision (a), and for the third time violates that probation either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves for a third time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. If the alleged probation violation is proved, the defendant is not eligible for continued probation under subdivision (a).

(D) If a defendant on probation at the effective date of this act for a nonviolent drug possession offense violates that probation either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall

revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence that the defendant poses a danger to the safety of others. If the court does not revoke probation, it may modify probation and impose as an additional condition participation in a drug treatment program.

(E) If a defendant on probation at the effective date of this act for a nonviolent drug possession offense violates that probation a second time either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves for a second time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence either that the defendant poses a danger to the safety of others or that the defendant is unamenable to drug treatment. If the court does not revoke probation, it may modify probation and impose as an additional condition participation in a drug treatment program.

(F) If a defendant on probation at the effective date of this act for a nonviolent drug offense violates that probation a third time either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves for a third time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. If the alleged probation violation is proved, the defendant is not eligible for continued probation under subdivision (a).

SEC. 6. Section 3063.1 is added to the Penal Code, to read:

3063.1. Possession of Controlled Substances; Parole; Exceptions

(a) Notwithstanding any other provision of law, and except as provided in subdivision (b), parole may not be suspended or revoked for commission of a nonviolent drug possession offense or for violating any drug-related condition of parole.

As an additional condition of parole for all such offenses or violations, the Parole Authority shall require participation in and completion of an appropriate drug treatment program. Vocational training, family counseling and literacy training may be imposed as additional parole conditions.

The Parole Authority may require any person on parole who commits a nonviolent drug possession offense or violates any drug-related condition of parole, and who is reasonably able to do so, to contribute to the cost of his or her own placement in a drug treatment program.

(b) Subdivision (a) does not apply to:

(1) Any parolee who has been convicted of one or more serious or violent felonies in violation of subdivision (c) of Section 667.5 or Section 1192.7.

(2) Any parolee who, while on parole, commits one or more nonviolent drug possession offenses and is found to have concurrently committed a misdemeanor not related to the use of drugs or any felony.

(3) Any parolee who refuses drug treatment as a condition of parole.

(c) Within seven days of a finding that the parolee has either committed a nonviolent drug possession offense or violated any drug-related condition of parole, the Parole Authority shall notify the treatment provider designated to provide drug treatment under subdivision (a). Within 30 days thereafter the treatment provider shall prepare a drug treatment plan and forward it to the Parole Authority and to the California Department of Corrections Parole Division agent responsible for supervising the parolee. On a quarterly basis after the parolee begins drug treatment, the treatment provider shall prepare and forward a progress report to these entities and individuals.

(1) If at any point during the course of drug treatment the treatment provider notifies the Parole Authority that the parolee is unamenable to the drug treatment provided, but amenable to other drug treatments or related programs, the Parole Authority may act to modify the terms of parole to ensure that the parolee receives the alternative drug treatment or program.

(2) If at any point during the course of drug treatment the treatment provider notifies the Parole Authority that the parolee is unamenable to the drug treatment provided and all other forms of

drug treatment, the Parole Authority may act to revoke parole. At the revocation hearing, parole may be revoked unless the parolee proves by a preponderance of the evidence that there is a drug treatment program to which he or she is amenable.

(3) Drug treatment services provided by subdivision (a) as a required condition of parole may not exceed 12 months, provided, however, that additional aftercare services as a condition of probation may be required for up to six months.

(d) Violation of parole

(1) If parole is revoked pursuant to the provisions of this subdivision, the defendant may be incarcerated pursuant to otherwise applicable law without regard to the provisions of this section.

(2) Non-drug-related parole violations

If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment violates parole either by being arrested for an offense other than a nonviolent drug possession offense, or by violating a non-drug-related condition of parole, and the Parole Authority acts to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. Parole may be modified or revoked if the parole violation is proved.

(3) Drug-related parole violations

(A) If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment violates parole either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of parole, and the Parole Authority acts to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. Parole shall be revoked if the parole violation is proved and a preponderance of the evidence establishes that the parolee poses a danger to the safety of others. If parole is not revoked, the conditions of parole may be intensified to achieve the goals of drug treatment.

(B) If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment violates that parole either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of parole, and the Parole Authority acts for a second time to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. If the alleged parole violation is proved, the parolee is not eligible for continued parole under any provision of this section and may be reincarcerated.

(C) If a parolee already on parole at the effective date of this act violates that parole either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of parole, and the Parole Authority acts to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. Parole shall be revoked if the parole violation is proved and a preponderance of the evidence establishes that the parolee poses a danger to the safety of others. If parole is not revoked, the conditions of parole may be modified to include participation in a drug treatment program as provided in subdivision (a). This paragraph does not apply to any parolee who at the effective date of this act has been convicted of one or more serious or violent felonies in violation of subdivision (c) of Section 667.5 or Section 1192.7.

(D) If a parolee already on parole at the effective date of this act violates that parole for the second time either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of parole, and the Parole Authority acts for a second time to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. If the alleged parole violation is proved, the parolee is not eligible for continued parole under any provision of this section and may be reincarcerated.

SEC. 7. Division 10.8 (commencing with Section 11999.4) is added to the Health and Safety Code, to read:

DIVISION 10.8. SUBSTANCE ABUSE TREATMENT FUNDING

11999.4. Establishment of the Substance Abuse Treatment Trust Fund

A special fund to be known as the "Substance Abuse Treatment Trust Fund" is created within the State Treasury and is continuously appropriated for carrying out the purposes of this division.

11999.5. Funding Appropriation

Upon passage of this act, \$60,000,000 shall be continuously appropriated from the General Fund to the Substance Abuse Treatment Trust Fund for the 2000–01 fiscal year. There is hereby continuously appropriated from the General Fund to the Substance Abuse Treatment Trust Fund an additional \$120,000,000 for the 2001–02 fiscal year, and an additional sum of \$120,000,000 for each such subsequent fiscal year concluding with the 2005–06 fiscal year. These funds shall be transferred to the Substance Abuse Treatment Trust Fund on July 1 of each of these specified fiscal years. Funds transferred to the Substance Abuse Treatment Trust Fund are not subject to annual appropriation by the Legislature and may be used without a time limit. Nothing in this section precludes additional appropriations by the Legislature to the Substance Abuse Treatment Trust Fund.

11999.6. Distribution of Monies from Substance Abuse Treatment Trust Fund

Monies deposited in the Substance Abuse Treatment Trust Fund shall be distributed annually by the Secretary of the Health and Human Services Agency through the State Department of Alcohol and Drug Programs to counties to cover the costs of placing persons in and providing (a) drug treatment programs under this act, and (b) vocational training, family counseling and literacy training under this act. Additional costs that may be reimbursed from the Substance Abuse Treatment Trust Fund include probation department costs, court monitoring costs and any miscellaneous costs made necessary by the provisions of this act other than drug testing services of any kind. Such monies shall be allocated to counties through a fair and equitable distribution formula that includes, but is not limited to, per capita arrests for controlled substance possession violations and substance abuse treatment caseload, as determined by the department as necessary to carry out the purposes of this act. The department may reserve a portion of the fund to pay for direct contracts with drug treatment service providers in counties or areas in which the director of the department has determined that demand for drug treatment services is not adequately met by existing programs. However, nothing in this section shall be interpreted or construed to allow any entity to use funds from the Substance Abuse Treatment Trust Fund to supplant funds from any existing fund source or mechanism currently used to provide substance abuse treatment.

11999.7. Local Government Authority to Control Location of Drug Treatment Programs

Notwithstanding any other provision of law, no community drug treatment program may receive any funds from the Substance Abuse Treatment Trust Fund unless the program agrees to make its facilities subject to valid local government zoning ordinances and development agreements.

11999.8. Surplus Funds

Any funds remaining in the Substance Abuse Treatment Trust Fund at the end of a fiscal year may be utilized to pay for drug treatment programs to be carried out in the subsequent fiscal year.

11999.9. Annual Evaluation Process

The department shall annually conduct a study to evaluate the effectiveness and financial impact of the programs that are funded pursuant to the requirements of this act. The study shall include, but not be limited to, a study of the implementation process, a review of lower incarceration costs, reductions in crime, reduced prison and jail construction, reduced welfare costs, the adequacy of funds appropriated, and any other impacts or issues the department can identify.

11999.10. Outside Evaluation Process

The department shall allocate up to 0.5 percent of the fund's total monies each year for a long-term study to be conducted by a public university in California aimed at evaluating the effectiveness and financial impact of the programs that are funded pursuant to the requirements of this act.

11999.11. County Reports

Counties shall submit a report annually to the department detailing the numbers and characteristics of clients-participants served as a result of funding provided by this act. The department shall promulgate a form which shall be used by the counties for the reporting of this information, as well as any other information that may be required by the department. The department shall establish a deadline by which the counties shall submit their reports.

11999.12. Audit of Expenditures

The department shall annually audit the expenditures made by any county that is funded, in whole or in part, with funds provided by this act. Counties shall repay to the department any funds that are not spent in accordance with the requirements of this act.

11999.13. Excess Funds

At the end of each fiscal year, a county may retain unspent funds received from the Substance Abuse Treatment Trust Fund and may spend those funds, if approved by the department, on drug programs that further the purposes of this act.

SEC. 8. Effective Date

Except as otherwise provided, the provisions of this act shall become effective July 1, 2001, and its provisions shall be applied prospectively.

SEC. 9. Amendment

This act may be amended only by a roll call vote of two thirds of the membership of both houses of the Legislature. All amendments to this act shall be to further the act and shall be consistent with its purposes.

SEC. 10. Severability

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

Proposition 37: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure expressly amends the California Constitution by amending sections thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW**Two-Thirds Vote Preservation Act of 2000****SECTION 1. Title**

This measure shall be known and may be cited as the "Two-Thirds Vote Preservation Act of 2000."

SECTION 2. Findings and Declaration of Purpose

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

(a) Article XIII A, Section 3, of the California Constitution prohibits the California Legislature from imposing a state tax without approval by a two-thirds vote of the members of each house.

(b) Article XIII C, Section 2, subdivisions (b) and (d), of the California Constitution prohibit local governments from imposing a general tax without approval by a majority vote of the people or a special tax without approval by a two-thirds vote of the people.

(c) These vote requirements do not apply to the imposition of legitimate fees.

(d) There have been increasing attempts by the state and local governments to disguise new taxes as fees in order to avoid the vote requirements.

(e) In 1997 the California Supreme Court in the case of *Sinclair Paint Company v. State Board of Equalization* defined a fee in such manner as to unreasonably broaden the purposes for which fees can be imposed.

(f) The breadth of the Supreme Court's decision will encourage the use of fees to avoid the vote requirements of Articles XIII A and XIII C and significantly weaken the tax protections created by these propositions.

(g) The distinction between a fee and a tax was reasonably clear before the Supreme Court decision.

(h) In order to preserve that distinction and prevent avoidance of the two-thirds legislative vote requirement of Article XIII A and the majority and two-thirds popular vote requirements of Article XIII C, it is necessary to amend the Constitution.

SECTION 3. Section 3 of Article XIII A of the California Constitution is amended to read:

SEC. 3. From and after the effective date of this article, any changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in ~~methods~~ *the method* of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed. *For purposes of this section, "state taxes" do not include an "assessment" or "fee" as defined in Article XIII D, Section 2, subdivisions (b) and (e), real property development fees, or regulatory fees that do not exceed the reasonable cost of regulating the activity for which the fee is charged. Provided, however, compulsory fees enacted after July 1, 1999, to monitor, study or mitigate the societal or economic effects of an activity, and which impose no significant regulatory obligation on the fee payor's activity other than the payment of the fee, and regulatory fees that exceed the reasonable cost of regulating the activity for which the fee is charged, shall be deemed state taxes subject to the two-thirds vote requirement of this section. Monies recoverable as damages, remedial expenses or penalties arising from a specific event shall not be deemed taxes or fees.*

This section shall not apply to (1) any fee that was authorized by law prior to July 1, 1999, (2) any increase in such fee attributable to inflation, or (3) any increase in such fee attributable to increased workload, provided such increased workload is not the result of expansion of the class of activity or activities to which the fee applied prior to July 1, 1999.

SECTION 4. Section 1 of Article XIII C of the California Constitution is amended to read as follows:

SECTION 1. Definitions. As used in this article:

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

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

(c) "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

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

(e) For purposes of subdivisions (a) and (d), "general taxes" and "special taxes" do not include an "assessment" or "fee" as defined in Article XIII D, Section 2, subdivisions (b) and (e), real property development fees, or regulatory fees that do not exceed the reasonable cost of regulating the activity for which the fee is charged. Provided, however, compulsory fees enacted after July 1, 1999, to monitor, study or mitigate the societal or economic effects of an activity, and which impose no significant regulatory obligation on the fee payor's activity other than the payment of the fee, and regulatory fees that exceed the reasonable cost of regulating the activity for which the fee is charged, shall be deemed general or special taxes subject to the majority or two-thirds vote requirements of Section 2, subdivisions (b) and (d), of this article. Monies recoverable as damages, remedial expenses or penalties arising from a specific event shall not be deemed taxes, special taxes, assessments or fees.

This section shall not apply to (1) any fee that was authorized by law prior to July 1, 1999, (2) any increase in such fee attributable to inflation, or (3) any increase in such fee attributable to increased workload, provided such increased workload is not the result of expansion of the class of activity or activities to which the fee applied prior to July 1, 1999.

SECTION 5. Severability

If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

Proposition 38: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure expressly amends the California Constitution by adding sections thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The National Average School Funding Guarantee and Parental Right to Choose Quality Education Amendment

SECTION 1. TITLE

This measure shall be known and may be cited as "The National Average School Funding Guarantee and Parental Right to Choose Quality Education Amendment."

SECTION 2. Section 8.1 is added to Article IX of the Constitution, to read:

Sec. 8.1. *The people of the State of California find and declare:*

(a) The economic and social viability of California depends on a well educated citizenry.

(b) Test scores from students in government operated schools reveal that the public school system in this state has become an inefficient monopoly, with many parents forced to enroll their children in schools that are failing to prepare students with the foundation skills of reading, writing and mathematics.

(c) As California embarks on the 21st century, basic changes in California's education delivery structure must be made to ensure that our children receive the benefits of quality education services.

(d) Parents are best equipped to make decisions for their children and have the right to select the educational setting that will best serve the interests and educational needs of their child.

(e) Families have the right to have their children attend schools that successfully teach reading, writing and mathematics to all enrolled students.

(f) The scholarship provided pursuant to this measure is a grant in aid to the parents for the education of their children. The decision by a parent to accept a scholarship and how it is used is not the decision of the state but an exercise of independent parental judgement.

(g) The scholarships provided pursuant to this measure are consistent with existing programs operated by the state including Cal-Grants, special education services in non-public schools, and

child care services, all of which use government revenues to provide services at privately operated institutions chosen by eligible individuals.

(h) The scholarship program enacted by this article is not intended to establish, support, promote or in any way endorse any religion. The people of this State intend only to provide the parents of schoolchildren with the financial means to make their own school choices, not to promote or disadvantage any particular class of schools.

(i) In order for California's students to compete with the students of other states and countries in the global economy of the 21st century, the people of the State of California hereby declare the importance of restoring the focus on academic outcome, introducing competition into the delivery of education services, eliminating waste and inefficiency in government operated schools while providing necessary resources for a quality public education.

(j) This measure recognizes the importance of maintaining and enhancing the per-pupil funding base in government schools at or above the national average amount as part of the system-wide reform of introducing competition and expanding the educational options for parents, which it would accomplish.

SECTION 3. Section 8.3 is added to Article IX of the Constitution, to read:

SEC. 8.3. (a) The Legislature may fund public schools by an amount equal to or exceeding the national average on a dollar per pupil basis pursuant to this section by a statute passed by a majority vote of the members of each house concurring. The amount of funding provided for the support of public schools pursuant to this section each fiscal year thereafter shall be equal to the number of students enrolled in the public school system in kindergarten through grade 12, inclusive, multiplied by an amount equal to or greater than the national average dollar per pupil funding amount calculated pursuant to subdivision (c). This amount shall be known as the national average school funding guarantee.

(b) If the national average school funding guarantee is operative it may only be suspended for a period of one fiscal year by a statute passed in each house by roll call vote entered in the journal, three fourths of the membership concurring provided that the statute may not be made part of, or included within, any bill enacted pursuant to Section 12 of Article IV.

(c) Each fiscal year, the Director of the Department of Finance shall calculate the amount of funding provided for support of public schools in this state, the enrollment in public schools in this state, and the national average dollar per pupil funding amount for support of public schools. To the extent that the Director of Finance is unable to determine the current year amount dedicated in each of the states for the public schools, the most recent amount for each state shall be adjusted upward by the appropriate number of times using the latest positive dollar per pupil growth rate in that state.

(d) If in any fiscal year, the amount of funding provided for support of public schools is at least the national average school funding guarantee calculated pursuant to subdivision (a), the amount calculated pursuant to subdivision (a) shall be used to calculate the amount of funds provided for the support of public schools in all subsequent fiscal years and this section shall supercede Section 8 of Article XVI.

(e) If the national average school funding guarantee becomes operative pursuant to this section, then this section shall supercede all the provisions of Section 8 of Article XVI with respect to funding for school districts and will define the amount of funds required to be appropriated for the support of public schools, thereby guaranteeing that students enrolled in California public schools are funded at or above the national average dollar per pupil amount.

(f) For purposes of this article, the following terms have the following meanings:

(1) "Amount of funding provided for the support of public schools" shall include all funds used to support services to students in public schools in grades kindergarten through 12, inclusive, including federal, state, and local sources, unrestricted funds, categorical funding, and funding dedicated to cover annual debt service on state and local bonds, certificates of participation, notes, and other forms of indebtedness, or any other funds, which are dedicated to finance local and state educational programs,

administration or facilities for grades kindergarten through 12, inclusive, including disbursements, if any, pursuant to Section 8.5 of Article XVI.

(2) "National average dollar per pupil funding" shall be the average amount of funds provided in the United States for public school students in grades kindergarten through 12, inclusive, determined by calculating a statewide dollar per pupil average for each state which is the amount of funding provided for the support of public schools in that state, pursuant to paragraph (1), divided by the number of public school students enrolled in grades kindergarten through 12, inclusive. These dollar per pupil amounts shall then be averaged across all the states.

(3) "Child," "pupil," or "student" is a person eligible to attend kindergarten or any grades 1 to 12, inclusive.

(4) "Parent" is any person having legal or effective custody of a child.

(5) "Gender" means either a male human being or a female human being.

(g) The Legislature may enact a statute pursuant to Section 12 of Article IV for the necessary support of the community colleges in each fiscal year this section is operative. The intent of the people is that any such statute fully fund the demand for programs offered by the community colleges.

SECTION 4. Section 8.5 is added to Article IX of the Constitution, to read:

SEC. 8.5. (a) The people of this state, in recognition of their right to promote the general welfare, to secure the blessings of liberty to themselves and their posterity, and to pursue happiness, find that parents and not the state have the right to choose the appropriate educational setting for their children, whether that setting is a public school or a private school. Therefore, parents who choose to send their children to schools operated or owned by an entity other than the state or any of its subdivisions or agencies are eligible to receive a scholarship which may be used for the education of their children, consistent with this section.

(b) Commencing with the fiscal year following the approval by the voters of this section, the parents of school age children whose children are starting kindergarten or were enrolled for the previous school year in any of the grades kindergarten through 11, inclusive, in a public school shall receive, upon request, a scholarship for purposes of providing the parent with additional choices in the type of educational setting in which to enroll their child.

(c) In the second fiscal year and each fiscal year thereafter until fully implemented, parents' phase in eligibility for scholarships shall be determined as follows.

Parents of children who were enrolled in any of the grades kindergarten through 11, inclusive, in a public school in the prior year and in,

(1) year two: all other parents of children in grades kindergarten through 2, inclusive,

(2) year three: all other parents of children in grades kindergarten through 8, inclusive,

(3) year four and each subsequent year: all parents.

(d) (1) The amount of a scholarship, excluding any increases provided pursuant to paragraph (2) of this subdivision, shall be in grades kindergarten to twelve, inclusive, the greater of four thousand dollars (\$4,000), one-half of the national average dollar per pupil funding defined pursuant to Section 8.3 of Article IX, or one-half of the amount of funds provided for the support of public schools divided by the enrollment of students enrolled in public schools in grades kindergarten through 12, inclusive if provided pursuant to Section 8.3.

(2) If a parent decides to apply for a scholarship to enroll their child in a scholarship-redeeming school, any scholarship amount that exceeds the tuition and fees of the scholarship-redeeming school for any year in which the pupil is in attendance shall be credited to an account on behalf of the parent for each eligible child to be managed by the State Treasurer. A parent may apply that surplus to supplement future tuition or fee costs that exceed the scholarship amount for that child in any of the grades one through twelve inclusive, and through the completion of an undergraduate degree. Any credit remaining on the date the pupil completes an undergraduate degree, or reaches 21 and is not enrolled in a scholarship-redeeming school, shall be credited to the state general fund.

(3) Costs to the State Treasurer pursuant to this subdivision shall be reimbursed from interest income earned on the management of these funds. The net interest earnings shall be deposited in the state general fund.

(4) The Legislature may enact statutes governing the management of the parent savings account.

(e) The amounts disbursed to parents for scholarships pursuant to this section shall not be calculated toward the amounts provided for the support of public schools pursuant to Section 8.3 of this article or Section 8 of Article XVI.

(f) Scholarships provided under this section are grants of aid to parents on behalf of their children, to provide parents with greater choice in selecting the most appropriate educational setting for their child, and not to the schools in which parents decide to enroll their children. These scholarships do not constitute taxable income to the parent or their child.

(g) After accepting a scholarship pursuant to this section, a parent may choose a non-public educational placement for the child and that selection is not, and shall not be deemed to be, a decision or act of the state or any of its subdivisions.

(h) (1) Any parent eligible pursuant to subdivision (c), having enrolled their child in a scholarship-redeeming school, may request a scholarship by providing proof of enrollment, tuition and fee information, and the address of the scholarship-redeeming school to the county office of education in the county in which the scholarship-redeeming school is located. The county office of education shall compile this information for all scholarship-redeeming parents within the county and shall submit the statement of current enrollment, tuition and fees, and addresses of scholarship-redeeming schools, to the Controller within 30 days of proof of enrollment.

(2) The Controller shall make four quarterly disbursements to the parent in the form of a check for the amount of the scholarship established pursuant to paragraph (1) of subdivision (d) adjusted for the amount transferred to or from the account established on behalf of the parent pursuant to paragraph (2) of subdivision (d). The Controller shall send the check to the address provided in paragraph (1). The parent shall restrictively endorse each quarterly check for application to the parent's account at the scholarship-redeeming school. In any fiscal year, the sum of the quarterly checks to a parent on behalf of a child shall not exceed the tuition and fees for that child at the scholarship-redeeming school.

(3) If a pupil of a parent or guardian receiving a scholarship transfers from a scholarship-redeeming school, the school shall provide written notification of the transfer and its effective date to the county office of education within 10 days of the transfer. The county office of education shall notify the Controller of the transfer and the Controller shall prorate the disbursement(s) to reflect only the period of time in which the child was actually enrolled.

(4) At the end of each fiscal year, the Controller shall deposit the unused portion of each scholarship in the parent's account established pursuant to paragraph (2) of subdivision (d).

(i) (1) A private school may become a scholarship-redeeming school by filing with the Superintendent of Public Instruction a statement certifying that the school satisfies the legal requirements that applied to private schools on January 1, 1999, and each of the requirements set forth in paragraph (2).

(2) To become a scholarship-redeeming school, a school shall certify that it meets each of the following requirements:

(A) The school does not discriminate on the basis of race, ethnicity, color or national origin, or advocate unlawful behavior of any kind. Nothing precludes the establishment of same gender schools or classrooms.

(B) The school does not deliberately provide false or misleading information about the school.

(C) No person convicted of (i) any felony or crime involving moral turpitude, (ii) any offense involving lewd or lascivious conduct, or (iii) any offense involving molestation or other abuse of a child, shall own, contract with or be employed by the school.

(D) A high school shall certify either (i), that the school has obtained notice from the University of California, California State University, or any private college or university accredited by a regional accreditation agency or an accreditation agency recognized by the state, that coursework completed by a pupil at the high school in one or more academic subjects designated by

the institution issuing notice will fulfill the institution's admission requirements in the designated subject or subjects if a pupil's grades and the duration of study are acceptable; or (ii), that it has received either accreditation or provisional accreditation from a regional accreditation agency or an accrediting agency recognized by the state.

(3) Each scholarship-redeeming school shall comply with each of the following requirements on an annual basis:

(A) Prepare a statement of financial condition that lists the revenues, expenses and debts of the school. These documents shall be provided to parents upon request.

(B) Administer nationally normed reference tests, mandated to be taken by pupils enrolled in public schools and that provide individual student scores, to pupils whose parents have accepted scholarships, for the purpose of monitoring academic improvement of these pupils. The composite results of the test scores of the pupils of parents who accepted scholarships for each grade level tested shall be released to the public. Individual results shall be released only to the child's parents and the school that the child attends.

(4) Any scholarship-redeeming school may establish a code of conduct and discipline and enforce the code with sanctions, including dismissal. The school shall provide to the parent a copy of the written code of conduct and discipline upon the pupil's admission to the school. A pupil who is responsible for serious or habitual misconduct related to school activity or school attendance may be dismissed. A dismissed pupil may use the unused portion of a scholarship for the balance of the year in which the dismissal occurred at any other scholarship-redeeming school that will grant admission, or may return to a public school and forego the scholarship. The scholarship-redeeming school shall notify the county office of education in writing within ten days of any such dismissal.

(5) Notwithstanding Section 8.7 of this article, the Legislature may by majority vote enact civil and criminal penalties for schools and persons who engage in fraudulent conduct in connection with the solicitation of pupils or the redemption of scholarships under this section.

SECTION 5. Section 8.7 is added to Article IX of the Constitution, to read:

SEC. 8.7. (a) Private schools, including scholarship-redeeming schools, regardless of size, need maximum flexibility to educate pupils. Therefore, private schools shall be free from unnecessary, burdensome or onerous regulation. In any legal proceeding challenging a state statute or any regulation promulgated pursuant to a state statute as inconsistent with this section, the state shall bear the burden of establishing that the statute or regulation is necessary and that the statute or regulation does not impose any undue burden on private schools, including scholarship-redeeming schools.

(b) Except as provided in this section, private schools including scholarship-redeeming schools, are not subject to any state regulation beyond the state statutes, in effect and as enforced, that applied to private schools on January 1, 1999, including, but not limited to, Article 1 (commencing with Section 32000), Article 2 (commencing with Section 32020), and Article 5 (commencing with Section 32050) of Chapter 1 of Part 19 of, Article 5 (commencing with Section 33190) and Article 10.5 (commencing with Section 35295) of Chapter 2 of Part 20 of, and Sections 44237, 48200, 48202, 48222, 49068, 49069, and 51202 of, the Education Code. No additional statutes shall be enacted by the Legislature pertaining to private schools, including scholarship-redeeming private schools, unless approved by a three-fourths vote of the membership of each house of the Legislature.

(c) No regulation or ordinance may be enacted on or after the approval by the voters of this section that affects private schools, including scholarship-redeeming schools and that pertains to health, safety or land use and is imposed by any county, city, city and county, district or other subdivision of the state, except by a two-thirds vote of the governmental body issuing or enacting the regulation or ordinance and a majority vote of qualified electors within the affected jurisdiction. In any legal proceeding challenging a regulation or ordinance as inconsistent with this subdivision, the governmental body issuing or enacting the regulation or ordinance shall bear the burden of establishing that the regulation or ordinance meets each of the following criteria:

(1) *It is essential to assure the health, safety or education of pupils, or, as to any land use regulation, that the governmental body has a compelling interest in issuing or enacting the regulation or ordinance.*

(2) *It does not unduly burden or impede private schools or the parents of students attending private schools.*

(3) *It does not harass, injure or suppress private schools.*

(4) *It does not infringe on a parent or guardian's freedom to make decisions regarding the quality and content of their child's education, or whether the child attends a public or private school, including a scholarship-redeeming school.*

SECTION 6. Section 8.8 is added to Article IX of the Constitution, to read:

SEC. 8.8. If any portion of Section 8.5 of Article IX is enjoined from being utilized by parents to expand their choice in educational settings for their children at any class of schools, it shall not prevent Section 8.5 of Article IX from being operative for any other school or class of schools not explicitly covered by the judicial order.

Proposition 39: Text of Proposed Law

This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends provisions of the California Constitution and the Education Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW SMALLER CLASSES, SAFER SCHOOLS AND FINANCIAL ACCOUNTABILITY ACT

SECTION ONE. TITLE

This act shall be known as the Smaller Classes, Safer Schools and Financial Accountability Act.

SECTION TWO. FINDINGS AND DECLARATIONS

The people of the State of California find and declare as follows:

(a) Investing in education is crucial if we are to prepare our children for the 21st Century.

(b) We need to make sure our children have access to the learning tools of the 21st Century like computers and the Internet, but most California classrooms do not have access to these technologies.

(c) We need to build new classrooms to facilitate class size reduction, so our children can learn basic skills like reading and mathematics in an environment that ensures that California's commitment to class size reduction does not become an empty promise.

(d) We need to repair and rebuild our dilapidated schools to ensure that our children learn in a safe and secure environment.

(e) Students in public charter schools should be entitled to reasonable access to a safe and secure learning environment.

(f) We need to give local citizens and local parents the ability to build those classrooms by a 55 percent vote in local elections so each community can decide what is best for its children.

(g) We need to ensure accountability so that funds are spent prudently and only as directed by citizens of the community.

SECTION THREE. PURPOSE AND INTENT

In order to prepare our children for the 21st Century, to implement class size reduction, to ensure that our children learn in a secure and safe environment, and to ensure that school districts are accountable for prudent and responsible spending for school facilities, the people of the State of California do hereby enact the Smaller Classes, Safer Schools and Financial Accountability Act. This measure is intended to accomplish its purposes by amending the California Constitution and the California Education Code:

(a) To provide an exception to the limitation on ad valorem property taxes and the two-thirds vote requirement to allow school districts, community college districts, and county offices

of education to equip our schools for the 21st Century, to provide our children with smaller classes, and to ensure our children's safety by repairing, building, furnishing and equipping school facilities;

(b) To require school district boards, community college boards, and county offices of education to evaluate safety, class size reduction, and information technology needs in developing a list of specific projects to present to the voters;

(c) To ensure that before they vote, voters will be given a list of specific projects their bond money will be used for;

(d) To require an annual, independent financial audit of the proceeds from the sale of the school facilities bonds until all of the proceeds have been expended for the specified school facilities projects; and

(e) To ensure that the proceeds from the sale of school facilities bonds are used for specified school facilities projects only, and not for teacher and administrator salaries and other school operating expenses, by requiring an annual, independent performance audit to ensure that the funds have been expended on specific projects only.

SECTION FOUR

Section 1 of Article XIII A of the California Constitution is amended to read:

SEC. 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed One percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on ~~(1) any indebtedness of the following:~~

(1) ~~Indebtedness~~ approved by the voters prior to July 1, 1978, ~~or (2) any bonded~~

(2) ~~Bonded~~ indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.

(3) ~~Bonded~~ indebtedness incurred by a school district, community college district, or county office of education for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college

board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.

(C) A requirement that the school district board, community college board, or county office of education conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.

(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.

(c) Notwithstanding any other provisions of law or of this Constitution, school districts, community college districts, and county offices of education may levy a 55 percent vote ad valorem tax pursuant to subdivision (b).

SECTION FIVE

Section 18 of Article XVI of the California Constitution is amended to read:

SEC. 18. (a) No county, city, town, township, board of education, or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the ~~qualified electors thereof~~, voters of the public entity voting at an election to be held for that purpose, except that with respect to any such public entity which is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the ~~qualified electors~~ voters of the public entity voting on the proposition at such election; nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and ~~also provision to constitute provide for a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the same, provided, however, anything to the contrary herein notwithstanding, when indebtedness.~~

(b) Notwithstanding subdivision (a), on or after the effective date of the measure adding this subdivision, in the case of any school district, community college district, or county office of education, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, shall be adopted upon the approval of 55 percent of the voters of the district or county, as appropriate, voting on the proposition at an election. This subdivision shall apply only to a proposition for the incurrence of indebtedness in the form of general obligation bonds for the purposes specified in this subdivision if the proposition meets all of the accountability requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A.

(c) When two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when two-thirds or a majority or 55 percent of the ~~qualified electors~~ voters, as the case may be, voting on any one of ~~such~~ those propositions, vote in favor thereof, ~~such~~ the proposition shall be deemed adopted.

SECTION SIX

Section 47614 of the Education Code is amended to read:

47614. ~~A school district in which a charter school operates shall permit a charter school to use, at no charge, facilities not currently being used by the school district for instructional or administrative purposes, or that have not been historically used for rental purposes provided the charter school shall be responsible for reasonable maintenance of those facilities.~~

(a) The intent of the people in amending Section 47614 is that public school facilities should be shared fairly among all public school pupils, including those in charter schools.

(b) Each school district shall make available, to each charter school operating in the school district, facilities sufficient for the charter school to accommodate all of the charter school's in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the district. Facilities provided shall be contiguous, furnished, and equipped, and shall remain the property of the school district. The school district shall make reasonable efforts to provide the charter school with facilities near to where the charter school wishes to locate, and shall not move the charter school unnecessarily.

(1) The school district may charge the charter school a pro rata share (based on the ratio of space allocated by the school district to the charter school divided by the total space of the district) of those school district facilities costs which the school district pays for with unrestricted general fund revenues. The charter school shall not be otherwise charged for use of the facilities. No school district shall be required to use unrestricted general fund revenues to rent, buy, or lease facilities for charter school students.

(2) Each year each charter school desiring facilities from a school district in which it is operating shall provide the school district with a reasonable projection of the charter school's average daily classroom attendance by in-district students for the following year. The district shall allocate facilities to the charter school for that following year based upon this projection. If the charter school, during that following year, generates less average daily classroom attendance by in-district students than it projected, the charter school shall reimburse the district for the over-allocated space at rates to be set by the State Board of Education.

(3) Each school district's responsibilities under this section shall take effect three years from the effective date of the measure which added this subparagraph, or if the school district passes a school bond measure prior to that time on the first day of July next following such passage.

(4) Facilities requests based upon projections of fewer than 80 units of average daily classroom attendance for the year may be denied by the school district.

(5) The term "operating," as used in this section, shall mean either currently providing public education to in-district students, or having identified at least 80 in-district students who are meaningfully interested in enrolling in the charter school for the following year.

(6) The State Department of Education shall propose, and the State Board of Education may adopt, regulations implementing this subdivision, including but not limited to defining the terms "average daily classroom attendance," "conditions reasonably equivalent," "in-district students," "facilities costs," as well as defining the procedures and establishing timelines for the request for, reimbursement for, and provision of, facilities.

SECTION SEVEN. CONFORMITY

The Legislature shall conform all applicable laws to this act. Until the Legislature has done so, any statutes that would be affected by this act shall be deemed to have been conformed with the 55 percent vote requirements of this act.

SECTION EIGHT. SEVERABILITY

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

SECTION NINE. AMENDMENT

Section 6 of this measure may be amended to further its purpose by a bill passed by a majority of the membership of both houses of the Legislature and signed by the Governor, provided that at least 14 days prior to passage in each house, copies of the bill in final form shall be made available by the clerk of each house to the public and the news media.

SECTION TEN. LIBERAL CONSTRUCTION

The provisions of this act shall be liberally construed to effectuate its purposes.