

2002

## Voting Modernization Bond Act of 2002. (Shelley-Hertzberg Act.)

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PROPOSITION  
**41**

**VOTING MODERNIZATION BOND ACT OF 2002.  
(SHELLEY-HERTZBERG ACT).**



**OFFICIAL TITLE AND SUMMARY**

*Prepared by the Attorney General*

41

**VOTING MODERNIZATION BOND ACT OF 2002.  
(SHELLEY-HERTZBERG ACT).**

- This act is to ensure that every person’s vote is accurately counted.
- Authorizes the issuance of state bonds allowing counties to purchase modern voting equipment and replace outdated punch card (chad) systems.
- Provides for bonds in the amount of two hundred million dollars (\$200,000,000).
- Appropriates money from the state General Fund to pay off bonds.

**SUMMARY OF LEGISLATIVE ANALYST’S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:**

- State costs of about \$255 million over ten years to pay off both the principal (\$200 million) and interest (\$55 million) costs of the bonds. Payments of about \$26 million per year.
- One-time county costs of about \$67 million statewide to match state funds.
- Additional annual county operating costs for new voting systems in the several tens of millions of dollars statewide.

**FINAL VOTES CAST BY THE LEGISLATURE ON AB 56 (PROPOSITION 41)**

Assembly:	Ayes 71	Noes 7
Senate:	Ayes 29	Noes 8

## ANALYSIS BY THE LEGISLATIVE ANALYST

### BACKGROUND

Under current law, counties may purchase and use any of three voting systems that have been certified by the Secretary of State for use in California elections. These voting systems are the punch card, optical scan, and direct record electronic (touch screen) systems.

Punch card systems use prescored computer punch cards upon which the voter indicates his or her vote choices by punching out the prescored holes. Optical scan machines require a voter to mark his or her selection on the ballot with a pencil or other approved marking device. Touch screen systems require a voter to select his or her options on a computer screen.

### PROPOSAL

This measure allows the state to sell \$200 million in general obligation bonds for updated voting systems. The money raised from the bond sales would assist any county in the purchase of new voting equipment that is certified by the Secretary of State, with the exception of prescored punch card voting systems which are ineligible for funding.

General obligation bonds are backed by the state, meaning that the state is required to pay the principal and interest costs on these bonds. General Fund revenues would be used to pay these costs. These revenues come primarily from the state personal and corporate income taxes, and sales tax.

A new five-member Voting Modernization Board (Board) created by the measure, would consider applications and award the bond monies to counties for the purchase of new voting equipment that meet the

required specifications. The measure specifies that the Board shall consist of two members appointed by the Secretary of State and three members appointed by the Governor.

In order to receive bond monies, a county must contribute one dollar of county funds for every three dollars of bond monies.

### FISCAL EFFECT

**State Bond Costs.** For these bonds, the state would make principal and interest payments from the state's General Fund over a period of about ten years. If the bonds are sold at an interest rate of 5 percent (the current rate for this type of bond), the cost would be about \$255 million to pay off both the principal (\$200 million) and the interest (\$55 million). The average payment would be about \$26 million per year.

**Cost to Counties.** The measure would result in additional costs to counties that receive bond funds. First, the counties would incur one-time matching fund costs of about \$67 million statewide. Second, counties would also incur additional ongoing costs to operate, maintain, and store the new voting equipment, and to train staff and voters on how to use the new machines. The magnitude of these additional costs will vary among counties depending on the number of voters and the difference in operating costs between a county's current voting system and the new voting system. The additional annual operating costs could be in the several tens of millions of dollars on a statewide basis.

ARGUMENT IN FAVOR OF PROPOSITION 41

If you are reading this, you are a person who takes your right and responsibility to vote seriously.

California Common Cause, the California Public Interest Research Group, and the California Secretary of State join us in urging you to vote “Yes” on Proposition 41—the Voting Modernization Bond Act.

The Secretary of State’s official analysis says: “Innovations in voting technology provide significant benefits—including ease of use, accessibility, accelerated reporting of results, meeting the needs for multiple ballots and multiple language ballots, improvements in security, and reduced costs.”

In its editorial, one major newspaper outlined the issues clearly: “California now elects its leaders through a hodge-podge of vote-counting systems (including) punch cards that feature the Florida-famous chad.

“It’s time to bring this wide range of systems up to date. The punch-card system produces errors that can disqualify an entire ballot. New methods greatly speed up vote counting and guard against fraud.

“Citizens need to know that their votes count, and in a disputed race, the results can be reliably checked.

“[Proposition 41], by Assemblyman Kevin Shelley, a San Francisco Democrat, calls for a \$200 million bond...to buy new vote tabulating machinery.” Secretary of State Bill Jones, a Republican who is the state’s chief elections officer, called for this bond last November. This bipartisan support indicates it’s time to update the way California votes.

The Secretary of State has decertified punch card voting systems because they are obsolete, but counties need funding for new equipment. Here are some facts for you to consider:

1) 11.4 million of California’s 15.7 million registered voters cast ballots on punch-card systems.

2) The “hanging chad” phenomenon can occur on a system used by 6.5 million voters.

3) Two-thirds of California’s voters are using decades old systems and these aging voting machines need to be replaced as soon as possible.

In the last five months our nation has fought against terrorism. President Bush named the effort “Enduring Freedom.”

There is no freedom greater than the right to choose our own government. Protecting that freedom requires investing in the infrastructure of public safety and national security.

It is no less important to invest in the very infrastructure of democracy. We urge you to vote “Yes” on the Shelley-Hertzberg Voting Modernization Bond Act.

KEVIN SHELLEY

*Assembly Majority Leader*

BARBARA INATSUGU, *President*

*League of Women Voters of California*

BILL JONES

*Secretary of State*

REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 41

NEW VOTING MACHINES SHOULD BE PURCHASED WITH THE BILLIONS OF DOLLARS CALIFORNIANS PAY IN INCOME TAX, SALES TAX, AND OTHER TAXES...NOT WITH NEW BONDS.

Last year, politicians collected \$8 billion more from Californians than they expected...and they spent it all, including high ongoing costs for the Governor’s secretly negotiated energy contracts.

Not only is bonding expensive, but by the time we pay off the bonds’ principal and interest, these voting machines will be outdated. Bonds are typically approved for schools, roads, and parks, NOT equipment like voting machines.

The Governor and the Legislature must PRIORITIZE their spending. We need strong schools, police, fire, and National Guard protection, and sufficient money for emergencies like earthquakes and other disasters. Politicians cannot continue to act like kids in a toy store

who insist they go home with the latest toy simply because they want it.

If the Governor and Legislature cut the pork from their spending, they could buy the latest voting machines with the tax money in the General Fund. Californians cannot pay more simply because elected officials refuse to make tough spending decisions.

As our nation and our state face the fiscal uncertainties caused by the terrorists and struggling economy, it is irresponsible to saddle taxpayers with more debt.

VOTE “NO” ON PROP 41’S BONDS. The Governor and Legislature can and should buy voting machines with the money they already have.

HONORABLE DENNIS MOUNTJOY

*Member of the Assembly, 59th District*

JON COUPAL, *President*

*Howard Jarvis Taxpayers Association*

LEWIS K. UHLER, *President*

*National Tax Limitation Committee*

### ARGUMENT AGAINST PROPOSITION 41

Californians owe billions and billions of dollars for already approved bonds. In fact, the current bond debt for a family of four is \$2987. If you add interest payments, each family's debt obligation soars.

At the beginning of last year, Californians sent government tax collectors \$8 billion more than they anticipated.

What happened to all that money? The politicians spent it. Sacramento politicians hate to say "no" to any requests made by special interest groups asking for tax dollars for one program or another.

Last year's \$8 billion of overcollected taxes should have been returned to taxpayers. Instead, politicians spent every last dime! Now the same politicians want to reach into your pockets for more money, asking you to approve another bond.

Last year, every dollar you earned from January 1 until April 30 went to government for one tax or another. You pay sales tax, income tax, and property tax. You pay taxes on your telephone, water, gas and electricity. You pay taxes on your gasoline at the pumps, fees for driver's licenses, smog checks, and vehicle registration. You pay fees for dog licenses, fishing licenses—it goes on and on. IF ELECTED OFFICIALS

SIMPLY SPENT OUR MONEY WISELY, THE TAXES AND GOVERNMENT FEES WE ALREADY PAY WOULD BE MORE THAN ENOUGH!

We can all agree that California would benefit by Proposition 41's updated voter election systems. It is always nice to have the latest technology. But politicians should buy these new voting machines with the tax dollars we already send them. CALIFORNIA FAMILIES SHOULD NOT BE EXPECTED TO PAY MORE BECAUSE SACRAMENTO POLITICIANS CARELESSLY SPENT LAST YEAR'S \$8 BILLION TAX SURPLUS.

It is foolish to sink further in debt simply because political leaders were unwilling to make tough decisions. Bonds are debts. Bonds accumulate interest. In the end, we are the ones who will ultimately pay the bill for new bonds!

VOTE "NO" ON PROPOSITION 41.

HONORABLE DENNIS MOUNTJOY

*Member of the Assembly, 59th District*

JON COUPAL, *President*

*Howard Jarvis Taxpayers Association*

LEWIS K. UHLER, *President*

*National Tax Limitation Committee*

### REBUTTAL TO ARGUMENT AGAINST PROPOSITION 41

This is no time for political scare tactics.

*The right to vote and the right to have your vote count are fundamental values of our democracy.* Proposition 41 goes a long way toward guaranteeing those rights.

Proposition 41 is a bipartisan plan to ensure that the voting problems that occurred in Florida do not happen in California. Republican Secretary of State Bill Jones, California's chief elections officer, proposed this bond to reform California's voting system. Democratic Assembly Majority Leader Kevin Shelley and Democratic Assembly Speaker Robert Hertzberg authored Proposition 41 to create a matching fund to modernize California's antiquated voting machines.

*The League of Women Voters of California supports Proposition 41* because it will increase voters' confidence in our elections system, boost participation and avoid costly lawsuits arising from election irregularities.

Newspapers across California, including the *Los Angeles Times* and the *San Francisco Chronicle*, have endorsed Proposition 41 because it helps California's

county governments reform their voting systems with a \$200 million state matching fund.

Proposition 41 will help counties modernize elections equipment. This will improve voting security, create multiple language ballots and ultimately reduce the cost of running elections.

Independent, non-partisan groups such as *California Common Cause* and *the Congress of California Seniors* have endorsed Proposition 41. The people responsible for conducting fair elections, California's independent county elections officers, support Proposition 41.

Proposition 41 is common sense election reform to ensure that every vote counts. We urge you to vote "Yes" on Proposition 41.

KEVIN SHELLEY

*Assembly Majority Leader*

BILL JONES

*Secretary of State*

ROBERT HERTZBERG

*Assembly Speaker*

## PROPOSITION 40 (cont.)

5096.676. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

5096.677. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state of the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

5096.678. Notwithstanding any provision of this chapter or the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds

and to obtain any other advantage under federal law on behalf of the funds of this state.

5096.679. (a) The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

(b) Funds provided pursuant to this chapter, and any appropriation or transfer of those funds, shall not be deemed to be a transfer of funds for the purposes of Chapter 9 (commencing with Section 2780) of Division 3 of the Fish and Game Code.

5096.681. Except for funds continuously appropriated by this chapter, all appropriations of funds pursuant to Section 5096.610 for purposes of the program shall be included in the Budget Bill for the 2002–03 fiscal year, and each succeeding fiscal year, for consideration by the Legislature, and shall bear the label "California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Program Fund." The Budget Bill section shall contain separate items for each project, each class of project, or each element of the program for which an appropriation is made.

5096.683. The Secretary shall provide for an annual audit of expenditures from this chapter.



## PROPOSITION 41

This law proposed by Assembly Bill 56 of the 2001–2002 Regular Session (Chapter 902, Statutes of 2001) is submitted to the people in accordance with the provisions of Article XVI of the California Constitution.

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

## PROPOSED LAW

SECTION 1. Article 3 (commencing with Section 19230) is added to Chapter 3 of Division 19 of the Elections Code, to read:

Article 3. Voting Modernization Bond Act of 2002  
(Shelley-Hertzberg Act)

19230. This article shall be known and may be cited as the Voting Modernization Bond Act of 2002 (Shelley-Hertzberg Act).

19231. The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), except as otherwise provided herein, is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this article, and the provisions of that law are included in this article as though set out in full.

19232. As used in this article, the following words have the following meanings:

(a) "Board" means the Voting Modernization Board, established pursuant to Section 19235.

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

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

(d) "Committee" means the Voting Modernization Finance Committee, established pursuant to Section 19233.

(e) "Fund" means the Voting Modernization Fund, created pursuant to subdivision (b) of Section 19234.

(f) "Voting system" means any voting machine, voting device, or vote-tabulating device that does not utilize prescored punch card ballots.

19233. (a) The Voting Modernization Finance Committee is hereby established for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this article.

(b) The committee consists of the Controller, the Director of Finance, and the Treasurer, or their designated representatives, all of whom shall serve thereon without compensation, and a majority of whom shall constitute a quorum. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(c) For purposes of this article, the Voting Modernization Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law.

19234. (a) The committee may create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of not more than two hundred million dollars (\$200,000,000), exclusive of refunding bonds, in the manner provided herein for the purpose of creating a fund to assist counties in the purchase of updated voting systems.

(b) The proceeds of bonds issued and sold pursuant to this article shall be deposited in the Voting Modernization Fund, which is hereby established.

(c) A county is eligible to apply to the board for fund money if it meets all of the following requirements:

(1) The county has purchased a new voting system after January 1, 1999, and is continuing to make payments on that system on the date that this article becomes effective.

## PROPOSITION 41 (cont.)

(2) The county matches fund moneys at a ratio of one dollar (\$1) of county moneys for every three dollars (\$3) of fund moneys.

(3) The county has not previously requested fund money for the purchase of a new voting system. Applications for expansion of an existing system or components related to a previously approved application shall be accepted.

(d) Fund moneys shall only be used to purchase systems certified by the Secretary of State, pursuant to Division 19 (commencing with Section 19001), and in no event shall fund moneys be used to purchase a voting system that utilizes prescored punch card ballots.

(e) Any voting system purchased using bond funds that does not require a voter to directly mark on the ballot must produce, at the time the voter votes his or her ballot or at the time the polls are closed, a paper version or representation of the voted ballot or of all the ballots cast on a unit of the voting system. The paper version shall not be provided to the voter but shall be retained by elections officials for use during the 1 percent manual recount or other recount or contest.

19234.5. The Legislature may amend subdivisions (c) and (d) of Section 19234 and Section 19235 by a statute, passed in each house of the Legislature by rollcall vote entered in the respective journals, by not less than two-thirds of the membership in each house concurring, if the statute is consistent with, and furthers the purposes of, this article.

19235. The Voting Modernization Board is hereby established and designated the "board" for purposes of the State General Obligation Bond Law, and for purposes of administering the Voting Modernization Fund. The board consists of five members, three selected by the Governor, and two selected by the Secretary of State. The board shall have the authority to reject any application for fund money it deems inappropriate, excessive, or that does not comply with the intent of this article. A county whose application is rejected shall be allowed to submit an amended application.

19236. (a) All bonds authorized by this article, when duly sold and delivered as provided herein, constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof. The bonds issued pursuant to this article shall be repaid within 10 years from the date they are issued.

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

(c) On the dates on which funds are remitted pursuant to Section 16676 of the Government Code for the payment of the then maturing principal of, and interest on, the bonds in each fiscal year, there shall be returned to the General Fund all of the money in the fund, not in excess of the principal of, and interest on, any bonds then due and payable. If the money so returned on the remittance dates is less than the principal and interest then due and payable, the balance remaining unpaid shall be returned to the General Fund out of the fund as soon as it shall become available, together with interest thereon from the dates of maturity until returned, at the same rate of interest as borne by the bonds, compounded semiannually. This subdivision does not grant any lien on the fund or the moneys therein to holders of any bonds issued under this article. However, this subdivision shall not apply in the case of any debt service that is payable from the proceeds of any refunding bonds. For the purposes of this subdivision, "debt

service" means the principal (whether due at maturity, by redemption, or acceleration), premium, if any, or interest payable on any date to any series of bonds.

19237. Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated from the General Fund, for purposes of this article, a sum of money that will equal both of the following:

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

(b) That sum necessary to carry out Section 19238, appropriated without regard to fiscal years.

19238. For the purposes of this article, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of a sum of money not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold pursuant to this article. Any sums withdrawn shall be deposited in the fund. All moneys made available under this section to the board shall be returned by the board to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from the sale of bonds for the purpose of carrying out this article.

19239. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this article. The amount of the request shall not exceed the amount of unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of carrying out this article. The board shall execute whatever documents are required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this article.

19240. Upon request of the board, supported by a statement of its plans and projects approved by the Governor, the committee shall determine whether to issue any bonds authorized under this article in order to carry out the board's plans and projects, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out these plans and projects progressively, and it is not necessary that all of the bonds be issued or sold at any one time.

19241. (a) The committee may authorize the Treasurer to sell all or any part of the bonds authorized by this article at the time or times established by the Treasurer.

(b) Whenever the committee deems it necessary for an effective sale of the bonds, the committee may authorize the Treasurer to sell any issue of bonds at less than their par value, notwithstanding Section 16754 of the Government Code. However, the discount on the bonds shall not exceed 3 percent of the par value thereof.

19242. Out of the first money realized from the sale of bonds as provided herein, there shall be redeposited in the General Obligation Bond Expense Revolving Fund, established by Section 16724.5 of the Government Code, the amount of all expenditures made for the purposes specified in that section, and this money may be used for the same purpose and repaid in the same manner whenever additional bond sales are made.

19243. Any bonds issued and sold pursuant to this article may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. The approval of the voters for the issuance of bonds under this article includes approval for the issuance of bonds issued to refund bonds originally issued or any previously issued refunding bonds.

## TEXT OF PROPOSED LAWS

## PROPOSITION 41 (cont.)

19244. Notwithstanding any provision of the bond act, if the Treasurer sells bonds under this article for which bond counsel has issued an opinion to the effect that the interest on the bonds is excludable from gross income for purposes of federal income tax, subject to any conditions which may be designated, the Treasurer may establish separate accounts for the investment of bond proceeds and for the earnings on those proceeds, and may use those proceeds or earnings to pay any rebate, penalty, or other payment required by federal law or take any other action with respect to the investment and use of bond proceeds required or permitted under

federal law necessary to maintain the tax-exempt status of the bonds or to obtain any other advantage under federal law on behalf of the funds of this state.

19245. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this article are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by Article XIII B.



## PROPOSITION 42

This amendment proposed by Assembly Constitutional Amendment 4 of the 2001–2002 Regular Session (Resolution Chapter 87, Statutes of 2001) expressly amends the California Constitution by adding an article thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

## PROPOSED ADDITION OF ARTICLE XIX B

## ARTICLE XIX B

MOTOR VEHICLE FUEL SALES TAX  
REVENUES AND TRANSPORTATION  
IMPROVEMENT FUNDING

SECTION 1. (a) For the 2003–04 fiscal year and each fiscal year thereafter, all moneys that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, and that are deposited in the General Fund of the State pursuant to that law, shall be transferred to the Transportation Investment Fund, which is hereby created in the State Treasury.

(b) (1) For the 2003–04 to 2007–08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on the operative date of this article.

(2) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, as follows:

(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(D) Twenty percent of the moneys for the purpose set forth in subparagraph (D) of paragraph (2) of subdivision (b).

(d) The transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for a fiscal year if both of the following conditions are met:

(1) The Governor has issued a proclamation that declares that the transfer of revenues pursuant to subdivision (a) will result in a significant negative fiscal impact on the range of functions of government funded by the General Fund of the State.

(2) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues pursuant to subdivision (a), provided that the bill does not contain any other unrelated provision.

(e) The Legislature may enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).



## PROPOSITION 43

This amendment proposed by Assembly Constitutional Amendment 9 of the 2001–2002 Regular Session (Resolution Chapter 114, Statutes of 2001) expressly amends the California Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

## PROPOSED AMENDMENT OF ARTICLE II

SEC. 2.5. A voter who casts a vote in an election in accordance with the laws of this state shall have that vote counted.