

Draft Language

State Reserve Policy

For November 2014 Ballot

Introduction—Withdraw ACA 4 from the November 2014 ballot

Intent Statement

Sec. 12.5 of Article IV—Add multi-year projection requirement at Governor's Budget, May Revision, and Budget Act.

Sec. 20 of Article XVI—Amend Proposition 58 Budget Stabilization Account (BSA) language

Sec. 20 (b)—Requirement to calculate all components and provide to the Legislature

Sec. 20 (c)—Transfer by October 1—newly enacted fiscal year

Sec. 20 (d)—Transfer by October 1—true up values for two prior fiscal years.

Sec. 20 (e)—Create a cap at 10 percent of estimated General Fund tax proceeds. Excess to be used for one-time costs or to pay down obligations/avoid new debt.

Sec. 20 (f)—Clarify BSA transfers to BSA are GF revenues/proceeds of taxes and transfers out are not.

Sec. 20 (g)—Allow pay down or avoidance of debt in lieu of BSA transfer.

Sec. 20 (h)—Cash borrowable of BSA (same as current law)

Sec. 20 (i)—Amounts to display in the Budget Act.

Sec. 22 (a)—Create the Public School System Stabilization Account (PSSSA) to be used as a Proposition 98 reserve.

Sec. 22 (b)—Transfer the Proposition 98 share of excess capital gain tax revenues, including updated true up values for two prior fiscal years, from the General Fund to the PSSSA.

Sec. 22 (c)—Limit transfers to no more than the amount by which Test 1 exceeds Test 2.

Sec. 22 (d)—No transfers to the Proposition 98 Reserve in years the maintenance factor is created.

Sec. 22 (e)—Delay transfers to the Proposition 98 Reserve until maintenance factor is fully allocated.

Sec. 22 (f)—Prevent transfers to the Proposition 98 Reserve when Proposition 98 is suspended.

Sec. 22 (g)—Create a cap of 10 percent of total allocations to schools in the PSSSA.

Sec. 22 (h)—Use of Proposition 98 reserve to fund enrollment and COLA.

Sec. 22 (i)—Clarify PSSSA transfers are counted towards meeting Proposition 98 funding requirements in the fiscal year for which the transfer is made from the General Fund.

Sec. 22 (j)—Clarifies this section does not change the Proposition 98 calculation of funding level.

Sec. 22 (k)—Cash borrowable of PSSSA.

Sec. 23—Suspension, reduction, allocation, appropriation, transfer from the BSA and PSSSA, and definition of budget emergency.

Introduction and withdrawal of ACA 4

Resolved by the xxxxx, the xxxxx concurring, That the Legislature of the State of California at its 2013-14 First Extraordinary Session, commencing on the XXX day of April 2014, two-thirds of the membership of each house concurring, hereby directs the Secretary of State to withdraw, from the consideration of the people of the State of California, Assembly Constitutional Amendment No. 4 of the 2009-10 Regular Session (Resolution Chapter 174 of the Statutes of 2010); and be it further

Resolved, That the Legislature hereby proposes to the People of the State of California, that the Constitution of the State be amended as follows:

Intent Statement

It is the intent of the Legislature in proposing this constitutional amendment to pay off state's debts and help protect the state from the negative effects of economic downturns. Future revenue spikes from capital gains will be deposited into the state's Rainy Day Fund and be used to stabilize program funding when the revenues decline. A reserve for school funding is established to prevent education cuts and teacher layoffs while maintaining the current guaranteed level of school funding. Multi-year budgeting will allow better planning for the future.

Multi-year projection requirement

First—That Section 12.5 is added to Article IV thereof, to read:

SEC. 12.5. Within 10 days of the submission of a budget as required by subdivision (a) of section 12, the revisions to the Governor's Budget required by subdivision (e) of section 13308 of the Government Code, and the enactment of the budget bill, or as soon thereafter as feasible, the Director of Finance shall submit the following to the Legislature:

(a) An estimate of state General Fund revenues for the ensuing fiscal year, and recommended General Fund revenues for the three fiscal years following the ensuing fiscal year.

(b) An estimate of state General Fund expenditures for the ensuing fiscal year, and recommended General Fund expenditures for the three fiscal years following the ensuing fiscal year.

Amend Proposition 58 rainy day fund requirements

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

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

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

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

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

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

~~(c) The transfer of moneys shall not be required by subdivision (b) in any fiscal year to the extent that the resulting balance in the account would exceed 5 percent of the General Fund~~

~~revenues estimate set forth in the budget bill for that fiscal year, as enacted, or eight billion dollars (\$8,000,000,000), whichever is greater. The Legislature may, by statute, direct the Controller, for one or more fiscal years, to transfer into the account amounts in excess of the levels prescribed by this subdivision.~~

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

~~—————(e) The transfer of moneys from the General Fund to the Budget Stabilization Account may be suspended or reduced for a fiscal year as specified by an executive order issued by the Governor no later than June 1 of the preceding fiscal year.~~

~~—————(f) (1) Of the moneys transferred to the account in each fiscal year, 50 percent, up to the aggregate amount of five billion dollars (\$5,000,000,000) for all fiscal years, shall be deposited in the Deficit Recovery Bond Retirement Sinking Fund Subaccount, which is hereby created in the account for the purpose of retiring deficit recovery bonds authorized and issued as described in Section 1.3, in addition to any other payments provided for by law for the purpose of retiring those bonds. The moneys in the sinking fund subaccount are continuously appropriated to the Treasurer to be expended for that purpose in the amounts, at the times, and in the manner deemed appropriate by the Treasurer. Any funds remaining in the sinking fund subaccount after all of the deficit recovery bonds are retired shall be transferred to the account, and may be transferred to the General Fund pursuant to paragraph (2).~~

~~—————(2) All other funds transferred to the account in a fiscal year shall not be deposited in the sinking fund subaccount and may, by statute, be transferred to the General Fund.~~

Budget Year calculation

(b) (1) For the 2015-16 fiscal year and for each fiscal year thereafter, based on the enacted budget, the Department of Finance shall provide to the Legislature:

(A) An estimate of the amount of General Fund proceeds of taxes which may be appropriated pursuant to Article XIII B for that fiscal year.

(B) (i) An estimate of the tax proceeds identified in subparagraph (A) that are derived from income taxes paid on capital gains earnings.

(ii) The portion of the estimate in clause (i) that exceeds 6.5 percent of the estimated value of subparagraph (A).

(C) The portion of the state's funding obligation under Section 8 that results from including the amount in clause (ii) of subparagraph (B) as General Fund proceeds of taxes. A negative value is considered zero for this purpose.

(D) The amount of funding provided in subdivision (g) that is in lieu of the transfer to the Budget Stabilization Account.

(E) The amount resulting by subtracting the values in subparagraph (C) and (D) from clause (ii) of subparagraph (B). If the result is less than zero, the amount is considered zero for this purpose.

(F) The lower of the amount in subparagraph (E) or an amount of transfer resulting in the balance in the Budget Stabilization Account reaching the ceiling as specified in subdivision (e). This is the maximum amount that can be transferred to the Budget Stabilization Account before any suspension or reduction of the transfer.

True up calculations of two prior fiscal years

(2) Commencing with the 2017-18 fiscal year and for each fiscal year thereafter, the Department of Finance shall calculate the following, using the same methodology as was used for the current budget, separately for each of the two preceding fiscal years. These calculations shall be provided to the Legislature.

(A) An updated estimate of the amount of General Fund proceeds of taxes which may be appropriated pursuant to Article XIII B.

(B) (i) An updated estimate of the tax proceeds identified in subparagraph (A) that are derived from income taxes paid on capital gains earnings.

(ii) The portion of the updated estimate in clause (i) that exceeds 6.5 percent of the updated value identified under subparagraph (A).

(C) The updated calculation of the portion of the state's funding obligation under Section 8 that results from including the amount under clause (ii) of subparagraph (B) as General Fund proceeds of taxes. A negative value is considered zero for this purpose.

(D) The amount of funding provided in subdivision (g) in lieu of transfer to the Budget Stabilization Account.

(E) The amount resulting by subtracting the values in subparagraph (C) and (D) from clause (ii) of subparagraph (B). If the result is less than zero, the amount is considered zero for this purpose.

(F) The amount previously transferred by the Controller from the General Fund to the Budget Stabilization Account pursuant to subdivisions (c) and (d).

(G) The lower of (1) the amount resulting by subtracting the value of any suspension or reduction of transfer previously approved by the Legislature and the amount previously transferred by the Controller in subparagraph (F) from subparagraph (E) but not below zero, or (2) an amount of transfer resulting in the balance in the Budget Stabilization Account reaching the ceiling as specified in subdivision (e). This is the maximum amount that can be transferred

to the Budget Stabilization Account for that fiscal year, before any additional suspension or reduction of the transfer.

(3) In the 2016-17 fiscal year only, the Department of Finance shall estimate, using the same methodology as was used for the current budget, the amounts described in subparagraphs (A) through (G) of paragraph (2) for the 2015-16 fiscal year.

Exact amount of transfer by October 1 for the Budget Year

(c) Commencing with the 2015-16 fiscal year and each fiscal year thereafter, based on the amounts identified in the annual Budget Act pursuant to subdivision (i), by October 1, the Controller shall transfer, pursuant to a schedule provided by the Director of Finance, amounts between the General Fund and the Budget Stabilization Account as follows:

For the fiscal year for which the Budget Act applies, the amount identified in subparagraph (F) of paragraph (1) of subdivision (b), shall be transferred from the General Fund to the Budget Stabilization Account, except that the transfer shall be limited pursuant to the provisions of subdivision (a) of Section 23.

Exact amount of transfer by October 1 prior two fiscal years

(d) Commencing with the 2016-17 fiscal year and each fiscal year thereafter, based on the amounts identified in the annual Budget Act pursuant to subdivision (i), by October 1, the Controller shall transfer, pursuant to a schedule provided by the Director of Finance, amounts between the General Fund and the Budget Stabilization Account as follows:

(1) If the amount in subparagraph (G) of paragraph (2) of subdivision (b) is greater than zero, transfer that amount from the General Fund to the Budget Stabilization Account, except that the transfer shall be limited pursuant to the provisions of subdivision (a) of Section 23.

(2) If the amount in subparagraph (F) of paragraph (2) of subdivision (b) is greater than the amount in subparagraph (E) of paragraph (2) of subdivision (b), transfer that excess amount from the Budget Stabilization Account back to the General Fund.

BSA ceiling and allowed use if over ceiling

(e) Notwithstanding any other provision of this section, for any fiscal year, the amount of a transfer to the Budget Stabilization Account pursuant to subdivisions (c) and (d) shall not exceed an amount that would result in a balance in the Account that would exceed 10 percent of the estimated General Fund proceeds of taxes, estimated pursuant to subdivision (b) for the fiscal year when the transfer is made. For any fiscal year, General Fund proceeds of taxes that, but for this paragraph, would have been transferred to the Budget Stabilization Account, may be expended only for infrastructure, including deferred maintenance, or to pay down obligations or avoid debt as specified in subdivision (g) (1) through (5).

No double counting of GF SAL revenues for Proposition 98 purposes

(f) Subject to any restriction imposed by this section, funds transferred out of the Budget Stabilization Account to the General Fund pursuant to subdivision (b) of Section 23 are not considered proceeds of taxes pursuant to Section 8. These revenues were included in the calculation of Section 8 when transferred from the General Fund to the Budget Stabilization Account.

Pay down debt or avoid debt in lieu of BSA transfer

(g) In lieu of the entire transfer, or a portion thereof, to the Budget Stabilization Account from the General Fund pursuant to subdivisions (c) and (d), funds may be appropriated from the General Fund for the following obligations and purposes:

(1) Unfunded prior fiscal year General Fund obligations pursuant to Section 8 that existed on November 12, 2014.

(2) Budgetary loans from funds outside the General Fund that existed on November 12, 2014.

(3) Payable claims for mandated costs incurred prior to the 2004-05 fiscal year that have not yet been paid, and that pursuant to paragraph 2 of subdivision (b) of section 6 of Article XIII B are permitted to be paid over a term of years, as prescribed by law.

(4) Unfunded liabilities for state level pension plans and pre-funding other post-employment benefits, above current base amounts as established for the fiscal year in which the funds would otherwise be transferred pursuant to subdivisions (c) and (d). For the purpose of this paragraph, current base amounts are considered those that would be required to be paid in accordance with: law; an approved memorandum of understanding; and/or benefit schedules established by the employer or entity authorized to establish such contributions for employees excluded or exempted from collective bargaining. For an appropriation to qualify in lieu of the transfer, the appropriation must supplement and not supplant funding that would otherwise be made available to pay for the obligations described in this paragraph for the fiscal year.

(5) Eliminate authorization to contract for future indebtedness, by providing substitute funding for debts and liabilities authorized by law in accordance with the requirements of Section 1. For the purpose of this paragraph, substitute funding shall be no more than the amount of the indebtedness authorized by the law subtracted by the amount of indebtedness actually contracted for at the time of the appropriation. The funds appropriated pursuant to this

paragraph shall reduce the amount of the indebtedness authorized by law to an amount not less than the amount contract for at the time of the appropriation.

BSA is a cash borrowable fund

(h) The Controller may utilize the idle cash in the Budget Stabilization Account to help manage General Fund daily cash flow needs. Any such use must not interfere with the Budget Stabilization Account's purpose.

Amounts to display in the Budget Act

(i) The annual Budget Act shall include all of the following estimates required by subdivision (b) of this section:

(1) clause (ii) of subparagraph (B) of paragraph (1).

(2) subparagraph (F), paragraph (1);

(3) clause (ii) of subparagraph (B) of paragraph (2); and,

(4) subparagraph (G) of paragraph (2).

Proposition 98 Reserve

Third—That Section 22 is added to Article XVI thereof to read:

Sec 22. (a) The Public School System Stabilization Account is hereby created in the State Treasury within the General Fund.

Budget Year for Proposition 98 Reserve

(b) Commencing with 2015-16 fiscal year and each fiscal year thereafter, based on the amounts identified in the annual Budget Act pursuant to subdivision (b) of Section 20, by October 1, the Controller shall transfer, pursuant to a schedule provided by the Director of Finance, amounts from the General Fund to the Public School System Stabilization Account as follows:

(1) For the 2015-16 fiscal year, and for each fiscal year thereafter, any positive amount identified in subparagraph (C) of paragraph (1) of subdivision (b) of Section 20 that, in combination with all other monies required to be applied by the State for the support of school districts and community colleges pursuant to Section 8, is in excess of the amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall not be less than the sum of the total amount from these sources in the preceding fiscal year, plus any allocations from the Public School System Stabilization Account in the preceding fiscal year, less any transfers to the Public School System Stabilization Account pursuant to this section in the preceding fiscal year and any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for the percentage change in average daily attendance and adjusted for the higher of the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B or the cost of living adjustment applied to school district and community college general purpose apportionments, shall be transferred from the General Fund to the Public School System Stabilization Account, except that the transfer shall not be made if the transfer from the General Fund to the Public School System Stabilization Account is suspended or reduced under subdivisions (c), (d), or (e) of this section or subdivision (c) of Section 23.

True up calculations of two prior fiscal years for Proposition 98 Reserve

(2) After 2015-16 fiscal year, any positive amount identified in subparagraph (C) of paragraph (2) of subdivision (b) of Section 20, as follows:

(A) If greater than the amounts previously transferred by the Controller from the General Fund to the Public School System Stabilization Account, the amount of this difference that, in combination with all other monies required to be applied by the State for the support of school districts and community colleges pursuant to Section 8, is in excess of the amount required to ensure that the total allocations to school districts and community college districts from General

Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall not be less than the sum of the total amount from these sources in the fiscal year prior, plus any allocations from the Public School System Stabilization Account in the fiscal year prior, less any transfers to the Public School System Stabilization Account pursuant to this section in the fiscal year prior and any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for the percentage change in average daily attendance and adjusted for the higher of the change in the cost of living pursuant to the paragraph (1) of subdivision (e) of Section 8 of Article XIII B or the cost of living adjustment applied to school district and community college general purpose apportionments, shall be transferred from the General Fund to the Public School System Stabilization Account, except that the transfer shall not be made if the transfer from the General Fund to the Public School System Stabilization Account is suspended or reduced under subdivisions (c), (d), or (e) of this section or subdivision (c) of Section 23.

(B) If less than the amounts previously transferred by the Controller from the General Fund to the Public School System Stabilization Account for that fiscal year, the amount of this difference shall be appropriated and allocated by the State from the Public School System Stabilization Account for the support of school districts and community colleges.

Transfers limited to no more than the amount by which Test 1 exceeds Test 2

(c) Notwithstanding any other provision of this section, the amount transferred to the Public School System Stabilization Account pursuant to subdivision (b) for a fiscal year shall not exceed the amount by which the amount of state support calculated pursuant to paragraph (1) of subdivision (b) of Section 8 is greater than the amount of state support calculated pursuant to paragraph (2) of subdivision (b) of Section 8 for that fiscal year. If amount of state support calculated pursuant to paragraph (1) of subdivision (b) of Section 8 does not exceed the amount of state support calculated pursuant to paragraph (2) of subdivision (b) of Section 8 for a fiscal year, no amount shall be transferred to the Public School System Stabilization Account pursuant to subdivision (b) for that fiscal year.

No transfers to the Proposition 98 Reserve in years in which maintenance factor is created

(d) Notwithstanding any other provision of this section, no amount shall be transferred to the Public School System Stabilization Account pursuant to subdivision (b) for a fiscal year for which maintenance factor is determined pursuant to subdivision (d) of Section 8.

No transfers to the Proposition 98 Reserve until current maintenance factor is fully allocated

(e) Notwithstanding any other provision of this section, no amount shall be transferred to the Public School System Stabilization Account pursuant to subdivision (b) for a fiscal year, unless the maintenance factor determined pursuant to subdivisions (d) and (e) of Section 8 for the fiscal years prior to the 2014-15 fiscal year has been fully allocated prior to the fiscal year or, based on the enacted budget for the fiscal year, would have been fully allocated prior to the fiscal year.

No transfers to the Proposition 98 Reserve when Proposition 98 is suspended

(f) Notwithstanding any other provision of this section, no amount shall be transferred to the Public School System Stabilization Account for any fiscal year in which any of the provisions of subdivision (b) of Section 8 are suspended pursuant to subdivision (h) of Section 8.

Proposition 98 Reserve Ceiling

(g) Notwithstanding any other provision of this section, for any fiscal year, the amount of a transfer to the Public School System Stabilization Account pursuant to subdivision (b) shall not exceed an amount that would result in a balance in the Account that is in excess of 10 percent of the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes

for that fiscal year pursuant to Section 8. For any fiscal year, General Fund proceeds of taxes that, but for this paragraph, would have been transferred to the Public School System Stabilization Account shall be applied by the State for the support of school districts and community colleges.

Use of Proposition 98 reserve to fund enrollment/COLA

(h) In any fiscal year in which the amount required to be applied by the State for the support of school districts and community colleges pursuant to Section 8 is insufficient to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall not be less than the sum of the total amount from these sources in the fiscal year prior, plus any allocations from the Public School System Stabilization Account in the fiscal year prior, less any transfers to the Public School System Stabilization Account in the fiscal year prior and any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for the percentage change in average daily attendance and adjusted for the higher of the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B or the cost of living adjustment applied to school district and community college general purpose apportionments, the amount of the deficiency shall be appropriated and allocated by the State from the Public School System Stabilization Account for the support of school districts and community colleges.

Transfers to Proposition 98 Reserve count towards meeting Proposition 98 funding level

(i) Funds transferred to the Public School System Stabilization Account shall be deemed to be General Fund revenues applied by the State for the support of school districts and community college districts in the fiscal year for which the transfer is made.

No change in Proposition 98 funding level

(j) Nothing in this section shall be construed to reduce, or change in any other way, the monies required to be applied by the State for the support of school districts and community college districts pursuant to Section 8 and Section 8.5.

Proposition 98 Reserve Account is a cash borrowable fund

(k) The Controller may utilize the idle cash in the Public School System Stabilization Account to help manage General Fund daily cash flow needs. Any such use must not interfere with the Public School System Stabilization Account's purpose.

Suspension/reduction/withdrawal/use of BSA or Proposition 98 reserve under emergencies

Fourth—That Section 23 is added to Article XVI thereof to read:

Sec. 23. Upon the Governor's request in a proclamation declaring a budget emergency and identifying the conditions constituting the emergency, the following may occur:

(a) A transfer from the General Fund to the Budget Stabilization Account, as required by Section 20, may be suspended or reduced by a specified dollar amount for a fiscal year only by statute, including a Budget Act.

(b) (1) Funds transferred to the Budget Stabilization Account pursuant to Section 20 may be transferred back to the General Fund for appropriation to address the budget emergency.

(2) Unless funds in the Budget Stabilization Account have been transferred back to the General Fund for appropriation in the immediately preceding fiscal year, no more than 50 percent of the balance in the Budget Stabilization Account may be transferred back to the General Fund for appropriation pursuant to paragraph (1) in any fiscal year.

(c) A transfer from the General Fund to the Public School System Stabilization Account, pursuant to Section 22, may be suspended or reduced for a fiscal year only by statute, including a Budget Act.

(d) Funds transferred to the Public School System Stabilization Account pursuant to Section 22 may be appropriated and must be allocated from the Public School System Stabilization Account for the support of school districts and community colleges.

(e) For the purpose of this section, a budget emergency means any of the following:

(1) An emergency, as declared by the Governor, as defined in paragraph (2) of subdivision (c) of section 3 of Article XIII B.

(2) An emergency, as declared by the Governor, as defined in paragraph (1) of subdivision (f) of Section 10 of Article IV. A special session of the Legislature is not required.

(3) A determination by the Governor that the estimated resources for the budget year, after meeting Proposition 98 funding requirement, will be below an adequate amount to fund at a level reflecting the latest revised current year ongoing expenditures outside of Proposition 98 funding, adjusted for the changes in (1) the cost of living for the state as measured by the California Consumer Price Index and (2) the growth in civilian population, between the revised current year and the budget fiscal year.