



DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

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February 2, 2012

County Clerk/Registrar of Voters (CC/ROV) Memorandum #12051

TO: All County Clerks/Registrars of Voters and Proponent

FROM:



Joanna Southard
Assistant Chief

RE: Initiative: 1565, Related to Taxes

Pursuant to Elections Code section 9004 (c), we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**TAX TO BENEFIT PUBLIC SCHOOLS, SOCIAL SERVICES,
PUBLIC SAFETY, AND ROAD MAINTENANCE. INITIATIVE STATUTE.**

The proponent of the above-named measure is:

Joshua Pechthalt
1127 Eleventh Street, Suite 806
Sacramento, CA 95814

(916) 446-2788

#1565

**TAX TO BENEFIT PUBLIC SCHOOLS, SOCIAL SERVICES,
PUBLIC SAFETY, AND ROAD MAINTENANCE. INITIATIVE STATUTE.**

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required: 504,760
California Constitution, Article II, Section 8(b)

2. Official Summary Date: Thursday, 02/02/12

3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (Elections Code § 336) Thursday, 02/02/12

 - b. Last day Proponent can circulate and file with the county.
All sections are to be filed at the same time within each
county. (Elections Code §§ 9014, 9030(a))..... Monday, 07/02/12*

 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (Elections Code § 9030(b)).....Friday, 07/13/12

(If the Proponent files the petition with the county on a date prior to
07/02/12, 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) (Elections Code § 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.....Sunday, 07/22/12**

 - 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
(Elections Code § 9030(d) & (e)).....Friday, 08/31/12

* Date adjusted for official deadline, which falls on a weekend (Elec. Code § 15).

** Date varies based on the date of county receipt.

INITIATIVE #1565
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 07/22/12, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elections Code § 9030(d) & (e).)

- f. If the signature count is more than 555,236 or less than 479,522 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 479,522 and 555,236 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of **all** signatures (Elections Code §§ 9030(f) & (g); 9031(a)).....Monday, 09/10/12*
- 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. (Elections Code §§ 9031(b) & (c)).....Tuesday, 10/23/12

(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 09/10/12, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elections Code §§ 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 (Elections Code §§ 9031(d), 9033)...Saturday, 10/27/12*

*Date varies based on the date of county receipt.

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 § 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).
- Please refer to Elections Code §§ 100, 101, 104, 9008, 9009, 9013, 9021, and 9022 for appropriate format and type consideration 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.
- 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.

KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE



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February 2, 2012

The Honorable Debra Bowen
Secretary of State
Office of the Secretary of State
1500 11th Street, 5th Floor
Sacramento, CA 95814

Attention: Ms. Katherine Montgomery
Elections Analyst

Dear Secretary Bowen:

Pursuant to Elections Code section 9004, you are hereby notified that on this day we sent our title and summary for the following proposed initiative to the proponent:

11-0091, AIS "Millionaires Tax to Restore Funding for Education and Essential Services Act of 2012"

A copy of that title and summary and text of the proposed initiative is enclosed. Please contact me if you have questions. Thank you.

Sincerely,

ASHLEY JOHANSSON
Initiative Coordinator

For KAMALA D. HARRIS
Attorney General

cc: Joshua Pechthalt, California Federation of Teachers
Jeffrey M. Freitas, California Federation of Teachers

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

FEB 02 2012

VIA
EMAIL

Debra Bowen, Secretary of State
By Deputy Secretary of State

February 2, 2012
Initiative 11-0091 (Amdt. #1S)

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

TAX TO BENEFIT PUBLIC SCHOOLS, SOCIAL SERVICES, PUBLIC SAFETY, AND ROAD MAINTENANCE. INITIATIVE STATUTE. Adds 3 percent to personal income tax rate on annual earnings over \$1,000,000; adds 5 percent for earnings over \$2,000,000. Allocates new revenues as follows: 36 percent for K-12 schools, 24 percent for public colleges and universities, 25 percent for services to children and senior citizens, 10 percent for public safety, and 5 percent for road and bridge maintenance. Provides local governments discretion to decide, subject to financial audits, how to spend new funds, except funds cannot go toward capital outlay or certain administrative costs. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: **Increased state personal income tax revenues dedicated to public universities, school districts, community college districts, and other local public services. Estimates of the revenue increases vary—for 2012-13, from \$6 billion to \$9.5 billion and for 2013-14, from \$4 billion to \$6 billion. These revenues would tend to grow in later years. (11-0091.)**

11-0091

Amdt. #1S

THE COALITION FOR RESTORING CALIFORNIA

December 6, 2011

RECEIVED

DEC 07 2011

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

The Honorable Kamala Harris
Attorney General
Attn: Dawn McFarland, Initiative Coordinator
Office of the Attorney General of California
1300 I Street, 17th Floor
Sacramento, CA 95814

Re: Amendment to the California Funding Restoration Act of 2012 (11-0091)

Dear Attorney General Harris:

Enclosed please find an Amendment to the California Funding Restoration Act of 2012. The new name of the initiative is Millionaires Tax to Restore Funding for Education and Essential Services Act of 2012.

Sincerely,



Joshua Pechthalt
Proponent

Enclosure

The people of the State of California do enact as follows:

MILLIONAIRES TAX TO RESTORE FUNDING FOR EDUCATION AND ESSENTIAL SERVICES ACT OF 2012

SECTION 1. FINDINGS AND DECLARATIONS

- (1) This measure shall be known as the Millionaires Tax to Restore Funding for Education and Essential Services Act of 2012.
- (2) For the past four years a great recession has caused our state immeasurable economic and social damage. The global financial crisis that toppled some of the world's largest financial institutions brought on catastrophic losses for millions of California working class families. As a result of the 2008 financial crisis, coupled with low income tax rates on the highest wage earners, public schools, including higher education, social services for seniors, children and the disabled, public safety, and maintenance for roads and bridges, have all suffered from deep and persistent revenue shortages. In response, critical programs and services were cut, thousands of workers were laid off, and local governments deferred needed road and bridge repairs.
- (3) Funding cuts to public schools and higher education including teacher and instructor layoffs and reductions in classes offered to students have adversely affected the quality of education provided to children and young adults. A substantial scaling back has diminished care provided to seniors, children, and the disabled. Public safety services have struggled to maintain a level of service that protects each and every resident. And our roads and bridges have been neglected to the detriment of proper safety and maintenance. This has occurred during a time when there has been a greater need for these programs and services due to the recession.
- (4) In addition to being one of the largest economies in the world, California has one of the largest income gaps between the wealthy and the middle class. Millionaires and billionaires have increased their wealth and have benefited from tax loopholes, low tax rates, and reductions in federal tax rates. In fact, study after study has found that the rich have gotten much richer over the past 30 years and now own an unprecedented share of California income, while middle class families have seen a decline in real wages. Over the last two decades, the average income of the top 1% of Californians increased by 50%, after adjusting for inflation, while the average income of the middle fifth fell by 15%. In 2009, the average income of the top 1% was \$1.2 million – more than 30 times that of Californians in the middle fifth. Yet the wealthy also benefit from well-funded schools and universities, social services, public safety, and well-maintained roads and bridges.
- (5) An increase in income taxes on personal income in excess of \$1 million annually will raise substantial revenue to help restore funding for some of the dramatic cuts that have caused substantial harm to public education, senior and social services, public safety, and road maintenance. Increased revenues from a tax on income in excess of \$1 million dollars will also help restore cuts made to these programs as a result of automatic trigger cuts made to balance the 2011-12 budget.

(6) Funding for California public education continues to be inadequate. Between 2008 and 2011, the state has reduced or delayed funding to school districts, county offices of education and charter schools by over \$20 billion. A recent study of public school principals found that cuts have led to dramatic reductions in services. Well over a majority of those principals surveyed reported that funding cuts have resulted in increased class sizes due to teacher layoffs, reduction in maintenance and safety personnel, fewer college access programs, elimination or reduction of summer school and basic education for adults, and the inability to provide essential classroom materials.

(7) California's public colleges and universities are struggling to maintain preeminence as institutions of higher learning. The California Community Colleges have experienced steep declines in state funding. In 2011-12 alone, state funding for Community Colleges was reduced by \$400 million. In 2011-12, state funding for the University of California was reduced by \$650 million. A similar situation exists for the California State University system, which experienced a \$750 million reduction in funding. As a result of these reductions, students and their parents are being asked to bear the brunt of the economic recession through increased fees and tuition which have nearly doubled since 2008. In addition, colleges and universities are offering fewer classes and qualified California students cannot gain admission.

(8) Critical programs and services for seniors, children, and the disabled have been decimated, transferring the costs of these services to families already suffering from reductions in income and loss of employment or to volunteer agencies with reduced support and revenue. The Legislature has reduced funding for In-Home Supportive Services to seniors and the disabled and multiple other health care and child care services. Since 2008, the total funding cuts in these programs have been in the billions of dollars. The result has been the denial or limitation of coverage for necessary health care services to the elderly, disabled, and children as counties cut back services and layoff workers who provide these services.

(9) Public safety services have been scaled back due to budget cuts. Since 2008, local communities have seen reductions in total employment of law enforcement, police officers, sheriffs, and other local government departments who work to prevent, investigate, and reduce crime. More than 7,000 personnel who serve as law enforcement, including deputy sheriffs and other personnel who protect our communities, have lost their jobs. Over the same period of time, local firefighter, ambulance, medical, and rescue personnel have experienced more than a 10% total reduction in fire protection and emergency services.

(10) Local roads and bridges are falling into a state of disrepair as government agencies, struggling to spread reduced tax revenue over greater demand for services, have deferred road and bridge maintenance due to a lack of adequate funding.

(11) The public has a right to know that its tax dollars are spent in accordance with the law and that those who misuse tax dollars are punished under the law. Imposition of accountability measures such as financial audits, continuous reports on the expenditure of taxpayer funds through the Internet, and laws imposing fines and prison on misuse of public funds help serve the interests of California residents.

SECTION 2. PURPOSE AND INTENT

The people of the State of California hereby declare their purpose and intent in enacting this act as follows:

(1) To restore funding for essential programs and services that have been cut or deferred in response to the declining revenues that have plagued state and local government since the 2008 financial crisis, and specifically to restore funding to:

- (a) The K-12 public education system;
- (b) Higher education, including California Community Colleges, the California State University, and the University of California;
- (c) Critical services to seniors, children and the disabled;
- (d) Public safety services; and
- (e) Maintenance of local roads and bridges.

(2) To provide a revenue source to support restoration of funding cuts, without which the purposes of this act cannot be achieved within the foreseeable future under the state's existing tax structure. A new and additional source of revenue is needed to accomplish this purpose. The restoration of funding of programs and services intended by this act will be accomplished through the imposition of a tax on personal income in excess of \$1 million a year, so those wealthy individuals who benefit from a well-educated population supported by adequate social service programs, safe communities and well-maintained infrastructure pay their fair share. Any person, including owners of small businesses, with income less than \$1 million a year will not incur any tax increase.

(3) To require that funds raised by this act be used only for the purposes specified, to prohibit the use of funds for administrative costs, and to prohibit the Legislature and Governor from borrowing funds for any other purpose.

(4) To impose strict accountability requirements that make it a crime to misappropriate public funds, to allow for re-capturing unlawfully used funds, and to adopt effective transparency measures that ensure public accountability by requiring annual financial audits and continuous reports on the expenditure of funds, and making this information available to the public through the Internet.

SECTION 3. THE CALIFORNIA FUNDING RESTORATION TRUST FUND

The California Funding Restoration Trust Fund is added to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, as Article 13 (commencing with Section 16429.50) as follows:

ARTICLE 13. THE CALIFORNIA FUNDING RESTORATION TRUST FUND

§ 16429.50. Definitions

For purposes of this Article and all other provisions added by the Millionaires Tax to Restore Funding for Education and Essential Services Act of 2012, the following definitions shall apply:

- (a) *"Act" shall refer to the Millionaires Tax to Restore Funding for Education and Essential Services Act of 2012.*
- (b) *"County" shall mean any county or city and county.*
- (c) *"Local education agency" shall mean a school district, county office of education, state special school, or direct-funded charter school.*
- (d) *"Restore funding," "restoration of funding," or "funding restoration" shall mean any of the following:*
 - (1) *Funding programs or services that have experienced cumulative or year-to-year reductions in federal or state appropriations since January 1, 2008;*
 - (2) *Funding programs or services where there has been a reduction or limitation on programs or services since January 1, 2008;*
 - (3) *Funding to California Community Colleges, the California State University, and the University of California where the level of direct student instruction and student services has been reduced, or fees or tuition have increased, compared to levels in January 1, 2008;*
 - (4) *Funding for road and bridge repair and maintenance deferred since January 1, 2008;*
or
 - (5) *Maintenance of ongoing funding to programs and services that were cut, reduced, limited, offset, or deferred under paragraphs (1) through (4).*
- (e) *"Administrative costs" shall mean the following:*
 - (1) *For local education agencies, any expenditure for salaries, benefits, or expenses of board of directors, school board members, board of trustees, superintendent, or managerial or supervisory personnel who are not assigned to a specific school or schools.*
 - (2) *For the University of California, the California State University, and California Community Colleges, any expenditure not assigned to a campus or school, or any expenditure for salaries, benefits, or expenses of:*

- (A) *the Board of Regents, the Board of Trustees, or the Board of Governors;*
 - (B) *any chancellor or vice chancellor;*
 - (C) *any president or vice-president;*
 - (D) *any provost or vice-provost; or*
 - (E) *any employee who reports directly to any chancellor, vice chancellor, president, vice-president, provost, or vice provost.*
- (3) *Any expense to pay for any bond indebtedness or any other expense associated with borrowing incurred prior to or after the enactment date of this act.*
- (f) *"Capital outlay" shall mean expenditures for (1) the purchasing or lease of buildings or real property; (2) the making of alterations or additions to buildings or real property; (3) the supplying of buildings or grounds with permanent furniture, equipment, or apparatus; or (4) the demolition or razing of any building.*

§ 16429.51. The California Funding Restoration Trust Fund

- (a) *The California Funding Restoration Trust Fund, and within that Fund, the Public Education Funding Restoration Trust Fund, the Children and Senior Services Funding Restoration Trust Fund, the Public Safety Funding Restoration Trust Fund, the Road and Bridge Maintenance Funding Restoration Trust Fund, and the California Funding Restoration Administrative Account, are hereby established in the Treasury of the State of California.*
- (b) *Notwithstanding any other provision of law, the California Funding Restoration Trust Fund and all funds, sub-funds or sub-accounts of that Fund, are trust funds established solely to carry out the purposes of this act.*
- (c) *Notwithstanding any other provision of law, all net revenues from the California Funding Restoration Tax set forth in Section 17043.1 of the Revenue and Taxation Code received by the State of California, or State Officials, or such other revenues otherwise received pursuant to the provisions of this act, shall be deposited into the California Funding Restoration Trust Fund.*
- (d) *Revenue deposited into the California Funding Restoration Trust Fund shall be deposited and apportioned as follows:*
 - (1) *Sixty percent (60%) shall be deposited into the Public Education Funding Restoration Trust Fund to restore funding and shall be allocated as follows:*
 - (A) *Sixty percent (60%) to local education agencies to be used exclusively in support of public schools. Each local education agency shall receive a percentage of*

funds based on an equal amount per pupil enrolled in each local education agency in a fiscal year based on the most recent fall enrollment provided by the California Education Information System pursuant to Section 10601 of the Education Code. For purposes of calculating enrollment pursuant to this subparagraph, no student may be counted as enrolled in more than one local education agency. No funds received pursuant to this subdivision shall be used for administrative costs or capital outlay.

- (B) Thirteen and one third of one percent (13 1/3%) to California Community Colleges for direct student instruction and student services through full-time faculty positions including counselors and non-classroom faculty who have direct interaction with students, and full-time non-administrative classified support personnel. Each Community College District shall receive a percentage of funds equal to the percentage of funded full-time equivalent student enrollment of that district in relation to the total funded statewide full-time equivalent student enrollment in all community college districts in accordance with the data provided in the most recent annual report filed by Community College Districts pursuant to paragraph (3) of subdivision (a) of Section 58003.4 of Title 5 of the California Code of Regulations, or any successor regulation that requires reporting of full-time equivalent student enrollment. No funds received pursuant to this subdivision shall be used for administrative costs or capital outlay.*
- (C) Thirteen and one third of one percent (13 1/3%) to the Regents of the University of California for direct student instruction and student services that involve direct interaction between students and instructors or counselors, or for full-time non-administrative support personnel. No funds received pursuant to this subdivision shall be used for administrative costs or capital outlay.*
- (D) Thirteen and one third of one percent (13 1/3%) to the Trustees of the California State University System for direct student instruction and student services that involve direct interaction between students and instructors or counselors, or for full-time non-administrative support personnel. No funds received pursuant to this subdivision shall be used for administrative costs or capital outlay.*
- (2) Twenty five percent (25%) shall be deposited into the Children and Senior Services Funding Restoration Trust Fund and allocated to counties pursuant to Section 16429.52 to restore funding for programs and services for seniors, children, and the disabled, and for preventive health care services and programs.*
- (3) Ten percent (10%) shall be deposited into the Public Safety Funding Restoration Trust Fund and allocated to counties pursuant to Section 16429.52 to restore funding to law enforcement, fire safety, emergency services, and youth violence prevention programs.*
- (4) Four and nine tenths of one percent (4.9%) shall be deposited into the Road and Bridge Maintenance Funding Restoration Trust Fund and allocated to counties*

pursuant to Section 16429.52 to restore funding for maintaining and repairing roads and bridges. Any county receiving funds under this provision that belongs to a joint power agency or similar agency that provides road and bridge maintenance for that county may appropriate funds received under this section to that agency for purposes consistent with this subsection.

- (5) Not more than one tenth of one percent (0.10%) shall be deposited into the California Funding Restoration Administrative Account to be made available to the State Controller and Franchise Tax Board for the actual administrative costs and expenses of administering this act. Funds remaining after payment of actual administrative costs and expenses at the end of each fiscal year shall be reallocated to the California Funding Restoration Trust Fund.*
- (e) Funds deposited into the California Funding Restoration Trust Fund or any sub-fund or sub-account of that Fund, may be placed into the Pooled Money Investment Account for investment only, and interest earned shall be credited to the Fund and deposited, apportioned, allocated and expended only in accordance with the provisions of this act and its purposes.*
- (f) Notwithstanding Section 13340 of the Government Code, funds deposited into the California Funding Restoration Trust Fund, together with interest earned by the Fund or any sub-fund, are hereby continuously appropriated, without regard to fiscal year, to be used for the purposes of this act.*
- (g) Except as provided in this act, funds deposited into the California Funding Restoration Trust Fund shall not be subject to appropriation, reversion, or transfer by the Legislature, the Governor, the Director of Finance, or any other state official or agency, for any purpose and, notwithstanding any other provision of law, may not be loaned to the General Fund, or any other fund, for any purpose, including but not limited to those loans referred to in Government Code sections 16310 and 16312.*
- (h) Notwithstanding any other provision of law, revenues deposited in the California Funding Restoration Trust Fund shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered state revenues or expenditures for purposes of meeting the State's minimum funding obligation under Section 8 of Article XVI of the California Constitution, and its implementing statutes, nor shall they be subject to the provisions of Section 12 of Article IV or Section 20 of Article XVI of the California Constitution.*
- (i) The Legislature and the Governor, as well as any state official or agency, are prohibited from directing local education agencies on how to spend funds appropriated by this act.*

§ 16429.52. Determination of Allocation to Counties

- (a) *Each county shall receive a share of revenues allocated to counties by the Children and Senior Services Funding Restoration Trust Fund, the Public Safety Funding Restoration Trust Fund, and the Road and Bridge Maintenance Funding Restoration Trust Fund, as determined by this section.*
- (b) *From each fund specified in subdivision (a), each county shall receive an amount equal to the percentage that each county's population represents of the total statewide population as determined using the most recent publicly available population data from the Department of Finance.*

§ 16429.53. Use of Funds

- (a) *Any entity accepting funds pursuant to this Article shall use the funds received only for the purposes specified in the special fund from which the funds derived.*
- (b) *Any entity accepting funds pursuant to this Article shall create and maintain an account to be used for receipt and expenditure of all funds received under this Article, provided that a county that receives funds under this Article shall create and maintain separate accounts to be used for receipt and expenditure of funds from the Children and Senior Services Funding Restoration Trust Fund, the Public Safety Funding Restoration Trust Fund, and the Road and Bridge Maintenance Funding Restoration Trust Fund. Any expenses associated with creating and maintaining the accounts may be paid from funds of the account. The State Controller may provide guidelines to entities receiving funds to provide consistency in the accounting of the use of funds.*
- (c) *If any entity has not expended or encumbered any portion of the funds received pursuant to Section 16429.51 by the end of the fiscal year next following receipt of funds disbursed on June 1, or by the end of the fiscal year in which funds are received from the disbursement on September 1, any unexpended or unencumbered funds shall revert to the California Funding Restoration Trust Fund to be re-allocated.*
- (d) *A county shall not expend any funds received pursuant to Section 16429.51 for salaries, benefits, or expenses of any member of the board of supervisors, any county executive officer, or any employee who reports directly to the board of supervisors or any county executive officer, or for capital outlay.*
- (e) *The Regents of the University of California, the Board of Trustees of the California State University, as well as Community College districts and local education agencies shall not expend any funds received pursuant to Section 16429.51 for administrative costs or capital outlay.*

§ 16429.54. Duties of Controller

- (a) *Beginning on June 1, 2013 and on June 1 of each succeeding year, the State Controller*

shall distribute all trust funds deposited into the California Funding Restoration Trust Fund or any sub-fund or sub-account of that Fund, to the entities entitled to receive such funds as set forth in Section 16429.51.

- (b) Beginning on September 1, 2013 and on September 1 of each succeeding year, the State Controller shall distribute to the entities entitled to receive such funds as set forth in Section 16429.51 any remaining trust funds received prior to July 1 and deposited into the California Funding Restoration Trust Fund or any sub-fund or sub-account of that Fund that were not distributed on June 1.*
- (c) The State Controller shall determine the allocations pursuant to Sections 16429.51 and 16429.52, and in making disbursements to counties shall separately state the amount of funds disbursed from the Children and Senior Service Funding Restoration Trust Fund, the Public Safety Funding Restoration Trust Fund, and the Road and Bridge Maintenance Funding Restoration Trust Fund.*
- (d) The State Controller shall reimburse the appropriate state agencies for the actual cost of administrative services required by this act from the California Funding Restoration Administrative Account.*
- (e) The State Controller shall provide on the fifteenth day of each fiscal quarter year an estimate, based on the estimate from the Franchise Tax Board pursuant to subdivision (b) of Section 17043.2 of the Revenue and Taxation Code, of anticipated disbursements from the California Funding Restoration Trust Fund or any sub-fund or sub-account of that Fund, to those entities entitled to receive such funds as set forth in Section 16429.51. The estimate provided to each entity shall state the estimated amount to be received by that entity.*

SECTION 4. ACCOUNTABILITY REQUIREMENTS

Section 12433 is added to the Government Code to read:

- (a) The State Controller shall oversee the operations of the California Funding Restoration Trust Fund and its sub-funds and sub-accounts and to act as trustee of the trust funds created by this act.*
- (b) The State Controller shall cause to be published annually a report disclosing funding allocated pursuant to this act and identifying the recipients and amounts of all funds disbursed, the purposes for which they were to be used by the recipient, and any unexpended funds allocated pursuant to Section 16429.51.*
- (c) The State Controller shall annually conduct random financial audits of the entities receiving funds pursuant to Section 16429.51 to determine whether funds received under this act were expended in a manner consistent with the provisions set forth in this act. All financial audits conducted pursuant to this subdivision shall conform to generally accepted auditing standards and the applicable guidelines set forth in the most recent*

version of the Government Auditing Standards issued by the Comptroller General of the United States or similar guidelines used by the State Controller in conducting audits similar to those required by this section.

- (d) All funds distributed pursuant to this act which were expended in a manner contrary to the purpose for which the funds were distributed shall be recaptured by the State Controller pursuant to Section 12419.5, and upon recapture shall be deposited in the California Funding Restoration Trust Fund and reallocated pursuant to Section 16429.51. The Controller shall promptly notify the Attorney General and each District Attorney with jurisdiction regarding the circumstances of any funds expended in a manner contrary to the purpose for which the funds were distributed along with a request that the Attorney General and/or District Attorney investigate and prosecute if warranted.*
- (e) The State Controller shall post on the State Controller's website the annual report required by subdivision (b), the results of the financial audits required by subdivision (c), actions taken to recapture funds found to have been wrongfully expended and any referrals made to the Attorney General or District Attorney required by subdivision (d).*
- (f) Each public officer or employee, and every other person charged with the receipt, safekeeping, transfer, or disbursement of trust funds as defined in this act who willfully misappropriates any part of the trust funds for his or her own use, or the use of another, or who willfully fails to keep and pay over the trust funds as required by this act, shall be guilty of a felony.*

SECTION 5. THE CALIFORNIA FUNDING RESTORATION TAX

Additions are printed in *italic type*; deletions are printed in ~~strikeout type~~.

SECTION 5.1.

Section 17043.1 is added to the Revenue and Taxation to read:

- (a) For each taxable year beginning on or after January 1, 2012, in addition to any other tax imposed by this part, an additional tax shall be imposed as follows:
 - (1) At the rate of 3 percent on that portion of a taxpayer's taxable income in excess of one million dollars (\$1,000,000), but not over two million dollars (\$2,000,000).*
 - (2) At the rate of 5 percent on that portion of a taxpayer's taxable income in excess of two million dollars (\$2,000,000).**
- (b) For purposes of applying Part 10.2 (Commencing with Section 18401) of Division 2, the taxes imposed under this section shall be treated as if imposed under Section 17041.*
- (c) The following shall not apply to the taxes imposed by this section:*

- (1) *The provisions of Section 17039, relating to the allowance of credits.*
 - (2) *The provisions of Section 17041, relating to filing status and recomputation of the income tax brackets.*
 - (3) *The provisions of Section 17045, relating to joint returns.*
- (d) *Underpayment of estimated tax or under withholding resulting from the rates provided by this section for the period beginning January 1, 2012 through the calendar year 2012 shall not be subject to any penalties or interest, so long as the tax is paid by January 15, 2013.*
 - (e) *The Legislature shall amend Sections 18535 and 18536 of the Revenue and Taxation Code to reflect the changes in the applicable tax rates imposed by this section.*
 - (f) *Notwithstanding Section 19602.5 of the Revenue and Taxation Code and any other provisions of law, the taxes created by this section and the revenue derived therefrom, including investment interest, shall be considered trust funds to be expended solely for the purposes set forth in Article 13 (commencing with Section 16429.50) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.*
 - (g) *Notwithstanding any other provision of law, funds raised through the taxes imposed by this section shall not be considered part of the General Fund, as that term is used in Chapter 1 of Part 2 of Division 4 of Title 2 of the Government Code (commencing with Section 16300) and shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution, and its implementing statutes, nor shall they be subject to the provisions of Section 12 of Article IV or Section 20 of Article XVI of the California Constitution. No revenues raised through the taxes imposed by subdivision (a) shall be considered state revenues for purposes of meeting the State's minimum funding obligation under Section 8 of Article XVI of the California Constitution, and its implementing statutes, nor shall any expenditures from the Public Funding Restoration Trust Fund be counted towards that minimum funding obligation.*

SECTION 5.2.

Section 17043.2 is added to the Revenue and Taxation Code to read:

- (a) *The Franchise Tax Board shall revise the returns required to be filed pursuant to Article 2 (commencing with Section 18601), Section 18633, Section 18633.5, and Article 3 (commencing with Section 23771) of Chapter 4 of Part 11, and the accompanying instructions for filing those returns, to require taxpayers to separately report on their return the amount of the California Funding Restoration Tax imposed by Section 17043.1 for the taxable year beginning January 1, 2012, and each year thereafter.*
- (b) *The Franchise Tax Board shall provide the State Controller, the Director of Finance and*

the Chair of Joint Legislative Budget and Audit Committees an estimate of the net revenues to be received by the State pursuant to Section 17043.1 by the first day of each fiscal year quarter, and provide to the Controller the amount of net revenues received pursuant to Section 17043.1 in a timely manner.

SECTION 5.3.

Section 19602 of the Revenue and Taxation Code is amended to read:

Except for amounts collected or accrued under Sections 17935, 17941, 17948, 19532, and 19561, and revenues deposited pursuant to Section 19602.5, and amounts deposited pursuant to Section 16429.51 of the Government Code, all moneys and remittances received by the Franchise Tax Board as amounts imposed under Part 10 (commencing with Section 17001), and related penalties, additions to tax, and interest imposed under this part, shall be deposited, after clearance of remittances, in the State Treasury and credited to the Personal Income Tax Fund.

SECTION 6. STATUTORY AND REGULATORY REFERENCES

Unless otherwise stated, all references in this act refer to statutes or regulations as they existed on January 1, 2012.

SECTION 7. SEVERABILITY

If the provisions of this act, or any part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect and to this end the provisions of this act are severable.

SECTION 8. CONFLICTING MEASURES

If this measure is approved by the voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting measure is later held invalid, this measure shall be self-executing and given the full force of law.

SECTION 9. AMENDMENTS

- (a) Except as hereafter provided, this act may only be amended by the electors as provided in Article II, Section 10, subdivision (c), of the California Constitution.
- (b) Notwithstanding the provisions of subdivision (a) of this Section, the Legislature may amend the provisions of this act if such amendment is necessary to further the purposes of the act and the amendment is passed by statute in each house by roll-call vote entered in the journal, fifty-five percent (55%) of the membership concurring. For purposes of this act, an amendment does "further the purposes of the act" if reasonably necessary to (1) implement the spending priorities set forth in the act, (2) impose necessary fiscal controls on the expenditure of funds received under this act, or (3) ensure that the public has access to information about how funds received under this act are spent.