

12-9-1999

School Vouchers. State-Funded Private And Religious Education. Public School Funding.

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School Vouchers. State-Funded Private And Religious Education. Public School Funding. California Initiative 866 (1999).
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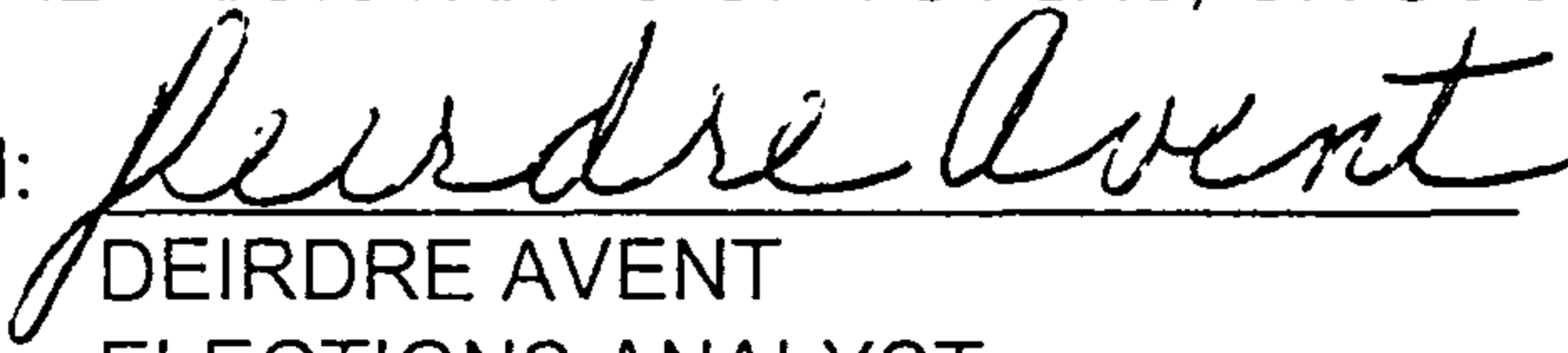


BILL JONES
Secretary of State
State of California

ELECTIONS DIVISION
(916) 657-2166
1500 - 11th STREET
SACRAMENTO, CA 95814
Voter Registration Hotline
1-800-345-VOTE
For Hearing and Speech Impaired
Only
1-800-833-8683
e-mail: comments@ss.ca.gov

December 9, 1999

TO: ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENTS (99296)

FROM: 
DEIRDRE AVENT
ELECTIONS ANALYST

SUBJECT: INITIATIVE #866

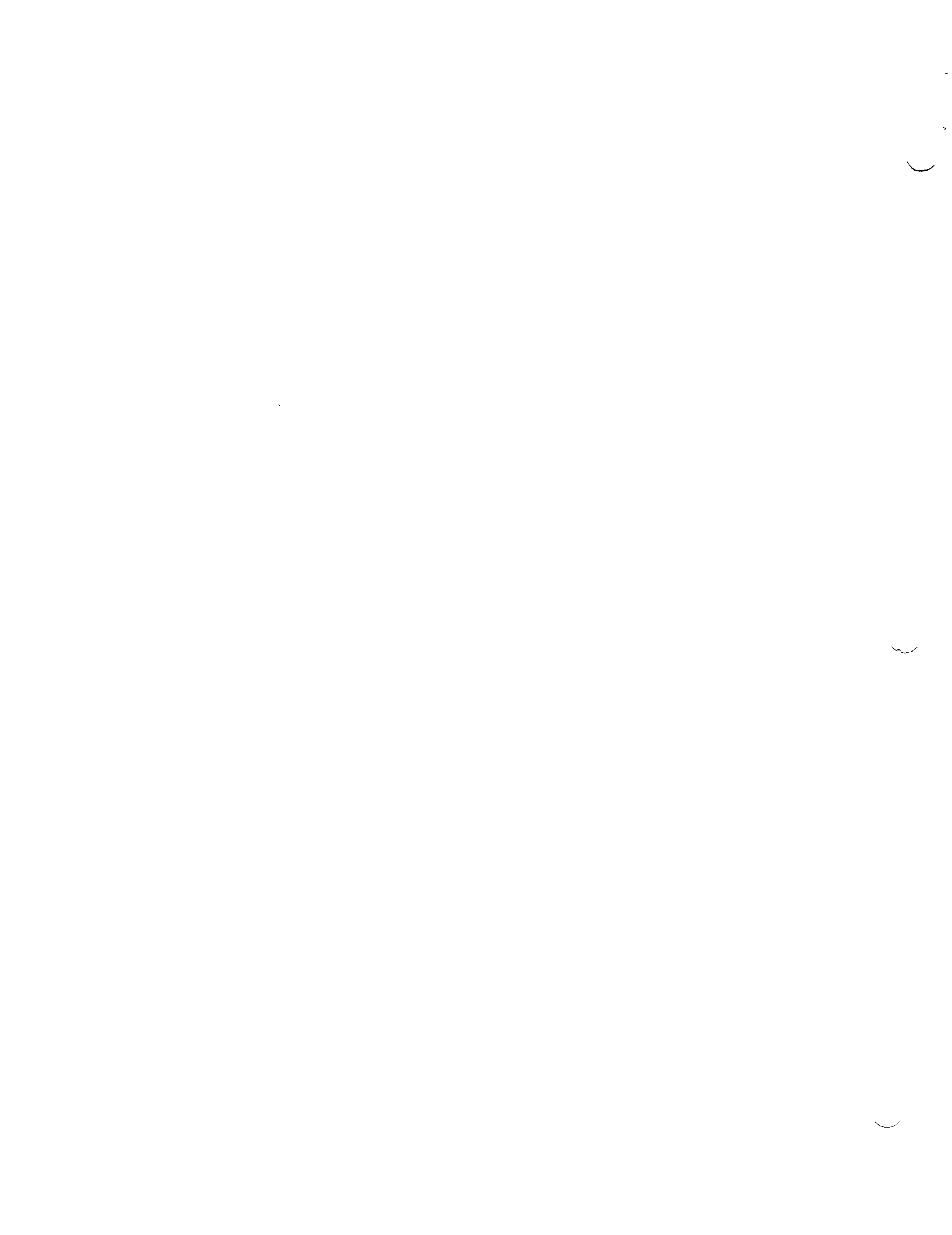
Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**SCHOOL VOUCHERS. STATE-FUNDED PRIVATE AND
RELIGIOUS EDUCATION. PUBLIC SCHOOL FUNDING.
INITIATIVE CONSTITUTIONAL AMENDMENT.**

The proponent of the above-named measure is:

Timothy C. Draper
400 Seaport Court – Suite 250
Redwood City, CA 94063

12/10/99
[REDACTED]
[REDACTED]



#866
SCHOOL VOUCHERS. STATE-FUNDED PRIVATE AND
RELIGIOUS EDUCATION. PUBLIC SCHOOL FUNDING.
INITIATIVE CONSTITUTIONAL AMENDMENT.

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required: 670,816
California Constitution, Article II, Section 8(b)

2. Official Summary Date:..... Thursday, 12/09/99
Elections Code section (EC§) 336

3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (EC §336) Thursday, 12/09/99

 - b. Last day Proponent can circulate and file
with the county. All sections are to be filed at the
same time within each county (EC §336, 9030(a)) Monday, 05/08/00*

 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (EC §9030(b))..... Thursday, 05/18/00

(If the Proponent files the petition with the county on a date prior to 05/08/00,
the county has eight working days from the filing of the petition to determine the
total number of signatures affixed to the petition and to transmit the total to the
Secretary of State) (EC §9030(b)).

 - d. Secretary of State determines whether the total number
of signatures filed with all county clerks/registrars of
voters meets the minimum number of required signatures,
and notifies the counties (EC §9030(c))..... Saturday, 05/27/00**

 - e. Last day for county to determine total number of qualified
voters who signed the petition, and to transmit certificate
with a blank copy of the petition to the Secretary of State
(EC §9030(d)(e)) Tuesday, 07/11/00

* Date adjusted for official deadline which falls on Sunday (EC §15).

** Date varies based on receipt of county certification.

INITIATIVE #866
Circulating and Filing Schedule continued:

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 05/27/00, the last day is no later than the thirtieth day after the county's receipt of notification). (EC §9030(d)(e)).

- f. If the signature count is more than 737,898 or less than 637,275 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 637,275 and 737,898 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of **all** signatures (EC §9030(f)(g); 9031(a)) Friday, 07/21/00**
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (EC §9031(b)(c)). Friday, 09/01/00

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 07/21/00, the last day is no later than the thirtieth working day after the county's receipt of notification) (EC §9031(b)(c)).

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (EC §9031(d); 9033)..... Tuesday, 09/05/00**

* Date varies based on receipt of county certification.

IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 123 Cal. App. 3d 825, 177 Cal. Rptr. 621; 63 Ops. Cal. Atty. Gen. 37 (1980).
- Please refer to Elections Code sections 100,101,104,9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq. A brief summary is attached for your reference.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

Enclosures

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2555
Public: (916) 445-9555

Facsimile: (916) 323-2137
(916) 324-5490

December 9, 1999

Bill Jones
Secretary of State
1500 - 11th Street, 5th Floor
Sacramento, California 95814

FILED
In the office of the Secretary of State
of the State of California

DEC 09 1999

RE: INITIATIVE TITLE AND SUMMARY
SUBJECT: SCHOOL VOUCHERS. STATE-FUNDED PRIVATE AND
RELIGIOUS EDUCATION. PUBLIC SCHOOL FUNDING.
INITIATIVE CONSTITUTIONAL AMENDMENT.
FILE NO: SA1999RF0045, Amdt. #1-S

BILL JONES, Secretary of State
By *Reudre Avent*
Deputy Secretary of State

Dear Mr. Jones:

Pursuant to the provisions of sections 9004 and 336 of the Elections Code, you are hereby notified that on this day we mailed our title and summary to the proponent of the above-identified proposed initiative.

Enclosed is a copy of our transmittal letter to the proponent, a copy of our title and summary, a declaration of service thereof, and a copy of the proposed measure.

According to information available in our records, the name and address of the proponent is as stated on the declaration of service.

Sincerely,

Diane Calkins

DIANE CALKINS
Initiative Coordinator

For BILL LOCKYER
Attorney General

DC:tk
Enclosures

Date: December 9, 1999
File: SA1999RF0045, Amdt. #1-S

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

SCHOOL VOUCHERS. STATE-FUNDED PRIVATE AND RELIGIOUS EDUCATION.

PUBLIC SCHOOL FUNDING. INITIATIVE CONSTITUTIONAL AMENDMENT. Authorizes annual state payments of at least \$4000 per pupil for qualifying private and religious schools as grants for new enrollees. Expands eligibility in phases; by fourth year, all children enrolled in qualifying schools are eligible. Permits Legislature to replace current constitutional funding priority and Proposition 98 guarantees for public schools with new minimum per-pupil public school funding at no less than national average. Restricts regulation of private schools. Exempts private schools from designated Uniform Building Code requirements. Requires academic testing in grant-redeeming schools. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: This measure would result in a major rearrangement of the State's system of school finance, with growing annual savings in public school expenditures and growing annual costs of a new system of grants for children transferring to, or already attending, private schools. Initial fiscal impact ranging from annual costs of over \$150 million to over \$600 million. Long-run fiscal impact ranging from net annual costs of over \$500 million to net annual savings of around \$2.5 billion. Other fiscal effects include: (1) potentially significant annual savings to the State from reduced teacher retirement contribution; (2) unknown, potentially significant, savings to the State and local school districts from reduced capital outlay needs; and (3) unknown potential loss of federal education funds to the State.

SA 1999 RF0045
Amdt #1-S

RECEIVED
OCT 13 1999

October 12, 1999

Mr. Bill Lockyer
Attorney General
State of California
c/o Diane Calkins
Department of Justice
Office of the Attorney General
1300 I Street, Suite 1101
Sacramento, CA 94244-2550

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Mr. Attorney General,

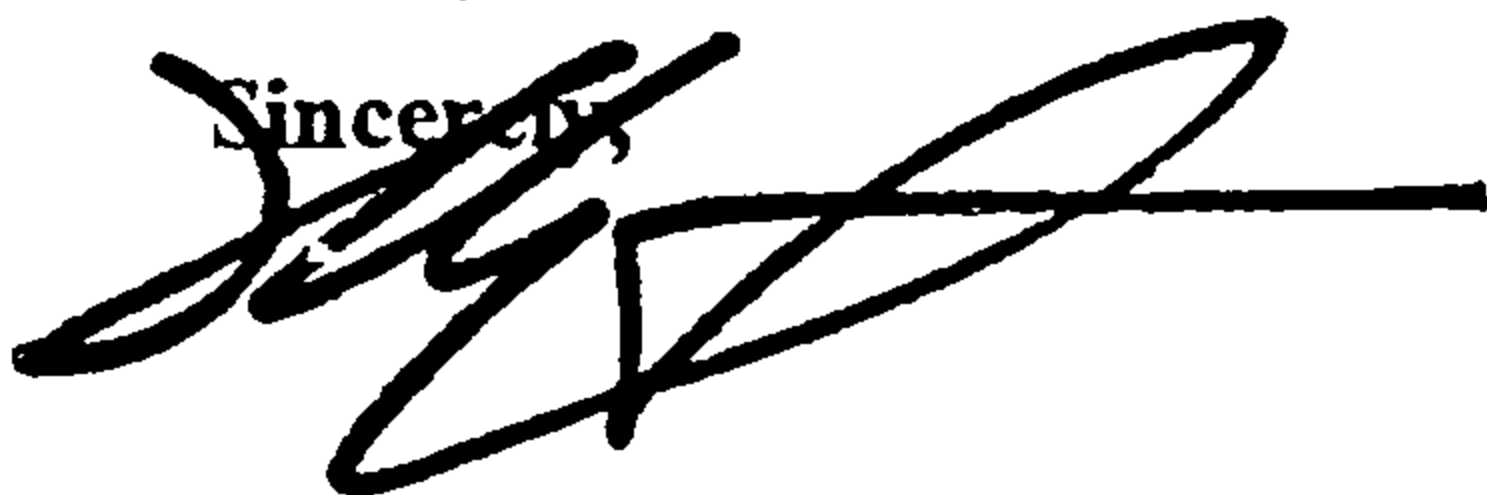
I would like to propose the following amendments to my initiative (SA 1999RF0045) submitted October 4, 1999.

The adjustments made were in clarifying section 8.1 (h) and 8.5 (w) and in adding a clause in section 8.8.

Our suggested wording of the title and summary will be sent to Diane Catkins in your office, shortly.

Thank you for your attention. If you have any questions, please feel free to contact me at my office 650-599-9000.

Sincerely,



Timothy C. Draper

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

SECTION 1: TITLE

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

SECTION 2: Section 8.1 is added to Article IX to read:

SEC 8.1.

The people of the State of California find and declare:

- (a) The economic and social viability of California depends on a well educated citizenry.
- (b) Test scores from students in government operated schools reveal that the public school system in this state has become an inefficient monopoly, with many parents forced to enroll their children in schools that are failing to prepare students with the foundation skills of reading, writing and mathematics.
- (c) As California embarks on the 21st century, basic changes in California's education delivery structure must be made to ensure that our children receive the benefits of quality education services.
- (d) Parents are best equipped to make decisions for their children and have the right to select the educational setting that will best serve the interests and educational needs of their child.
- (e) Families have the right to have their children attend schools that successfully teach reading, writing and mathematics to all enrolled students.
- (f) The scholarship provided pursuant to this measure is a grant in aid to the parents for the education of their children. The decision by a parent to accept a scholarship and how it is used is not the decision of the state but an exercise of independent parental judgement.
- (g) The scholarships provided pursuant to this measure are consistent with existing programs operated by the state including Cal-Grants, special education services in non-public schools, and child care services, all of which use government revenues to provide services at privately operated institutions chosen by eligible individuals.
- (h) The scholarship program enacted by this Article is not intended to establish, support, promote or in any way endorse any religion. The people of this State intend only to provide the parents of schoolchildren with the financial means to make their own school choices, not to promote or disadvantage any particular class of schools.
- (i) In order for California's students to compete with the students of other states and countries in the global economy of the 21st century, the people of the State of California hereby declare the importance of restoring the focus on academic outcome, introducing competition into the delivery of education services, eliminating waste and inefficiency in government operated schools while providing necessary resources for a quality public education.
- (j) This measure recognizes the importance of maintaining and enhancing the per-pupil funding base in government schools at or above the national average amount as part

of the system-wide reform of introducing competition and expanding the educational options for parents, which it would accomplish.

**SECTION 3: SECTION 8.3 is added to Article IX to read:
SEC. 8.3.**

- (a) The Legislature may fund public schools by an amount equal to or exceeding the national average on a dollar per pupil basis pursuant to this section by a statute passed by a majority vote of the members of each house concurring. The amount of funding provided for the support of public schools pursuant to this section each fiscal year thereafter shall be equal to the number of students enrolled in the public school system in kindergarten through grade 12, inclusive, multiplied by an amount equal to or greater than the national average dollar per pupil funding amount calculated pursuant to subdivision (c). This amount shall be known as the national average school funding guarantee.
- (b) If the national average school funding guarantee is operative it may only be suspended for a period of one fiscal year by a statute passed in each house by roll call vote entered in the journal, three fourths of the membership concurring provided that the statute may not be made part of, or included within, any bill enacted pursuant to Section 12 of Article IV.
- (c) Each fiscal year, the Director of the Department of Finance shall calculate the amount of funding provided for support of public schools in this state, the enrollment in public schools in this state, and the national average dollar per pupil funding amount for support of public schools. To the extent that the Director of Finance is unable to determine the current year amount dedicated in each of the states for the public schools, the most recent amount for each state shall be adjusted upward by the appropriate number of times using the latest positive dollar per pupil growth rate in that state.
- (d) If in any fiscal year, the amount of funding provided for support of public schools is at least the national average school funding guarantee calculated pursuant to subdivision (a), the amount calculated pursuant to subdivision (a) shall be used to calculate the amount of funds provided for the support of public schools in all subsequent fiscal years and this section shall supercede Section 8 of Article XVI.
- (e) If the national average school funding guarantee becomes operative pursuant to this section, then this section shall supercede all the provisions of Section 8 of Article XVI with respect to funding for school districts and will define the amount of funds required to be appropriated for the support of public schools, thereby guaranteeing that students enrolled in California public schools are funded at or above the national average dollar per pupil amount.
- (f) For purposes of this Article, the following terms have the following meanings:
 - (1) "amount of funding provided for the support of public schools" shall include all funds used to support services to students in public schools in grades kindergarten through 12, inclusive, including federal, state, and local sources, unrestricted funds, categorical funding, and funding dedicated to cover annual debt service on state and local bonds, certificates of participation, notes, and other forms of indebtedness, or any other funds, which are dedicated to finance local and state educational programs,

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

- (2) "national average dollar per pupil funding" shall be the average amount of funds provided in the United States for public school students in grades kindergarten through 12, inclusive, determined by calculating a statewide dollar per pupil average for each state which is the amount of funding provided for the support of public schools in that state, pursuant to paragraph (1), divided by the number of public school students enrolled in grades kindergarten through 12, inclusive. These dollar per pupil amounts shall then be averaged across all the states.
- (3) "child," "pupil," or "student" is a person eligible to attend kindergarten or any grades 1 to 12, inclusive.
- (4) "parent" is any person having legal or effective custody of a child.
- (5) "gender" means either a male human being or a female human being.
- (g) The Legislature may enact a statute pursuant to Section 12 of Article IV for the necessary support of the community colleges in each fiscal year this section is operative. The intent of the people is that any such statute fully fund the demand for programs offered by the community colleges.

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

- (a) The people of this state, in recognition of their right to promote the general welfare, to secure the blessings of liberty to themselves and their posterity, and to pursue happiness, find that parents and not the state have the right to choose the appropriate educational setting for their children, whether that setting is a public school or a private school. Therefore, parents who choose to send their children to schools operated or owned by an entity other than the state or any of its subdivisions or agencies are eligible to receive a scholarship which may be used for the education of their children, consistent with this section.
- (b) Commencing with the fiscal year following the approval by the voters of this section, the parents of school age children whose children are starting kindergarten or were enrolled for the previous school year in any of the grades kindergarten through 11, inclusive, in a public school shall receive, upon request, a scholarship for purposes of providing the parent with additional choices in the type of educational setting in which to enroll their child.
- (c) In the second fiscal year and each fiscal year thereafter until fully implemented, parents' phase in eligibility for scholarships shall be determined as follows. Parents of children who were enrolled in any of the grades kindergarten through 11, inclusive, in a public school in the prior year and in,
 - (1) year two: all other parents of children in grades kindergarten through 2, inclusive,
 - (2) year three: all other parents of children in grades kindergarten through 8, inclusive,
 - (3) year four and each subsequent year: all parents.
- (d) (1) The amount of a scholarship, excluding any increases provided pursuant to paragraph (2) of this subdivision, shall be in grades kindergarten to twelve, inclusive, the greater of four thousand dollars (\$4,000), one-half of the national average dollar per pupil funding defined pursuant to Section 8.3 of Article IX, or one-half of the amount of funds provided for the support of public schools divided by the enrollment of students enrolled

in public schools in grades kindergarten through 12, inclusive if provided pursuant to Section 8.3.

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

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

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

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

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

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

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

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

(3) If a pupil of a parent or guardian receiving a scholarship transfers from a scholarship redeeming school, the school shall provide written notification of the transfer and its

effective date to the county office of education within 10 days of the transfer. The county office of education shall notify the Controller of the transfer and the Controller shall prorate the disbursement(s) to reflect only the period of time in which the child was actually enrolled.

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

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

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

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

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

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

(D) A high school shall certify either (i), that the school has obtained notice from the University of California, California State University, or any private college or university accredited by a regional accreditation agency or an accreditation agency recognized by the state, that coursework completed by a pupil at the high school in one or more academic subjects designated by the institution issuing notice will fulfill the institution's admission requirements in the designated subject or subjects if a pupil's grades and the duration of study are acceptable; or (ii), that it has received either accreditation or provisional accreditation from a regional accreditation agency or an accrediting agency recognized by the state.

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

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

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

Individual results shall be released only to the child's parents and the school that the child attends.

(4) Any scholarship-redeeming school may establish a code of conduct and discipline and enforce the code with sanctions, including dismissal. The school shall provide to the parent a copy of the written code of conduct and discipline upon the pupil's admission to the school. A pupil who is responsible for serious or habitual misconduct related to school activity or school attendance may be dismissed. A dismissed pupil may use the

unused portion of a scholarship for the balance of the year in which the dismissal occurred at any other scholarship-redeeming school that will grant admission, or may return to a public school and forego the scholarship. The scholarship-redeeming school shall notify the county office of education in writing within ten days of any such dismissal.

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

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

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

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

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

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

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

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

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

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

SEC. 8.8.

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

