

REMCHIO, JOHANSEN & PURCELL, LLP
ATTORNEYS AT LAW

201 DOLORES AVENUE
SAN LEANDRO, CA 94577
PHONE: (510) 346-6200
FAX: (510) 346-6201
EMAIL: kgetman@rjp.com
WEBSITE: www.rjp.com

SACRAMENTO PHONE: (916) 264-1818

Robin B. Johansen
James C. Harrison
Thomas A. Willis
Karen Getman
Margaret R. Prinzing
Andrew Harris Werbrock
Harry A. Berezin
Juan Carlos Ibarra

Joseph Remcho (1844-2000)
Kathleen J. Purcell (Ret.)

January 11, 2016

VIA MESSENGER

Office of the Attorney General
1300 "I" Street, 17th Floor
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

RECEIVED

JAN 11 2016

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: *Submission of Amendment to Statewide Initiative Measure --
The California Children's Education and Health Care Protection
Act of 2016, No. 15-0115*

Dear Ms. Johansson:

As you know, I serve as counsel for the proponents of the proposed statewide initiative, "The California Children's Education and Health Care Protection Act of 2016." The proponents of the proposed initiative are Lance H. Olson, Thomas A. Willis, and Dario J. Frommer. On their behalf, I am enclosing the following documents:

- The amended text of "The California Children's Education and Health Care Protection Act of 2016";
- A red-line version showing the changes made in the amended text; and
- Signed authorizations from each of the proponents for the submission of the amended text together with their requests that the Attorney General's Office prepare a circulating title and summary using the amended text.

Please continue to direct all inquiries or correspondence relative to this proposed initiative to me at the address listed below:

Ashley Johansson
Initiative Coordinator
Office of the Attorney General
January 11, 2016
Page 2

Karen Getman
Remcho, Johansen & Purcell, LLP
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
Fax: (510) 346-6201
E-mail: kgetman@rjp.com

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Getman", written in a cursive style.

Karen Getman

KG:NL
Enclosures
(00264962)

January 11, 2016

VIA MESSENGER

Office of the Attorney General
1300 "I" Street, 17th Floor
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

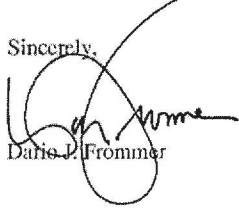
Re: *Submission of Amendment to The California Children's Education and Health Care Protection Act of 2016, No. 15-0115, and Request to Prepare Circulating Title and Summary*

Dear Ms. Johansson:

On December 3, 2015, I submitted a proposed statewide initiative titled "The California Children's Education and Health Care Protection Act of 2016" ("Initiative") and submitted a request that the Attorney General prepare a circulating title and summary pursuant to section 10(d) of Article II of the California Constitution.

Pursuant to Elections Code section 9002(b), I hereby submit timely amendments to the text of the Initiative. As one of the proponents of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,


Darin J. Frommer

Enclosures
(0026-037)

January 11, 2016

VIA MESSENGER

Office of the Attorney General
1300 "I" Street, 17th Floor
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

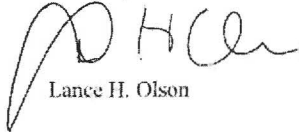
Re: *Submission of Amendment to The California Children's Education and Health Care Protection Act of 2016, No. 15-0115, and Request to Prepare Circulating Title and Summary*

Dear Ms. Johansson:

On December 3, 2015, I submitted a proposed statewide initiative titled "The California Children's Education and Health Care Protection Act of 2016" ("Initiative") and submitted a request that the Attorney General prepare a circulating title and summary pursuant to section 10(d) of Article II of the California Constitution.

Pursuant to Elections Code section 9002(b), I hereby submit timely amendments to the text of the Initiative. As one of the proponents of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,

A handwritten signature in black ink, appearing to read "LH Olson", written over the printed name.

Lance H. Olson

Enclosures
(06/264756)

January 11, 2016

VIA MESSENGER

Office of the Attorney General
1300 "I" Street, 17th Floor
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

Re: *Submission of Amendment to The California Children's Education and Health Care Protection Act of 2016, No. 15-0115, and Request to Prepare Circulating Title and Summary*

Dear Ms. Johansson:

On December 3, 2015, I submitted a proposed statewide initiative titled "The California Children's Education and Health Care Protection Act of 2016" ("Initiative") and submitted a request that the Attorney General prepare a circulating title and summary pursuant to section 10(d) of Article II of the California Constitution.

Pursuant to Elections Code section 9002(b), I hereby submit timely amendments to the text of the Initiative. As one of the proponents of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,



Thomas A. Willis

Enclosures
(0/02/4959)

THE CALIFORNIA CHILDREN'S EDUCATION AND HEALTH CARE PROTECTION ACT OF 2016**SECTION 1. Title.**

This measure shall be known and may be cited as "The California Children's Education and Health Care Protection Act of 2016."

SECTION 2. Findings.

(a) During the recent recession, California cut more than \$56 billion from education, health care and other critical state and local services. These cuts resulted in thousands of teacher layoffs, increased school class sizes, higher college tuition fees, and reduced essential services. Temporary tax increases passed by California voters in 2012 helped to partially offset some of the lost funding, but those taxes will begin to expire at the end of 2016, leading to more deficits and more school cuts.

(b) Unless we act now to temporarily extend the current income tax rates on the wealthiest Californians, our public schools will soon face another devastating round of cuts due to lost revenue of billions of dollars a year. Public school funding was cut to the bone during the recession. Our schools and colleges are just starting to recover, and we should be trying to protect education funding instead of gutting it all over again. We can let the temporary sales tax increase expire to help working families, but this is not the time to be giving the wealthiest people in California a tax cut that they don't need and that our schools can't afford.

(c) California's future depends on the success of its 9 million children. Every California child deserves a fair chance to become a successful adult. But for children to succeed as adults, they must have access to high quality education and health care.

(d) For children, education and health care are essential and dependent on one another. Access to a quality education is fundamental to the success of California's children. Even with adequate schools, children cannot obtain an education if illness prevents them from attending. And children growing up in communities without adequate health care are more likely to contract illnesses or have chronic medical conditions that prevent them from regularly attending school.

(e) Underfunding of health care programs also harms California financially. Every new state dollar spent on health care for children and their families is automatically matched by federal funds. This means every year California loses out on billions of dollars in federal matching money that could be used to ensure children and their families have access to healthcare.

(f) Research also shows that early access to quality education and health care improves children's chances of succeeding in school and in life. California should do more to ensure that the state's children receive the education and health care they need to thrive and achieve their highest potential.

(g) California public schools, for example, are the most crowded in the nation. Class sizes are an astonishing 80 percent larger than the national average. The number of Californians training to be future teachers has dropped by 50 percent in the last five years as class sizes have soared.

(h) As well, the budgets of California's community colleges were slashed during the Great Recession, diminishing the ability of California children - especially those from low-income families - to receive career training and an affordable and necessary college education.

(i) California chronically underfunds health care. California ranks 48th out of the 50 states in health care spending, making it difficult for children and their families, seniors and the disabled to access health care. Underfunding health care for children leads to increased rates of serious illness, and higher long-term medical expenses. Improved reimbursement for health services helps ensure that children have access to doctors and hospitals. And once a hospital or doctor's office closes due to chronic underfunding, it closes for everyone in that community.

(j) The California Children's Education and Health Care Protection Act of 2016 temporarily extends the higher income tax rates on couples earning more than half a million dollars a year - those who can most afford it - to help all California children stay healthy, stay in good public schools, and have the opportunity for higher education.

(k) This measure does not increase taxes on anyone earning under \$250,000. It does not extend the temporary sales tax increases that voters previously approved in 2012.

(l) The income tax revenue is guaranteed in the California Constitution to go directly to local school districts and community colleges, and to help the State pay for healthcare expenses for low income children and their families. State funding is freed up to help balance the budget and prevent even more devastating cuts to services for seniors, low-income children, working families and small business owners. Everyone benefits.

(m) To ensure all these funds go only where the voters intend, they are put in a special fund that the Legislature cannot divert to other purposes. None of these revenues can be spent on state bureaucracy or administrative costs.

(n) These funds will be subject to an independent audit every year to ensure they are spent only for the purposes set forth in this measure. Elected officials will be subject to prosecution and criminal penalties if they misuse the funds.

(o) California has seen massive budget swings over the past 15 years, with deep deficits and devastating cuts after the Dot-Com bust and the Great Recession. Maintaining the state's rainy day fund will stabilize the budget, avoid the boom and bust cycles of the past, and protect our children, seniors, and disabled Californians from cuts in school and healthcare funding during future economic downturns.

SECTION 3. Purpose and Intent.

(a) The chief purpose and intent of the voters in enacting this measure is to avoid harmful cuts that would reduce the quality of education and instruction in California's local public schools, and to provide adequate funding for essential health care services for children and family members who are legal residents of California.

(b) This measure is intended to protect our children by temporarily extending current income tax rates on wealthy Californians, instead of awarding a huge tax break to couples earning more than half a million dollars a year, or individuals earning more than a quarter million. Instead of sending money back into the pockets of the wealthy, this measure sends the money to a special account that must be spent exclusively to ensure that every California child has access to a quality public education, and the quality health care necessary for them to stay in school and learn.

(c) This measure is intended to keep California on its current track of balanced budgets and reliable funding for schools, community colleges and health care, preventing a return to the days of chronic budget deficits and funding cuts.

(d) This measure guarantees in the Constitution that the revenues it raises for schools will be sent directly to school districts and community colleges for classroom expenses, not administrative costs. This school funding cannot be suspended or withheld no matter what happens with the state budget.

(e) This measure guarantees in the Constitution that the revenues it raises for health care will be spent to supplement existing state funding for healthcare services that qualify for matching federal funds.

(f) All revenues from this measure are subject to local audit every year, and audit by the independent Controller to ensure that they will be used only for the purposes set forth in this measure.

SECTION 4. Section 36 of Article XIII of the California Constitution is amended, to read:

Sec. 36.

(a) For purposes of this section:

(1) "Public Safety Services" includes the following:

(A) Employing and training public safety officials, including law enforcement personnel, attorneys assigned to criminal proceedings, and court security staff.

(B) Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.

(C) Preventing child abuse, neglect, or exploitation; providing services to children and youth who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services; and providing adult protective services.

(D) Providing mental health services to children and adults to reduce failure in school, harm to self or others, homelessness, and preventable incarceration or institutionalization.

(E) Preventing, treating, and providing recovery services for substance abuse.

(2) "2011 Realignment Legislation" means legislation enacted on or before September 30, 2012, to implement the state budget plan, that is entitled 2011 Realignment and provides for the assignment of Public Safety Services responsibilities to local agencies, including related reporting responsibilities. The legislation shall provide local agencies with maximum flexibility and control over the design, administration, and delivery of Public Safety Services consistent with federal law and funding requirements, as determined by the Legislature. However, 2011 Realignment Legislation shall include no new programs assigned to local agencies after January 1, 2012, except for the early periodic screening, diagnosis, and treatment (EPSDT) program and mental health managed care.

(b)(1) Except as provided in subdivision (d), commencing in the 2011-12 fiscal year and continuing thereafter, the following amounts shall be deposited into the Local Revenue Fund 2011, as established by Section 30025 of the Government Code, as follows:

(A) All revenues, less refunds, derived from the taxes described in Sections 6051.15 and 6201.15 of the Revenue and Taxation Code, as those sections read on July 1, 2011.

(B) All revenues, less refunds, derived from the vehicle license fees described in Section 11005 of the Revenue and Taxation Code, as that section read on July 1, 2011.

(2) On and after July 1, 2011, the revenues deposited pursuant to paragraph (1) shall not be considered General Fund revenues or proceeds of taxes for purposes of Section 8 of Article XVI of the California Constitution.

(c)(1) Funds deposited in the Local Revenue Fund 2011 are continuously appropriated exclusively to fund the provision of Public Safety Services by local agencies. Pending full implementation of the 2011 Realignment Legislation, funds may also be used to reimburse the State for program costs incurred in providing Public Safety Services on behalf of local agencies. The methodology for allocating funds shall be as specified in the 2011 Realignment Legislation.

(2) The county treasurer, city and county treasurer, or other appropriate official shall create a County Local Revenue Fund 2011 within the treasury of each county or city and county. The money in each County Local Revenue Fund 2011 shall be exclusively used to fund the provision of Public Safety Services by local agencies as specified by the 2011 Realignment Legislation.

(3) Notwithstanding Section 6 of Article XIII B, or any other constitutional provision, a mandate of a new program or higher level of service on a local agency imposed by the 2011 Realignment Legislation, or by any regulation adopted or any executive order or administrative directive issued to implement that legislation, shall not constitute a mandate requiring the State to provide a subvention of funds within the meaning of that section. Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.

(4)(A) Legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service required by legislation, described in this subparagraph, above the level for which funding has been provided.

(B) Regulations, executive orders, or administrative directives, implemented after October 9, 2011, that are not necessary to implement the 2011 Realignment Legislation, and that have an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service pursuant to new regulations, executive orders, or administrative directives, described in this subparagraph, above the level for which funding has been provided.

(C) Any new program or higher level of service provided by local agencies, as described in subparagraphs (A) and (B), above the level for which funding has been provided, shall not require a subvention of funds by the State nor otherwise be subject to Section 6 of Article XIII B. This paragraph shall not apply to legislation currently exempt from subvention under paragraph (2) of subdivision (a) of Section 6 of Article XIII B as that paragraph read on January 2, 2011.

(D) The State shall not submit to the federal government any plans or waivers, or amendments to those plans or waivers, that have an overall effect of increasing the cost borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, except to the extent that the plans, waivers, or amendments are required by federal law, or the State provides annual funding for the cost increase.

(E) The State shall not be required to provide a subvention of funds pursuant to this paragraph for a mandate that is imposed by the State at the request of a local agency or to comply with federal law. State funds required by this paragraph shall be from a source other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(5)(A) For programs described in subparagraphs (C) to (E), inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, if there are subsequent changes in federal statutes or regulations that alter the conditions under which federal matching funds as described in the 2011 Realignment Legislation are obtained, and have the overall effect of increasing the costs incurred by a local agency, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State.

(B) When the State is a party to any complaint brought in a federal judicial or administrative proceeding that involves one or more of the programs described in subparagraphs (C) to (E), inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, and there is a settlement or judicial or administrative order that imposes a cost in the form of a monetary penalty or has the overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State. Payment by the State is not required if the State determines that the settlement or order relates to one or more local agencies failing to perform a ministerial duty, failing to perform a legal obligation in good faith, or acting in a negligent or reckless manner.

(C) The state funds provided in this paragraph shall be from funding sources other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(6) If the State or a local agency fails to perform a duty or obligation under this section or under the 2011 Realignment Legislation, an appropriate party may seek judicial relief. These proceedings shall have priority over all other civil matters.

(7) The funds deposited into a County Local Revenue Fund 2011 shall be spent in a manner designed to maintain the State's eligibility for federal matching funds, and to ensure compliance by the State with applicable federal standards governing the State's provision of Public Safety Services.

(8) The funds deposited into a County Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding for Public Safety Services.

(d) If the taxes described in subdivision (b) are reduced or cease to be operative, the State shall annually provide moneys to the Local Revenue Fund 2011 in an amount equal to or greater than the aggregate amount that otherwise would have been provided by the taxes described in subdivision (b). The method for determining that amount shall be described in the 2011 Realignment Legislation, and the State shall be obligated to provide that amount for so long as the local agencies are required to perform the Public Safety Services responsibilities assigned by the 2011 Realignment Legislation. If the State fails to annually appropriate that amount, the Controller shall transfer that amount from the General Fund in pro rata monthly shares to the Local Revenue Fund 2011. Thereafter, the Controller shall disburse these amounts to local agencies in the manner directed by the 2011 Realignment Legislation. The state obligations under this subdivision shall have a lower priority claim to General Fund money than the first

priority for money to be set apart under Section 8 of Article XVI and the second priority to pay voter-approved debts and liabilities described in Section 1 of Article XVI.

(e)(1) To ensure that public education is not harmed in the process of providing critical protection to local Public Safety Services, the Education Protection Account is hereby created in the General Fund to receive and disburse the revenues derived from the incremental increases in taxes imposed by this section, as specified in subdivision (f).

(2)(A) Before June 30, 2013, and before June 30 of each year from 2014 to ~~2018~~2030, inclusive, the Director of Finance shall estimate the total amount of additional revenues, less refunds, that will be derived from the incremental increases in tax rates made in subdivision (f) that will be available for transfer into the Education Protection Account during the next fiscal year. The Director of Finance shall make the same estimate by January 10, 2013, for additional revenues, less refunds, that will be received by the end of the 2012-13 fiscal year.

(B) During the last 10 days of the quarter of each of the first three quarters of each fiscal year from 2013-14 to ~~2018-19~~2030-31, inclusive, the Controller shall transfer into the Education Protection Account one-fourth of the total amount estimated pursuant to subparagraph (A) for that fiscal year, except as this amount may be adjusted pursuant to subparagraph (D).

(C) In each of the fiscal years from 2012-13 to ~~2020-21~~2032-33, inclusive, the Director of Finance shall calculate an adjustment to the Education Protection Account, as specified by subparagraph (D), by adding together the following amounts, as applicable:

(i) In the last quarter of each fiscal year from 2012-13 to ~~2018-19~~2030-31, inclusive, the Director of Finance shall recalculate the estimate made for the fiscal year pursuant to subparagraph (A), and shall subtract from this updated estimate the amounts previously transferred to the Education Protection Account for that fiscal year.

(ii) In June 2015 and in every June from 2016 to ~~2024~~2033, inclusive, the Director of Finance shall make a final determination of the amount of additional revenues, less refunds, derived from the incremental increases in tax rates made in subdivision (f) for the fiscal year ending two years prior. The amount of the updated estimate calculated in clause (i) for the fiscal year ending two years prior shall be subtracted from the amount of this final determination.

(D) If the sum determined pursuant to subparagraph (C) is positive, the Controller shall transfer an amount equal to that sum into the Education Protection Account within 10 days preceding the end of the fiscal year. If that amount is negative, the Controller shall suspend or reduce subsequent quarterly transfers, if any, to the Education Protection Account until the total reduction equals the negative amount herein described. For purposes of any calculation made pursuant to clause (i) of subparagraph (C), the amount of a quarterly transfer shall not be modified to reflect any suspension or reduction made pursuant to this subparagraph.

(E) Before June 30, 2018, and before June 30 of each year from 2019 to 2030, inclusive, the Director of Finance shall estimate the amount of the additional revenues, less refunds, to be

derived in the following fiscal year from the incremental increases in tax rates made in subdivision (f), that, when combined with all other available General Fund revenues, will be required to meet:

(i) the minimum funding guarantee of section 8 of article XVI for that following fiscal year: and

(ii) the workload budget for that following fiscal year, excluding any program expenditures already accounted for through (i). For purposes of this section, "workload budget" has the meaning set forth in Government Code section 13308.05, as that section read and was interpreted by the Department of Finance on January 1, 2016, provided, however, that "currently authorized services" shall mean only those services that would have been considered "currently authorized services" under Government Code section 13308.05 as of January 1, 2016.

(F) In order to enhance the ability of all California school children and their families to receive regular, quality healthcare and thereby minimize school absenteeism due to health-related problems, whenever the Director of Finance estimates that the amount available for transfer into the Education Protection Account during the following fiscal year exceeds the amount of revenues required from that Account pursuant to subparagraph (E) for that following fiscal year, the Director shall identify the remaining amount. Fifty percent of that remainder, up to a maximum of two billion dollars in any single fiscal year, shall be allocated by the Controller from the Education Protection Account to the California Department of Health Care Services on a quarterly basis to increase funding for the existing healthcare programs and services described in Chapter 7 (commencing with Section 14000) to Chapter 8.9 (commencing with Section 14700), inclusive, of Part 3 of Division 9 of the Welfare and Institutions Code. The funding shall be used only for critical, emergency, acute and preventive healthcare services to children and their families, provided by health care professionals and health facilities that are licensed pursuant to Health and Safety Code Section 1250, and to health plans or others that manage the provision of healthcare for Medi-Cal beneficiaries that are contracting with the California Department of Health Care Services to provide health benefits pursuant to this section.

(G) The allocation provided for in subparagraph (F) may be suspended by statute during a fiscal year in which a budget emergency has been declared, provided, however, that the allocation shall not be reduced beyond the proportional reduction in overall General Fund expenditures for that year. For purposes of this section, "budget emergency" has the same meaning as in paragraph (2) of subdivision (b) of section 22 of article XVI.

(H) The funding provided pursuant to subparagraph (F) shall not be used to supplant existing state general funds for the nonfederal share of payments for those programs and, consistent with federal law, shall be used to obtain federal matching Medicaid funds.

(3) All moneys in the Education Protection Account are hereby continuously appropriated for the support of school districts, county offices of education, charter schools, and community college districts as set forth in this paragraph, and for healthcare as set forth in subparagraph (F) of paragraph (2).

(A) Eleven percent of the moneys appropriated for education pursuant to this paragraph shall be allocated quarterly by the Board of Governors of the California Community Colleges to community college districts to provide general purpose funding to community college districts in proportion to the amounts determined pursuant to Section 84750.5 of the Education Code, as that code section read ~~upon voter approval of this section on November 6, 2012~~. The allocations calculated pursuant to this subparagraph shall be offset by the amounts specified in subdivisions (a), (c), and (d) of Section 84751 of the Education Code, as that section read ~~upon voter approval of this section on November 6, 2012~~, that are in excess of the amounts calculated pursuant to Section 84750.5 of the Education Code, as that section read ~~upon voter approval of this section on November 6, 2012~~, provided that no community college district shall receive less than one hundred dollars (\$100) per full time equivalent student.

(B) Eighty-nine percent of the moneys appropriated for education pursuant to this paragraph shall be allocated quarterly by the Superintendent of Public Instruction to provide general purpose funding to school districts, county offices of education, and state general-purpose funding to charter schools in proportion to the revenue limits calculated pursuant to Sections 2558 and 42238 of the Education Code and the amounts calculated pursuant to Section 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read ~~upon voter approval of this section on November 6, 2012~~. The amounts so calculated shall be offset by the amounts specified in subdivision (c) of Section 2558 of, paragraphs (1) through (7) of subdivision (h) of Section 42238 of, and Section 47635 of, the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read ~~upon voter approval of this section on November 6, 2012~~, that are in excess of the amounts calculated pursuant to Sections 2558, 42238, and 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read ~~upon voter approval of this section on November 6, 2012~~, provided that no school district, county office of education, or charter school shall receive less than two hundred dollars (\$200) per unit of average daily attendance.

(4) This subdivision is self-executing and requires no legislative action to take effect. Distribution of the moneys in the Education Protection Account by the Board of Governors of the California Community Colleges and Superintendent of Public Instruction shall not be delayed or otherwise affected by failure of the Legislature and Governor to enact an annual budget bill pursuant to Section 12 of Article IV, by invocation of paragraph (h) of Section 8 of Article XVI, or by any other action or failure to act by the Legislature or Governor.

(5) Notwithstanding any other provision of law, the moneys deposited in the Education Protection Account for education shall not be used to pay any costs incurred by the Legislature, the Governor, or any agency of state government.

(6) A community college district, county office of education, school district, or charter school shall have sole authority to determine how the moneys received from the Education Protection Account are spent in the school or schools within its jurisdiction, provided, however, that the appropriate governing board or body shall make these spending determinations in open session

of a public meeting of the governing board or body and shall not use any of the funds from the Education Protection Account for salaries or benefits of administrators or any other administrative costs. Each community college district, county office of education, school district, and charter school shall annually publish on its Internet Web site an accounting of how much money was received from the Education Protection Account and how that money was spent.

(7) The annual independent financial and compliance audit required of community college districts, county offices of education, school districts, and charter schools shall, in addition to all other requirements of law, ascertain and verify whether the funds provided from the Education Protection Account have been properly disbursed and expended as required by this section. Expenses incurred by those entities to comply with the additional audit requirement of this section may be paid with funding from the Education Protection Account and shall not be considered administrative costs for purposes of this section.

(8) Revenues, less refunds, derived pursuant to subdivision (f) for deposit in the Education Protection Account pursuant to this section shall be deemed "General Fund revenues," "General Fund proceeds of taxes," and "moneys to be applied by the State for the support of school districts and community college districts" for purposes of Section 8 of Article XVI.

(f)(1)(A) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1/4 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on and after January 1, 2013, and before January 1, 2017.

(B) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, an excise tax is hereby imposed on the storage, use, or other consumption in this State of tangible personal property purchased from any retailer on and after January 1, 2013, and before January 1, 2017, for storage, use, or other consumption in this state at the rate of 1/4 percent of the sales price of the property.

(C) The Sales and Use Tax Law, including any amendments enacted on or after the effective date of this section, shall apply to the taxes imposed pursuant to this paragraph.

(D) This paragraph shall become inoperative on January 1, 2017.

(2) For any taxable year beginning on or after January 1, 2012, and before January 1, ~~2019~~2031, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (a) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A)(i) For that portion of taxable income that is over two hundred fifty thousand dollars (\$250,000) but not over three hundred thousand dollars (\$300,000), the tax rate is 10.3 percent of the excess over two hundred fifty thousand dollars (\$250,000).

(ii) For that portion of taxable income that is over three hundred thousand dollars (\$300,000) but not over five hundred thousand dollars (\$500,000), the tax rate is 11.3 percent of the excess over three hundred thousand dollars (\$300,000).

(iii) For that portion of taxable income that is over five hundred thousand dollars (\$500,000), the tax rate is 12.3 percent of the excess over five hundred thousand dollars (\$500,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C)(i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this paragraph shall be considered to be chaptered on ~~the date it becomes effective~~ November 6, 2012.

(ii) For purposes of Part 10 (commencing with Section 17001) of, and Part 10.2 (commencing with Section 18401) of, Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall become inoperative on December 1, ~~2019~~2031.

(3) For any taxable year beginning on or after January 1, 2012, and before January 1, ~~2019~~2031, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (c) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A)(i) For that portion of taxable income that is over three hundred forty thousand dollars (\$340,000) but not over four hundred eighty thousand dollars (\$408,000), the tax rate is 10.3 percent of the excess over three hundred forty thousand dollars (\$340,000).

(ii) For that portion of taxable income that is over four hundred eighty thousand dollars (\$408,000) but not over six hundred eighty thousand dollars (\$680,000), the tax rate is 11.3 percent of the excess over four hundred eighty thousand dollars (\$408,000).

(iii) For that portion of taxable income that is over six hundred eighty thousand dollars (\$680,000), the tax rate is 12.3 percent of the excess over six hundred eighty thousand dollars (\$680,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C)(i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this paragraph shall be considered to be chaptered on the date it becomes effective November 6, 2012.

(ii) For purposes of Part 10 (commencing with Section 17001) of, and Part 10.2 (commencing with Section 18401) of, Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall become inoperative on December 1, 2019~~2031~~.

(g)(1) The Controller, pursuant to his or her statutory authority, may perform audits of expenditures from the Local Revenue Fund 2011 and any County Local Revenue Fund 2011, and shall audit the Education Protection Account to ensure that those funds are used and accounted for in a manner consistent with this section.

(2) The Attorney General or local district attorney shall expeditiously investigate, and may seek civil or criminal penalties for, any misuse of moneys from the County Local Revenue Fund 2011 or the Education Protection Account.

SECTION 5. Conflicting Measures.

In the event that this measure and another measure that affects the tax rates for personal income shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

SECTION 6. Severability.

If the provisions of this act, or part thereof, are 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.

SECTION 7. Proponent Standing.

Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this act, following its approval by the voters, any other government employer, the proponent, or in his or her absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this act for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, and on discretionary review by the Supreme Court of California and/or the Supreme Court of the United States. The fees and costs of defending the action shall be a charge on funds appropriated to the Attorney General, which shall be satisfied promptly.

SECTION 8. Effective Date.

This measure shall take effect immediately upon passage.

November 3, 2015

Hon. Kamala D. Harris
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed a proposed constitutional initiative concerning taxes (A.G. File No. 15-0065, Amendment No. 1). The proposal extends temporary personal income tax (income tax) rate increases on high-income taxpayers that were approved as part of Proposition 30 in 2012.

Background

California's State Budget. California state taxes—primarily income taxes—are spent mainly from the state government's General Fund. The General Fund is budgeted to spend about \$115 billion during the current 2015-16 state fiscal year.

Proposition 30. Proposition 30 temporarily raised some state taxes.

- **Sales Taxes.** Proposition 30 increased the state sales tax rate by one-quarter cent from 2013 through 2016. In the current fiscal year, this increase is budgeted to generate \$1.6 billion of revenue.
- **Income Taxes.** Proposition 30 also increased marginal income tax rates paid by roughly the 1 percent of tax filers in the state with the highest incomes. Depending on their taxable income levels, these filers pay an extra 1 percent, 2 percent, or 3 percent tax on part of their incomes. These increases are in effect from 2012 through 2018. In the current fiscal year, the Proposition 30 income tax increases are budgeted to generate \$6.8 billion of revenue. (The actual total may be hundreds of millions of dollars or more above or below \$6.8 billion.)

Proposition 98 and Other Programs. The largest category of state General Fund spending is for school districts and community colleges. Proposition 98, approved by voters in 1988 and modified in 1990, establishes a minimum funding level for schools and community colleges. This funding level tends to grow over time based on growth in the state's economy, state tax revenue, and student attendance, among other factors. In the current fiscal year, the state budgeted \$49 billion in General Fund Proposition 98 funding (over 40 percent of all General

Fund revenues). In addition to this state funding, schools and community colleges will receive an estimated \$19 billion from local property taxes.

The General Fund also pays for part of California's health and human services programs, public universities, state prisons, statewide retirement systems for public employees, debt service on state infrastructure bonds, and other programs.

Recent Budgets and Proposition 2. High-income people pay a large share of California's state taxes, and they receive a large portion of their taxable income from sources tied to the ups and downs of the stock market. California's state budget has been volatile due mainly to large swings in income taxes paid by high-income people. These swings also have been linked to the ups and downs of the stock market.

In response to budget deficits resulting from this volatility, the state took various actions, including budget cuts, tax increases, and other measures. As a result of these actions and the improving economy, the General Fund has not ended a fiscal year with a deficit since 2011-12. In November 2014, California voters approved Proposition 2. Proposition 2 creates a new set of rules to determine the amount of money the state has to deposit to a rainy day fund (the Budget Stabilization Account) when the economy and stock market are doing well. This fund is intended to reduce the need for budget cuts, tax increases, and other measures in the future when the economy or stock market weakens. Proposition 2 also requires speeding up payment of certain state debts. In addition to Propositions 2, 30, and 98, the State Constitution includes other rules affecting the state budget, such as the state spending limit that has been in place since passage of Proposition 4 in 1979.

Proposal

Extends Proposition 30 Income Tax Increases Through 2030. Under this measure, the Proposition 30 income tax rate increases on high-income Californians would not expire at the end of 2018, as scheduled under current law. As summarized in Figure 1, this measure would extend those income tax rate increases through 2030.

Does Not Extend Proposition 30 Sales Tax Increase. Under this measure, Proposition 30's sales tax rate increase would not be extended. This sales tax rate increase would expire at the end of 2016.

Excludes Revenues From Proposition 2, as Specified. This measure increases state revenues beginning in 2019 and ending in 2030. Revenues raised by this measure would be excluded from the key requirements of Proposition 2. Spending from the revenues raised by this measure, however, would be subject to the state's spending limit.

Figure 1

Proposed Personal Income Tax Rates Under This Proposal

| Single Filer's Taxable Income ^a | Joint Filers' Taxable Income ^a | Marginal Tax Rate ^b | | |
|---|--|--|--|---|
| | | Through 2018 | 2019 and Later | 2019-2030 |
| | | With Proposition 30 Still in Effect | If Proposition 30 Expires as Scheduled | If This Proposal Is Approved by Voters |
| \$0-\$7,850 | \$0-\$15,700 | 1.0% | 1.0% | 1.0% |
| 7,850-18,610 | 15,700-37,220 | 2.0 | 2.0 | 2.0 |
| 18,610-29,372 | 37,220-58,744 | 4.0 | 4.0 | 4.0 |
| 29,372-40,778 | 58,744-81,546 | 6.0 | 6.0 | 6.0 |
| 40,778-51,530 | 81,546-103,060 | 8.0 | 8.0 | 8.0 |
| 51,530-63,222 | 103,060-126,444 | 9.3 | 9.3 | 9.3 |
| 63,222-75,698 | 126,444-151,396 | 10.3 | 9.3 | 10.3 |
| 75,698-88,443 | 151,396-176,886 | 11.3 | 9.3 | 11.3 |
| Over 88,443 | Over 176,886 | 12.3 | 9.3 | 12.3 |

^a Income brackets shown are in effect for 2015 and are adjusted for inflation in future years. Single filers include married individuals and registered domestic partners (RDPs) who file taxes separately. Joint filers include married and RDP couples who file jointly, as well as qualified widows or widowers with a dependent child. Income brackets for head-of-household filers are not listed, but those filers with taxable income of \$37,981 and greater (as of 2015) also are subject to 10.3 percent, 11.3 percent, or 12.3 percent marginal tax rates under Proposition 30 and through 2030 if this proposal is approved by voters.

^b Marginal tax rates apply to taxable income in each tax bracket listed. Tax rates listed exclude the medical health tax rate of 1 percent for taxable income in excess of \$1 million.

Fiscal Effects

Increased State Tax Revenues. Currently, the Proposition 30 income tax rate increases are scheduled to expire at the end of 2018. This measure would increase state income tax revenues by billions of dollars per year above current expectations for the years 2019 through 2030. (This would result in increased tax revenues for fiscal years 2018-19 through 2030-31.) The precise amount of this revenue in any given year would depend heavily on trends in the stock market and the economy. For example, if the stock market and economy were weak in 2019 (the first year of the proposed tax increase extension), this measure might generate around \$5 billion of increased revenue. Conversely, if the stock market and economy were strong at that time, the measure might raise around \$11 billion. Near the midpoint of this range—around \$7.5 billion—is one reasonable expectation of the additional revenue that this measure would generate in 2019. Thereafter, through 2030, that amount will rise or fall each year depending on trends in the stock market and the economy.

Increased School and Community College Funding. Under current law, the expiration of Proposition 30 is expected to slow the growth of state tax revenues, thereby slowing the growth of school and community college funding. Under this measure, the amount of Proposition 98 funds provided to schools and community colleges each year probably would increase by a few billion dollars, compared to what these entities would receive if all of Proposition 30's tax increases expired. The amount of increased school spending over the 2019-2030 period could vary significantly, depending on such factors as the Proposition 98 variables and the state of the economy during the period.

Remaining Funding Generally Available for Any Purpose. Because funding for schools and community colleges generally would increase by a portion of the increased state tax revenues, the remaining revenues raised by this proposal typically would result in more state General Fund money being available for any budget purpose. The use of that funding would depend on decisions by future Members of the Legislature and future Governors.

Interactions With Other Budget Rules. Currently, Proposition 2 requires a portion of the existing Proposition 30 taxes to be deposited in the rainy day fund or used to speed up state debt payments. This measure would exclude its proposed revenues—those generated by extending the Proposition 30 income tax rate increases after 2018 through 2030—from the key requirements of Proposition 2. This essentially means that the taxes on potentially large amounts of capital gains generated by the proposed extension of the Proposition 30 income tax increases (1) would not be required to be deposited to the rainy day fund and (2) would not be required to be spent on speeding up payment of state debts.

The Proposition 2 rules for reserve deposits and debt payments are linked in part to each year's Proposition 98 budget calculations. Because this measure would affect Proposition 98 calculations, it could affect the amount of Proposition 2 reserve deposits and debt payments funded by General Fund revenues after 2018. The precise nature of these effects is difficult to predict. Similarly, the likelihood that the state exceeds its Proposition 4 spending limit in the future is difficult to predict. If, however, this were to occur between 2019 and 2030, part of this measure's revenues would go to taxpayer rebates instead of being available for other state purposes.

Fiscal Summary. This measure would have the following major fiscal effects:

- Increased state revenues annually from 2019 through 2030—likely in the \$5 billion to \$11 billion range initially—with amounts varying based on stock market and economic trends.
- School and community college funding would increase, as would funding available for other state purposes.

Sincerely,

Mac Taylor
Legislative Analyst

Michael Cohen
Director of Finance