

1988

## Emergency Reserve. Dedication Of Certain Taxes To Transportation. Appropriation Limit Change.

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## Official Title and Summary Prepared by the Attorney General

**EMERGENCY RESERVE. DEDICATION OF CERTAIN TAXES TO TRANSPORTATION. APPROPRIATION LIMIT CHANGE. INITIATIVE CONSTITUTIONAL AMENDMENT.** Requires three percent of total state General Fund budget be included in reserve for emergencies and economic uncertainties. Provides net revenues derived from state sales and use taxes on motor vehicle fuels be used only for public streets, highways, and mass transit guideways. (Three-year phase-in.) Requires two-thirds vote of Legislature or majority vote of voters before taxes on motor vehicle fuels may be raised. Reserve and fuel tax revenues excluded from appropriation limit. Prohibits Legislature from lowering local sales tax rates in effect January 1, 1987. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: Measure has two major fiscal effects. First, changes in state's appropriation limit will result in increased state appropriations authority of up to \$1.6 billion in 1988-89, \$1.5 billion in 1989-90, and slightly larger amounts in future years. As a result, the state may be able to spend or retain tax proceeds which otherwise would be returned to the taxpayers. State's ability to appropriate additional funds as a result of increased state limit is dependent on receipt of sufficient revenue. Based on estimates contained in Governor's Budget, state revenues will not be sufficient in 1988-89 to fund any additional appropriations allowed by this measure. In future years, economy's performance will determine whether and to what extent state revenues will be available to fund such additional appropriations. Second, the requirement that certain sales tax revenues be expended only for transportation purposes results in an increase in the amount of revenues available for transportation purposes while reducing the amount available for education, health, welfare and other General Fund expenditures. This shift in funding will amount to about \$200 million in 1988-89, about \$430 million in 1989-90, and about \$725 million in 1990-91, and increasing amounts thereafter.

## Analysis by the Legislative Analyst

### Background

Under the California Constitution, most government entities (including the state, cities, counties, schools and special districts) have a limit on the amount of taxes they can appropriate each year. This appropriations limit does not apply to *nontax* revenues, such as user fees. The limit also does not apply to certain types of expenditures, such as debt service on voter-approved general obligation bonds.

The limit must be adjusted whenever the responsibility for providing services is shifted from one entity of government to another (or to the private sector), or when the source of funds for a program is shifted from taxes to user fees. These shifts are known as "transfers of financial responsibility."

Whenever a government entity does not appropriate all of its tax revenues, these "excess revenues" must be returned to taxpayers within two years.

The California Constitution requires that revenues from certain state taxes imposed on motor vehicles and motor vehicle fuels (for example, the 9-cents-per-gallon tax on gasoline) be used solely for transportation purposes. Revenues collected from the state's 4¼-percent sales tax on motor vehicle fuels are not subject to this requirement. Currently, these sales tax revenues go to the state's General Fund, which is used to support education, health, welfare and other state programs.

The Bradley-Burns Uniform Local Sales and Use Tax Law allows local governments to impose a 1¼-percent local sales tax. The state collects these revenues and returns them to cities and counties.

Finally, the state maintains a reserve fund known as the Special Fund for Economic Uncertainties (SFEU). This

reserve provides a source of funds to pay for unexpected costs. The amount of funds allocated to this reserve is determined by the Legislature and the Governor each year as part of the budget process. In recent years, this reserve has amounted to between 1½ percent and 3 percent of General Fund expenditures. The appropriation of tax revenues to the reserve fund is subject to the limit, but the subsequent expenditure of funds from the SFEU is exempt.

### Proposal

This measure makes several changes in how the appropriations limit operates.

- First, it changes the way certain state tax revenues are treated for purposes of the limit.
- Second, it requires the state to use revenues from the sales tax on motor vehicle fuels only for street, highway and mass transit guideway purposes.
- Finally, it requires the state to begin each fiscal year with a reserve equal to 3 percent of General Fund expenditures.

**Transportation-Related Tax Revenue Changes.** This measure changes the way some state tax revenues are treated for purposes of the appropriations limit. Specifically, state tax revenues which are now dedicated for transportation purposes must be treated as "user fees" which are not subject to the limit. These revenues include: (1) the 9-cents-per-gallon excise tax on motor vehicle fuels; (2) motor vehicle weight fees; and (3) vehicle registration fees. This change represents a "transfer of financial responsibility," and this measure specifies how the required adjustment to the appropriations limit is made. Further, this measure requires that any increase

in these "user fees" be approved by two-thirds of the Legislature, or by a majority of the voters voting at a regularly scheduled statewide election.

This measure also requires the Governor to report to the Legislature on February 1 of each year on the next year's appropriations limit and appropriations subject to the limit.

**Sales Tax Changes.** This measure requires that the state (but not the local) sales tax revenues from sales of motor vehicle fuels be used only for street, highway, and mass transit guideway purposes. This requirement is phased in over a three-year period. Under current law, these revenues are deposited in the General Fund and can be used for any state purpose.

This measure specifies that these revenues also must be treated as "user fees" which are not subject to the appropriations limit. However, the measure specifies that no reduction in the state's limit may be made to reflect this "transfer of financial responsibility." Because the sales tax revenues would be excluded, there would be extra room within the state's limit to make appropriations.

Finally, this measure prohibits the Legislature from reducing the 1½ percent local sales tax rate.

**New General Fund Reserve.** This measure requires that a new reserve be created within the state's General Fund. Each annual state budget must include an appropriation to this reserve to bring it up to 3 percent of the total General Fund budget. In addition, it transfers the balance in the SFEU as of June 30, 1988, to the new reserve.

This measure also specifies that any appropriation made to this new reserve fund is not subject to the state's appropriations limit. However, an appropriation made from this new reserve is subject to the limit, unless it is designated as a special appropriation for "urgent and unexpected" needs. The measure limits the amount of special appropriations which can be made in any year to 2 percent of total General Fund expenditures. This exempt treatment of special appropriations would be repealed immediately upon the effective date of any future constitutional amendment which changes certain provisions of the appropriations limit, including the definitions of "proceeds of taxes" and the annual "cost-of-living" adjustment.

#### **Fiscal Effect**

This measure has two major fiscal effects.

First, the changes to the state's appropriations limit will allow increased state appropriations of up to \$1.6 billion in 1988-89, \$1.5 billion in 1989-90, and slightly larger amounts in future years. As a result, the state may be able

to spend or retain tax proceeds which otherwise could be subject to return to taxpayers.

The bulk of this additional appropriations authority results from the provisions of this measure which: (a) require a new reserve and specify the treatment of appropriations to and from this reserve; and (b) declare state sales tax revenues from motor vehicle fuels to be "user fees," without making a corresponding reduction in the appropriations limit. These two increases are partially offset by net decreases in appropriations authority resulting from the change in treatment of other motor vehicle-related revenues.

Based on the estimates contained in the Governor's Budget, the state will not have sufficient revenue in 1988-89 to fund any additional appropriations allowed by this measure. In future years, the economy's performance will determine whether and to what extent state revenues will be available to fund such additional appropriations.

Second, the requirement that certain state sales tax revenues be spent only for street, highway and mass transit guideway purposes results in an increase in the amount of revenues available for those purposes. However, it also reduces the amount of revenues available for education, health, welfare and all other General Fund expenditures. This *shift* of funding from general state purposes to transportation purposes, to be phased in over three years, will amount to about \$200 million in 1988-89, about \$430 million in 1989-90, about \$725 million in 1990-91, and increasing amounts annually thereafter. To the extent that revenues are not available to pay for additional appropriations, as indicated above, this shift of general purpose revenues to street, highway and mass transit guideway purposes will require a corresponding reduction in expenditures for other General Fund programs.

In summary, the approval of this measure by the voters will have the following state fiscal effects.

In the 1988-89 fiscal year:

- The state government's appropriations limit will be increased by up to \$1.6 billion. If the Governor's Budget estimates prove to be correct, revenues will be insufficient to fund any of this additional appropriation authority; and
- \$200 million of existing state sales tax revenues will be shifted from General Fund programs to street, highway and mass transit guideway purposes.

In subsequent fiscal years, the economy's performance will determine whether and to what extent revenues are available to:

- Offset the General Fund revenue loss from the shift in sales tax revenues, and
- Fund additional appropriations authorized by this measure.

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Text of Proposed Law appears on pages 62-63

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## Argument in Favor of Proposition 72

California can have safer roads and better schools *without* higher taxes and unlimited government spending . . .

. . . if you vote YES on Proposition 72.

In 1979, Californians wisely placed a limit on excessive government spending. Known as the "Gann Limit," this limit permits the state budget to grow at the same rate as our population and inflation.

Under the Gann Limit, California has prospered and there have been *no* general tax increases.

Proposition 72 has been carefully written to maintain the original Gann Limit formula while providing state government more flexibility to solve the highway gridlock crisis and meet other urgent and unexpected needs.

Proposition 72 will:

1. Dedicate the 700-million-dollar-per-year sales tax on gasoline and diesel fuel to the building and maintenance of highways, roads and mass transit guideways. Under current law, this money is placed in the State General Fund, and only a fraction of it is used for transportation. *The taxes you pay at the pumps should be used for highways.*
2. Allow expected state surpluses to be used to protect schools, law enforcement and other important state programs from any loss of funding when the gasoline and diesel fuel sales tax is dedicated to transportation.
3. Establish a permanent emergency reserve fund which may be used by the Legislature for urgent and unexpected needs of our schools, public health programs, senior citizens and others. This fund will have tough controls to prevent wasteful spending. A two-thirds vote of the Legislature and approval by

the Governor will be required before any emergency reserve money can be spent.

Californians now spend some 300,000 hours a day in traffic jams. By the year 2000, we can look forward to roads carrying an additional 15 million cars and trucks with an estimated 150% increase in personal and business travel.

But California's highway construction programs have declined 96% in the last 20 years.

Unless we act now, the future economic health of California will be severely threatened, together with the safety of everyone who drives on our roads.

Proposition 72 offers a balanced and moderate approach to the many problems facing California.

Under Proposition 72, taxes currently being collected from those who use our highways will be used for road and freeway improvements. There will be no tax increases or additional taxes as a result of Proposition 72.

Proposition 72 will keep the original Gann Limit formula intact and continue protecting taxpayers from huge increases in taxes and government spending.

The same taxpayer organizations which brought you Proposition 13 and the Gann Limit are leading the campaign for Proposition 72 and urge you to vote—Vote YES.

PAUL GANN

*President, People's Advocate*

JOEL FOX

*President, Howard Jarvis' California Tax Reduction Movement*

DORIS ALLEN

*Assemblywoman, 71st District*

## Rebuttal to Argument in Favor of Proposition 72

It's disheartening to see Paul Gann being used so shamelessly by the big land developers promoting Proposition 72.

Because any way you look at it, this is a SPECIAL INTEREST initiative *signaling disaster for schools and taxpayers!*

*Incredibly*, its promoters are attempting to sell Proposition 72 by claiming it will lead to better schools!

No one has ever argued—not until now—that **TAKING MILLIONS OF DOLLARS A WAY FROM SCHOOLS** will improve them! Sounds like the new math!

But that's exactly what Proposition 72 would do—*take \$700 million directly away from schools, law enforcement, seniors and others and give it to transportation.* Check for yourself! Read the impartial analysis in this Voters' Pamphlet.

We all want better highways, but at WHOSE expense? Proposition 72's promoters—THE STATE'S WEALTHIEST DEVELOPERS—want new highways NOW and don't care WHERE the money comes from.

Furthermore, transit ALREADY gets \$700 million as a

result of the gasoline sales tax. That's right! Now the developers want to **DOUBLE-DIP** and take another \$700 million.

We say: **"DON'T TAKE IT FROM OUR KIDS!"**

Shame on the greedy developers for shortchanging our schools and other vital services!

The developers, *hiding behind the recognized need to change the spending limit*, want to save themselves millions at the expense of schoolchildren and taxpayers.

What's more, Proposition 72 would give the **GOVERNOR EXCLUSIVE POWER to CALCULATE THE LIMIT**, and **ENCOURAGE POLITICIANS to PLAY GAMES with the LIMIT and RAISE IT BY BILLIONS!**

**VOTE NO ON PROPOSITION 72!**

ED FOGLIA

*President, California Teachers Association*

RICHARD PETERSON

*President, California Fire Chiefs Association*

MARY ANNE HOUX

*President, California School Boards Association*

# Emergency Reserve. Dedication of Certain Taxes to Transportation. Appropriation Limit Change. Initiative Constitutional Amendment

72

## Argument Against Proposition 72

Proposition 72 benefits only two groups of Californians: big developers and Sacramento politicians. For CALIFORNIA TAXPAYERS and SCHOOLCHILDREN it would be disastrous.

Proposition 72 would:

- Take away over \$700 MILLION FROM our SCHOOLS, law enforcement, health care and seniors!
- Provide a TAXPAYER-FUNDED BONANZA for PRIVATE DEVELOPERS!
- GIVE this GOVERNOR, and any future Governor, the EXCLUSIVE POWER TO SET a new spending LIMIT every year. No one individual should be given that sole authority!
- Allow the POLITICIANS to PLAY even more GAMES with the state's SPENDING LIMIT and even RAISE IT BY BILLIONS of dollars!

Strong claims? Let's take a look at the facts.

First, according to the nonpartisan Legislative Analyst, Proposition 72 would remove over \$700 million in sales tax revenues on gasoline each year from the state's General Fund—currently spent on education, health care, law enforcement, fire protection, senior and other services—and use it solely for transportation purposes.

We agree that transportation is an important need in California. But WHY SHOULD THE HIGHWAY LOBBY BE PERMITTED TO BUILD ROADS AT THE EXPENSE OF SCHOOLCHILDREN, seniors, law enforcement and others?

The bottom line is that the PROMOTERS OF PROPOSITION 72—a group of BIG DEVELOPERS and allied SPECIAL INTERESTS led by a wealthy Orange County developer, one of the state's LARGEST OWNERS OF UNDEVELOPED LAND—want lots of money in a hurry and apparently don't care WHOM they take it from.

Second, Proposition 72 would give the Governor, whoever he or she might be, the exclusive power to calculate the spending limit every year. The state spending limit

could quickly become a political tool of the Governor.

Third, despite the promoters' professed intentions about maintaining a state reserve fund, Proposition 72 would do the very opposite. It clearly ENCOURAGES THE POLITICIANS TO USE UP THE STATE'S RESERVE IN ORDER TO RAISE THE LIMIT—an incentive for unsound and imprudent spending of taxpayer dollars: According to the nonpartisan Legislative Analyst, Proposition 72 could increase the limit BY \$1.4 BILLION when it becomes fully effective and larger amounts thereafter!

Proposition 72 is helpful in ONLY one way: It demonstrates that virtually EVERYONE recognizes that changes are necessary in the existing government spending limit—EVEN its original author, Paul Gann. Unfortunately, PROPOSITION 72 proposes to make exactly the WRONG changes in the spending law! It MAKES THINGS WORSE FOR OUR SCHOOLS and DOES NOTHING TO HELP OUR HARD-PRESSED LOCAL GOVERNMENTS!

Instead of properly addressing the concerns of ALL Californians, Proposition 72 is an unconscionable attempt by certain SPECIAL INTERESTS to SAVE THEMSELVES UNTOLD MILLIONS at the expense of everyone else. These private developers want taxpayers to foot the bill for the road construction necessary to support THEIR new subdivisions.

The choice is clear: When it comes to EDUCATING CHILDREN OR HELPING DEVELOPERS, common sense says:

**"DON'T CHEAT THE KIDS!"**

Don't let the developers get away with it!  
**VOTE NO ON PROPOSITION 72!**

**BILL HONIG**

*State Superintendent of Public Instruction*

**HELEN H. LINDSEY**

*President, California State PTA*

**TOM NOBLE**

*President, California Association of Highway Patrolmen (CHP)*

## Rebuttal to Argument Against Proposition 72

I have four children, eleven grandchildren and two great-grandchildren. Education is the key to their future and I would never do anything to damage the quality of our schools.

I also authored Proposition 8, the Victims' Bill of Rights, and was a leader in the campaign to unseat former Chief Justice Rose Bird. Law enforcement leaders know that I'm on their side in the war on crime.

Proposition 72 was carefully written to protect schools, law enforcement and other vital services from loss of funds when the gasoline sales tax is used to provide better and safer roads.

UNDER PROPOSITION 72, EVERY DOLLAR REMOVED FROM THE GENERAL FUND WILL BE REPLACED BY SURPLUS TAX REVENUES.

If the surplus isn't big enough, we give the Legislature and Governor authority to make up the difference! And

the people opposing Proposition 72 are aware of that fact.

The opponents of Proposition 72 include the same public employee unions and big-spending politicians who fight every reasonable attempt to reduce taxes and control government spending.

THE SPONSORS OF PROPOSITION 72 ARE THE TWO LARGEST TAXPAYER ORGANIZATIONS IN CALIFORNIA. We have never "developed" anything other than a well-deserved reputation for saving taxpayers billions of dollars. I have never campaigned to benefit any corporation or special interest and I never will.

Proposition 72 will enable California to finance improvements in our transportation system and necessary services without raising taxes or adding to our multi-billion-dollar debt.

Please vote YES on Proposition 72.

**PAUL GANN**

(c) A natural community that occurs in only 50 or fewer locations in the world, at least one of which is in California.

(d) An assemblage of three or more highly rare species or natural communities, or any combination thereof, of which at least one of the species or natural communities is found only in 20 or fewer locations in the world.

2722. (a) Whenever the application of the criteria specified in Section 2721 results in the identification of two or more parcels of land that are essentially indistinguishable as to their quality, preference shall be given to the parcel on which exists the species that is more threatened or more endangered.

(b) Whenever the application of the criteria specified in Section 2721 results in the identification of two or more parcels of land that are essentially indistinguishable as to their quality and the degree of threat to, or endangerment of, the species existing on them, preference shall be given to the parcel on which exists the best example of the species. As used in this subdivision, "best example" means the parcel of land and the wildlife inhabiting it which, in balancing all the factors present, represents, as determined by the board, the stronger combination of all of the following: the better condition, higher quality, easier defensibility, greater likelihood of long-term viability, and the lesser costs to be incurred by the department in operating and maintaining the parcel.

2723. (a) Of the total amount available pursuant to subdivision (a) of Section 2720, not more than five million dollars (\$5,000,000) may be encumbered for any single acquisition project. In enacting this limitation, the people of California recognize that there are a number of important projects meeting the criteria of this chapter but whose acquisition cost would most likely exceed this limitation. Therefore, in these instances any acquisition cost in excess of this limitation may be met by a donation by the owner, donations of funds from private sources, or other funds from state or nonstate sources.

(b) The qualification for or allocation of a grant or grants to a local agency under Section 2720 shall not preclude eligibility for an additional allocation of grant funds to the same local agency pursuant to Section 2720 of this code or Section 5907 of the Public Resources Code.

2724. (a) In choosing among two or more parcels of land to be acquired, enhanced, restored, or protected with funds available pursuant to subdivision (b) or (c) of Section 2720, preference shall be given to acquiring, enhancing, restoring, or protecting the parcel that will result in the least cost to the department for operating and maintaining the land.

(b) Funds available pursuant to subdivisions (b) and (c) of Section 2720 may be encumbered only for lands which constitute habitat that is subject to destruction, drastic modification, or significant curtailment of habitat values.

2725. No funds available pursuant to this chapter shall be encumbered for any lands that, due to their degraded character, will not sustain plants or wildlife or will not afford protection to a natural community on a long-term basis.

2726. With respect to any lands which may be acquired, enhanced, restored, or protected with funds under this chapter and which could also be eligible for funds under Chapter 7 (commencing with Section 2600), funds under this chapter shall not be encumbered for those lands until it is determined by the Wildlife Conservation Board that funds are not likely to be available for those lands under that Chapter 7.

2727. No funds available for appropriation under this chapter may be encumbered for any purpose described in Section 1353 of the Fish and Game Code.

2728. An annual amount, not to exceed three hundred fifty thousand dollars (\$350,000) may be appropriated from the fund in the 1988-89 through 1998-99 fiscal years, in an amount to be determined in each annual appropriation, to the Wildlife Conservation Board for expenditure for costs incurred by the board and the department in administering this chapter, including, but not limited to, preacquisition studies, planning, appraisals, surveys, and closing costs. The Wildlife Conservation Board and the department may augment, as needed, any amount thus appropriated with any funds appropriated to it from any other source.

2729. (a) For the purpose of administering this chapter, the Wildlife Conservation Board and the Department of Fish and Game shall augment its existing staff, whenever possible, by contracting for those services necessary for the administration of this chapter. Any contract shall, however, be entered into only pursuant to Sections 19130 to 19132, inclusive, of the Government Code and shall be only for the minimum period necessary for completion of the particular project or projects for

which the contract was entered into.

(b) Due to the limited duration of the program authorized by this chapter, in the event some services cannot be provided by contract, any personnel directly hired by the Wildlife Conservation Board for the administration of this chapter shall be hired, to the extent permitted by Article 2 (commencing with Section 19080) of Chapter 6 of Part 2, Division 5 of Title 2 of the Government Code, as limited-term contracts.

SEC. 4. (a) If the people of California approve a bond act, other than this act, at either the Direct Primary Election on June 7, 1988, or the General Election on November 8, 1988, which includes at least one hundred sixty-five million dollars (\$165,000,000) for the purposes specified in subdivision (a) of Section 5907 of the Public Resources Code, as proposed by this act, subdivision (a) of Section 5907 of the Public Resources Code, as proposed by this act, shall not become operative. That subdivision shall otherwise become operative on November 9, 1988. The Legislature may appropriate funds pursuant to subdivision (a) of Section 5907 in the Budget Act for the 1988-89 fiscal year if those provisions become operative.

(b) If the people of California approve a bond act, other than this act, at either the Direct Primary Election on June 7, 1988, or the General Election on November 8, 1988, which includes at least fifty-five million dollars (\$55,000,000) for the purposes specified in paragraph (2) of subdivision (b) of Section 5907 of the Public Resources Code, as proposed by this act, paragraph (2) of subdivision (b) of Section 5907 of the Public Resources Code, as proposed by this act, shall not become operative. That paragraph shall otherwise become operative on November 9, 1988. The Legislature may appropriate funds pursuant to paragraph (2) of subdivision (b) of Section 5907 in the Budget Act for the 1988-89 fiscal year if those provisions become operative.

(c) If the people of California approve a bond act, other than this act, at either the Direct Primary Election on June 7, 1988, or the General Election on November 8, 1988, which includes at least thirty million dollars (\$30,000,000) for the purposes specified in paragraph (1) of subdivision (d) of Section 5907 of the Public Resources Code, as proposed by this act, paragraph (1) of subdivision (d) of Section 5907 of the Public Resources Code, as proposed by this act, shall not become operative. That paragraph shall otherwise become operative on November 9, 1988. The Legislature may appropriate funds pursuant to paragraph (1) of subdivision (d) of Section 5907 in the Budget Act for the 1988-89 fiscal year if those provisions become operative.

(d) If the people of California approve a bond act, other than this act, at either the Direct Primary Election on June 7, 1988, or the General Election on November 8, 1988, which includes at least thirty million dollars (\$30,000,000) for the purposes specified in paragraph (1) of subdivision (e) of Section 5907 of the Public Resources Code, as proposed by this act, paragraph (1) of subdivision (e) of Section 5907 of the Public Resources Code, as proposed by this act, shall not become operative. That paragraph shall otherwise become operative on November 9, 1988. The Legislature may appropriate funds pursuant to paragraph (1) of subdivision (e) of Section 5907 in the Budget Act for the 1988-89 fiscal year if those provisions become operative.

(e) If the people of California approve a bond act, other than this act, at either the Direct Primary Election on June 7, 1988, or the General Election on November 8, 1988, which includes at least fifty million dollars (\$50,000,000) for the purposes specified in Chapter 7.5 (commencing with Section 2700) of Division 3 of the Fish and Game Code, as proposed by this act, Chapter 7.5 (commencing with Section 2700) of Division 3 of the Fish and Game Code, as proposed by this act, shall not become operative. That chapter shall otherwise become operative on November 9, 1988. The Legislature may appropriate funds pursuant to Chapter 7.5 (commencing with Section 2700) of Division 3 of the Fish and Game Code in the Budget Act for the 1988-89 fiscal year if those provisions become operative.

SEC. 5. If any provision of this act or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of the initiative which can be given effect without the invalid provision or application, and to this end the provisions of this initiative are severable.

SEC. 6. The Legislature may amend this act, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with the purposes of this act. However, no allocation of funds may be reallocated except in accordance with Sections 5919 and 5922 of the Public Resources Code. No changes shall be made in the way in which funds are appropriated pursuant to Sections 5907 and 5921 of the Public Resources Code.

## Proposition 72: Text of Proposed Law

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

This initiative measure amends the Constitution by amending and adding sections thereto; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be

inserted or added are printed in *italic type* to indicate that they are new.

## PROPOSED AMENDMENTS TO ARTICLES XIII, XIII B AND XIII C

*First—Short Title. This Amendment shall be known and may be cited as the "Paul Gann Spending Limit Improvement and Enforcement Act of 1988."*

## PREAMBLE

Second—The People of California find and declare that:

The current constitutional limit on state and local government spending, known as the "Gann Limit," is essential in order to compel government to set priorities for spending within fiscally responsible limits and to hold government accountable to taxpayers. In addition, the Gann Limit should be improved and modernized as follows:

(a) State government should be required to maintain a permanent emergency reserve fund. To encourage funding for such a reserve, appropriations to the reserve should not be considered "appropriations subject to limitation." In addition, under urgent and unexpected circumstances, limited withdrawals from the reserve should not be subject to limitation if approved by the Governor and two-thirds of the Legislature.

(b) Local governments should be able to depend on their share of sales tax revenues, and the intent of this amendment is to secure those funds against maneuvering by the Legislature.

(c) Motorists consider the taxes and fees on motor vehicle fuels to be user fees, and the Gann Limit should be clarified to recognize them as such and to earmark them for road construction and transportation purposes. This would give the current system of highways a needed long-term commitment of funds for both new construction and repairs, without increasing any taxes. State programs remaining under the Gann Limit should be protected against any loss in spending authority due to this recognition of user fees.

(d) Taxpayers should be able to enforce the Gann Limit at the state and local levels. Further, it is the intent of the people that the Governor be responsible for calculation of the state spending limit.

(e) Passage of this amendment will not increase taxes.

Third—That Section 29 of Article XIII thereof be amended to read:  
SEC. 29. (a) The Legislature may authorize counties, cities and counties, and cities to enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them which is collected for them by the state. Before any such contract becomes operative, it shall be authorized by a majority of those voting on the question in each jurisdiction at a general or direct primary election.

(b) The Legislature shall not reduce the rate in effect on January 1, 1987, for taxes imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law.

Fourth—Section 5.1 shall be added to Article XIII B as follows:

SEC. 5.1. (a) There shall be maintained within the state general fund a reserve for emergencies and economic uncertainties, and each annual budget of the state shall include an appropriation in the budget to such reserve to the extent necessary to maintain a reserve of three percent (3%) of the total general fund budget. Any revenues appropriated to or retained in such reserve shall not be subject to Section 2 of this Article. Notwithstanding Section 5 of this Article, appropriations to such reserve shall not constitute appropriations subject to limitation and withdrawals from such reserve and expenditures of (or authorizations to expend) such withdrawals shall constitute appropriations subject to limitation.

(b) Any funds remaining on hand on June 30, 1988, in the Special Fund for Economic Uncertainties described in Chapter 135, Section 12.30 of the Budget Act of July 7, 1987, shall be transferred to the reserve established by subdivision (a), and such transfer shall not constitute appropriations subject to limitation.

(c) Notwithstanding subdivision (a), withdrawals from such reserve

and expenditures of such withdrawals shall not constitute appropriations subject to limitation if they are separately designated in the budget bill or any appropriations bill as a special appropriation from the reserve for urgent and unexpected needs; provided, however, that during any fiscal year such special appropriations from the reserve for urgent and unexpected needs may not in the aggregate exceed two percent (2%) of the total general fund budget. This subdivision shall be repealed immediately upon the effective date of any amendment to Section 8 of this Article.

Fifth—Section 12 shall be added to Article XIII B as follows:

SEC. 12. (a) The Governor shall calculate and report to the Legislature on February 1 of each year the amount of state "appropriations subject to limitation" and the state "appropriations limit" for the succeeding fiscal year.

(b) Any California taxpayer shall have the right to enforce any provision of this Article by bringing an action in the superior court in accordance with the provisions of the Code of Civil Procedure.

Sixth—That Section 7 of Article XIX of the California Constitution shall be amended to read:

SEC. 7. This article (a) Except as provided in subdivision (b), this Article shall not affect or apply to fees or taxes imposed pursuant to the Sales and Use Tax Law or the Vehicle License Fee Law, and all amendments and additions now or hereafter made to such statutes.

(b) Revenues derived from taxes imposed by the State pursuant to the Sales and Use Tax Law on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be used for the purposes specified in Section 1 of this article, subject to the following limitations:

(1) From the revenues received in the 1988-89 fiscal year, an amount equal to one-third of the revenues received in the 1987-88 fiscal year shall be expended for those purposes.

(2) From the revenues received in the 1989-90 fiscal year, an amount equal to two-thirds of the revenues received in the 1988-89 fiscal year shall be expended for those purposes.

Seventh—Section 10 shall be added to Article XIX as follows:

SEC. 10. (a) Commencing on that July 1 following adoption of this section, for purposes of Article XIII B, revenues subject to this article shall be deemed user fees in determining the amount of appropriations subject to limitation.

(b) Notwithstanding subdivision (b) of Section 3 of Article XIII B, the appropriations limit of the state or any other entity of government for the 1988-89 fiscal year shall be decreased from what it would have been in the absence of the transfer caused by subdivision (a) of this section only by an amount equal to the revenues subject to Sections 1 and 2 of this Article received in the 1987-88 fiscal year.

(c) Any act enacted for the purpose of increasing state revenues subject to this Article, whether by increased rates or changes in methods of computation, shall be passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, or shall be approved by a majority of the voters voting at a regularly scheduled statewide election.

Eighth—Severability. If any provision of these amendments to Section 29 of Article XIII, or to Section 7 of Article XIX; or the addition of Section 5.1 or Section 12 to Article XIII B or Section 10 to Article XIX; or any application of such provisions to any person or circumstance shall be adjudged, declared, or held invalid, the remaining provisions and applications shall not be affected thereby, and are therefore severable.

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committee controlled by that candidate to exceed five thousand dollars (\$5,000) during any special election cycle or special runoff election cycle.

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.

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.

#### Article 4. Gifts and Honoraria

85400. No elected officeholder shall accept any gift or honorarium for any speech, article, or published work on a subject relating to the governmental process from any single source which is in excess of one thousand dollars (\$1,000), in any calendar year, except reimbursement

for actual travel expenses and reasonable subsistence in connection therewith.

SEC. 2. Section 82041.5 of the Government Code is amended to read:

82041.5. "Mass mailing" means two hundred or more identical or nearly identical substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to a an unsolicited request, letter or other inquiry.

SEC. 3. Section 89001 of the Government Code is amended to read:

89001. No newsletter or other mass mailing shall be sent at public expense by or on behalf of any elected officer to any person residing within the jurisdiction from which the elected officer was elected, or to which he or she seeks election, after the elected officer has filed the nomination documents, as defined in Section 6489 of the Elections Code, for any local, state, or federal office.

SEC. 4. If any provision of this act, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this act to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this act are severable.