

November 6, 2009

09-0070

Amdt. #1S

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INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

**VIA MESSENGER**

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

Attention: Krystal M. Paris

Re: *Best Practices Budget Accountability Act*  
Proposed Initiative 09-0070, Amendment #1 N/S

Dear Ms. Paris:

Please accept the enclosed amended version of the "Best Practices Budget Accountability Act," which we filed on October 30, 2009.

Please direct all correspondence and inquiries regarding this measure to:

Robin B. Johansen  
James C. Harrison  
Remcho, Johansen & Purcell, LLP  
201 Dolores Avenue  
San Leandro, CA 94577  
Phone: (510) 346-6200  
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Sincerely,

Roberta B. Johansen

James C. Harrison

Enclosure  
(00094826)

**BEST PRACTICES BUDGET ACCOUNTABILITY ACT****SECTION ONE. Title.**

This Act shall be known as the "Best Practices Budget Accountability Act."

**SECTION TWO. Findings and Declarations.**

The people of the State of California find and declare as follows:

- a. Throughout its history, California has led the way – in technology, education and quality of life. Our state thrives because we value innovation, diversity and creativity in how we work, think and live.
- b. California's future as a world leader depends on continuing to improve public services that are vital to our people: outstanding public schools; reliable police, fire and emergency services; affordable and available healthcare; and modern infrastructure.
- c. This task is not the job of any one political party or ideology. It is the shared responsibility of every Californian. In particular, California's elected leaders have an obligation to continually evaluate the effectiveness of these services, and to strive to deliver the best possible results while minimizing waste, fraud, and abuse of taxpayer dollars.
- d. The adoption of a state budget should play a key role in setting priorities, making choices about how tax dollars are spent, and ensuring that the people and their elected leaders understand the objectives and the consequences of budget decisions.
- e. In recent years, however, this process has become bogged down by political bickering and special interests seeking undue influence.
- f. We need to change the state budget process to give policymakers the tools necessary to restore and maintain public trust, and hold them accountable by requiring them to forfeit their pay when they fail to approve a budget on time.

### **SECTION THREE. Purpose and Intent.**

In enacting the Best Practices Budget Accountability Act, it is the purpose and intent of the people of the State of California to require the Governor and Legislature to use the best practices of other states and successful businesses to improve results and create accountability by:

(a) Planning ahead. The State will be guided by plans that consider long-term costs and revenue forecasts so that decision-makers and the public understand the future implications of today's fiscal choices.

(b) Focusing on priorities and results. Budget decisions will be guided by what programs are trying to achieve and changes needed to reach specific goals, including changes to strategy, management and resources;

(c) Creating a culture of accountability. Lawmakers will spend more time reviewing what the public is getting for its money and making changes to policies and programs to improve results;

(d) Ending partisan budget gridlock. A simple majority vote to pass the budget – while preserving the two-thirds vote to raise taxes and ensuring that higher fees are not used to supplant tax revenue – will both prevent costly delays enacting a budget and increasing accountability for budget decisions;

(e) Managing volatile revenue. Temporary spikes in revenue cannot be relied on to expand basic services and instead must be used, after meeting the minimum funding guarantee for education, for one-time purposes, such as paying down debt or saving for periods of declining revenue; and

(f) Paying our own way. In hard economic times, we need to make sure that we have the money to pay for new programs -- however laudable -- before committing to them. Under this measure, major new and expanded programs will be financed through efficiencies, dollars redirected from lower priorities or new revenue. Policymakers will be required to link a policy choice – over a new program or tax cut – with the decision about how to pay for it.

**SECTION FOUR. Section 8 of Article IV of the California Constitution is amended to read:**

SEC. 8. (a) At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, ~~three-fourths~~ three-fourths of the membership concurring.

(b) The Legislature may make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title on ~~3~~ three days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, ~~two-thirds~~ two-thirds of the membership concurring. No bill may be passed until the bill with amendments has been printed and distributed to the ~~members~~ Members. No bill may be passed unless, by rollcall vote entered in the journal, a majority of the membership of each house concurs.

(c)(1) Except as provided in paragraphs (2) and (3) ~~of this subdivision~~, a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute and a statute enacted at a special session shall go into effect on the 91st day after adjournment of the special session at which the bill was passed.

(2) A statute, other than a statute described in paragraph (3) or a statute establishing or changing boundaries of any legislative, congressional, or other election district, enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, shall go into effect on January 1 next following the enactment date of the statute unless, before January 1, a copy of a referendum petition affecting the statute is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II, in which event the statute shall go into effect on the 91st day after the enactment date unless the petition has been presented to the Secretary of State pursuant to subdivision (b) of Section 9 of Article II.

(3) Statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and including the budget bill, budget implementation bills, and amendments to the budget bill once enacted, and urgency statutes shall go into effect immediately upon their enactment.

(d) Urgency statutes are those necessary for immediate preservation of the public peace, health, or safety. A statement of facts constituting the necessity shall be set forth in one section of the bill. In each house the section and the bill shall be passed separately, each by rollcall vote entered in the journal, ~~two-thirds~~ two-thirds of the membership concurring. An urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or create any vested right or interest.

(e) A statute that (1) creates a new state program or agency or expands the scope of an existing state program or agency, as defined by statute and (2) would result either in a net increase in state costs, or a net decrease in state revenue, in excess of twenty-five million dollars (\$25,000,000) annually, as defined by statute and as adjusted for inflation pursuant to the California Consumer Price Index, is void unless the statute identifies additional revenue or an expressed reduction in existing expenditures that is equal to or greater than the resulting net increase in state costs or net decrease in state revenue.

**SECTION FIVE. Section 10 of Article IV of the California Constitution is amended to read:**

SEC. 10. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if it is signed by the Governor. The Governor may veto it by returning it with any objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, two-thirds of the membership concurring, it becomes a statute.

(b)(1) Any bill, other than a bill which would establish or change boundaries of any legislative, congressional, or other election district, passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, that is not returned within 30 days after that date becomes a statute.

(2) Any bill passed by the Legislature before September 1 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after September 1 that is not returned on or before September 30 of that year becomes a statute.

(3) Any other bill presented to the Governor that is not returned within 12 days becomes a statute.

(4) If the Legislature by adjournment of a special session prevents the return of a bill with the veto message, the bill becomes a statute unless the Governor vetoes the bill within 12 days after it is presented by depositing it and the veto message in the office of the Secretary of State.

(5) If the 12th day of the period within which the Governor is required to perform an act pursuant to paragraph (3) or (4) ~~of this subdivision~~ is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(c) Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after September 1 of an even-numbered year ~~except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes, bills that would enact statutes taking effect immediately~~ and bills passed after being vetoed by the Governor.

(d) The Legislature ~~may~~ shall not present any bill to the Governor after November 15 of the second calendar year of the biennium of the legislative session.

(e) The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. The Governor shall append to the bill a statement of the items reduced or eliminated with the reasons for the action. The Governor shall transmit to the house originating the bill a copy of the statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills.

(f)(1) If, following the enactment of the budget bill for the 2004-05 fiscal year or any subsequent fiscal year, the Governor determines that, for that fiscal year, General Fund revenues will decline substantially below the estimate of General Fund revenues upon which the budget bill for that fiscal year, as enacted, was based, or General Fund expenditures will increase substantially above that estimate of General Fund revenues, or both, the Governor may issue a proclamation declaring a fiscal emergency and shall thereupon cause the Legislature to assemble

in special session for this purpose. The proclamation shall identify the nature of the fiscal emergency and shall be submitted by the Governor to the Legislature, accompanied by proposed legislation to address the fiscal emergency. In response to the Governor's proclamation, the Legislature may present to the Governor a bill or bills to address the fiscal emergency.

(2) If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the proclamation, the Legislature ~~may~~ shall not act on any other bill, nor may the Legislature adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor.

(3) A bill addressing the fiscal emergency declared pursuant to this section shall contain a statement to that effect.

(4)(A) If the Legislature has not passed and sent to the Governor a bill or bills to address a fiscal emergency by the 45th day following the issuance of the proclamation declaring the fiscal emergency, the Governor may, by executive order, reduce or eliminate any existing appropriation contained in the budget act for that fiscal year that is not otherwise required by this Constitution or by federal law. The total amount of appropriations reduced or eliminated by the Governor shall not exceed the amount necessary to restore balance to the budget. For purposes of this paragraph, the statement required by paragraph (3) shall be conclusive evidence that the Legislature has taken action to address a fiscal emergency.

(B) If the Legislature is in session, it may, within 20 days after the Governor issues an executive order pursuant to subparagraph (A), override all or part of the executive order by a rollcall vote entered in the journal, two-thirds of the membership of each house concurring. If the Legislature is not in session when the Governor issues the executive order, the Legislature shall have 30 days to reconvene and override all or part of the executive order by resolution. If the Legislature overrides an executive order issued pursuant to subparagraph (A), the Legislature may present to the Governor a bill that restores balance to the budget. An executive order or a part thereof that is not overridden by the Legislature shall take effect the day after the period to override the executive order has expired.

**SECTION SIX. Section 12 of Article IV of the California Constitution is amended to read:**

SEC. 12. (a)(1) Within the first 10 days of each calendar year, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing year, known as the budget year, and for the succeeding fiscal year. The budget shall contain itemized statements, provisional language, performance standards for state agencies and programs, for recommended state expenditures and estimated state revenues, and a projection of anticipated revenues, including nonrecurring revenue as defined by statute. The budget shall also contain an estimate of the total resources available for the expenditures recommended for the budget year and the succeeding fiscal year. The budget shall also contain a projection of anticipated expenditures and anticipated revenues for the three fiscal years following the fiscal year succeeding the budget year, and budget-related plans and proposals for those three fiscal years. If, for the budget year and the succeeding fiscal year, recommended expenditures exceed estimated revenues, the Governor shall recommend reductions in expenditures or the sources from which the additional revenues should be provided or both. Such recommendations shall include an estimate of the long-term impact that expenditure reductions or additional revenues will have on the California economy. Along with the budget, the Governor shall also submit to the Legislature, any legislation required to implement appropriations contained in the budget, together with a five-year capital infrastructure and strategic growth plan, as specified by statute.

(2) If the Governor's budget proposes to create a new state program or agency, or expand the scope of an existing state program or agency that would result in a net increase in state costs during the budget year or the succeeding fiscal year, or to reduce a state tax the effect of which will be a net decrease in state revenue in the budget year or the succeeding fiscal year, the proposal shall be accompanied by a statement identifying state program reductions or a proposal for additional revenue, or a combination thereof, in an amount that equals or exceeds the net increase in state costs or net decrease in state revenue.

(3) After submitting a budget for the budget year and the succeeding fiscal year, the Governor shall submit updated projections of state revenue and state expenditures for each of those fiscal years to the Legislature on:

(A) May 15 of each year;

(B) Immediately prior to adoption of the budget by the Legislature each year; and

(C) October 15 of each year.

(b) The Governor and the Governor-elect may require a state agency, officer or employee to furnish whatever information is deemed necessary to prepare the budget.

(c)(1) The budget shall be accompanied by a budget bill itemizing recommended expenditures for the budget year.

(2) The budget bill and any legislation necessary to implement appropriations contained in the budget bill shall be introduced immediately in each house by the persons chairing the committees that consider the budget.

(3) On or before May 1 of each year, after the appropriate committees of each house of the Legislature have considered the budget bill and bills implementing the budget bill, each house shall refer the budget bill and bills implementing the budget bill to a joint committee of the Legislature, which may include a conference committee, which shall report its recommendations to each house no later than June 20 of each year. This shall not preclude the referral of bills to policy committees, in addition to a joint committee.

~~(3)~~(4) The Legislature shall pass the budget bill and bills implementing the budget bill, by midnight on June 25 of each year. Notwithstanding any other provision of law or of this Constitution, including Sections 4 and 8 of Article III and Sections 4 and 12(c) of this Article, in any year in which the budget bill is not passed by the Legislature by midnight on June 25, there shall be no appropriation from the current budget or future budget to pay any salary or reimbursement for travel or living expenses for Members of the Legislature during any regular or special session for the period from midnight on June 25 until the day that the budget bill is presented to the Governor. No salary or reimbursement for travel or living expenses forfeited pursuant to this subdivision shall be paid retroactively.

~~(4)~~(5) Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal budget year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

(d) No bill except the budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools, are void unless passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring. Appropriations made in the budget bill and amendments to the budget bill once enacted may be passed in each house by rollcall vote entered in the journal, a majority of the membership concurring. Except where a different vote requirement is specified by the Constitution or by an initiative, budget implementation bills may be passed in each house by rollcall vote entered in the journal, a majority of the membership concurring.

(e) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

(f) For the 2004-05 fiscal year, or any subsequent fiscal year, the Legislature ~~may~~ shall not send to the Governor for consideration, nor ~~may~~ shall the Governor sign into law, a budget bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill's passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Account for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues for that fiscal year estimated as of the date of the budget bill's passage. That estimate of General Fund revenues shall be set forth in the budget bill passed by the Legislature.

(g) The Legislature shall establish an oversight process for evaluating and improving the performance of programs undertaken by the State or by local agencies on behalf of the State based on performance standards implemented pursuant to statute. Within one year of the effective date of this provision, a review schedule shall be established for all state programs whether managed by a state or local agency. The schedule shall sequence the review of similar programs so that relationships among program objectives can be established and reviewed. The review process shall result in recommendations in the form of proposed legislation that improves or terminates programs. Each program should be reviewed at least once every ten years.

(h) Any nonrecurring revenue, as defined by statute, shall be expended only for the purposes of making one-time expenditures.

(i) For purposes of this section and section 8:

(1) A “budget bill” is a bill that makes appropriations for the support of the government of the State for an entire fiscal year.

(2) A “budget implementation bill” is a bill that is identified in the budget bill as containing only changes in law necessary to implement a specific provision of the budget bill.

**SECTION SEVEN. Section 3 of Article XIII A of the California Constitution is amended to read:**

SEC. 3. From and after the effective date of this article, any changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates, or changes in methods of computation, or imposition of a new tax, must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed. In addition, any bill that imposes a fee that replaces revenue that in the same or the prior fiscal year was generated by a tax must be passed by no less than two-thirds of all members elected to each of the two houses of the Legislature.

**SECTION EIGHT. Section 3.5 is added to Article XVIII of the California Constitution to read:**

SEC. 3.5. A constitutional amendment or revision proposed by the Legislature that: (1) creates a new state program or agency or expands the scope of an existing state program or agency, as defined by statute, and (2) would result either in a net increase in state costs, or a net decrease in state revenue, in excess of twenty-five million dollars (\$25,000,000) annually, as defined by statute and as adjusted for inflation pursuant to the California Consumer Price Index, shall not be submitted to the electors or have any effect unless the constitutional amendment or revision identifies additional revenue in an amount that is equal to or greater than the resulting net increase in state costs or net decrease in state revenue.

**SECTION NINE. Section 9143.5 is added to Article 7, Chapter 1.5, Part 1, Division 2, Title 2, of the Government Code, to read:**

SEC. 9143.5 (a) Within one year of the effective date of the measure that added this section, the Legislature shall establish a process, including the creation or use

of a joint committee, and shall include a schedule and a deadline for reviewing the performance of all programs at least once every ten years in a bill implementing the Budget Act. The schedule shall provide for reviewing programs whose expenditures total one-third or more of total expenditures by July 2015 and two-thirds of total expenditures by 2018. For purposes of this section, "expenditures" shall include statutory exemptions, deductions, credits or exclusions from taxes or fees that would otherwise apply.

(b) Six months prior to the deadline for each program, the joint committee shall refer the initial program review to the appropriate policy committees of each house. For programs with common objectives the reviews may be combined for the purposes of this section. Within 90 days of the deadline, the policy committees shall make recommendations regarding the programs to the joint committee. The joint committee's review may be based on the recommendations of the policy committees, as well as recommendations that may be made by the Little Hoover Commission, the Legislative Analyst, the Bureau of State Audits, or the public in preparing a legislative proposal for each program that does one of the following:

(1) Modifies the program to reduce costs and/or improve outcomes, or

(2) Terminates the program.

(c) The proposed legislation shall be submitted to the Rules committee of each house for referral to the appropriate policy committee for public hearing and further action.

(d) The joint committee shall post on its website its recommendations and the results of the Legislature's action.

(e) If the Legislature does not establish a joint committee pursuant to Subdivision (g) of Section 12 of Article IV of the Constitution within one year of the effective date of the measure that added this section, the Joint Legislative Budget Committee shall assume the responsibilities of the joint committee.

**SECTION TEN. Section 9145 is added to Article 7 of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code to read:**

SEC. 9145. (a) Before a bill or a measure that proposes to amend or revise the California Constitution, and that has been referred to the fiscal committee of either house, is read for a third time in either house of the Legislature, the Legislative

Analyst shall determine whether the bill or measure would create a new state program or agency or would expand the scope of an existing state program or agency that would result in a net increase in state costs or a net decrease in state revenue. The Legislative Analyst shall submit the analysis of the bill or measure to the fiscal committees of each house of the Legislature and shall place the analysis on his or her Internet website if the Legislative Analyst determines that the bill or measure would:

(1) create a state program or agency or expand the scope of an existing state program or agency; and

(2) result either in a net increase in state costs or a net decrease in state revenue in excess of twenty-five million dollars (\$25,000,000) annually, as adjusted for inflation pursuant to the California Consumer Price Index.

(b) A bill or measure that, as determined by the Legislative Analyst, would create a state program or agency or expand the scope of an existing state program or agency and result either in a net increase in state costs or a net decrease in state revenue in excess of twenty-five million dollars (\$25,000,000) annually, as adjusted for inflation pursuant to the California Consumer Price Index, shall be void, unless the bill or measure:

(1) identifies additional revenue or an expressed reduction in existing expenditures that is equal to or greater than the resulting net increase in state costs or net decrease in state revenue; or

(2) the Legislature, by two-thirds majority vote of the membership of both houses, makes a finding in the statute or resolution, based on a financial analysis of the statute, that the bill or measure would result either in a net increase in state costs, or a net decrease in state revenue, in an amount equal to, or less than, twenty-five million dollars (\$25,000,000) annually, as adjusted for inflation pursuant to the California Consumer Price Index. Upon making such a finding, the Legislature may proceed to consider the bill or measure.

(c) For the purposes of this Section, the determination of "a net increase in state costs" or "a net decrease in state revenue" by the Legislative Analyst may include the impact of program changes attributable to cost savings or changes in revenues of other state or local programs that are reasonably expected to occur as a result of the implementation of the new program or revenue reduction. The time period for such analysis shall be established by the Legislative Analyst.

(d) For purposes of this Section, Section 10247.5 of the Government Code and Sections 8(e) and 12(a)(2) of Article IV, and Section 3.5 of Article XVIII of the Constitution:

(1) "State program or agency" means any agency, department, or other entity of the State or any program funded by the State.

(2) "State costs" means costs to the State whether paid from General Fund or special fund sources. "State costs" does not include costs incurred for the payment of principal and interest on a general obligation bond.

(3) "Expand the scope of an existing state program or agency" does not include:

(A) restoring funding to an agency or program that was cut in a prior fiscal year or years in order to balance the budget or address a forecasted deficit;

(B) increases in a program or agency's funding contained in the budget bill or in a budget implementation bill that are limited to the fiscal year for which the bill was enacted;

(C) growth in a program or agency's funding that is attributable to increases in the cost of living or work load, including an increase contained in a memorandum of understanding approved by the Legislature; or

(D) growth in a program or agency's funding that is required by federal law or a law that is in effect as of the effective date of the measure adding this section.

(E) a bill or measure containing a requirement as described in paragraph (5), subdivision (b) of Section 6 of Article XIII B of the Constitution.

(4) "A net increase in state costs" means ongoing expenditures for a program or agency and does not include a one-time expenditure made by a program or agency.

(e) The exception to "expand the scope of an existing state program or agency" set forth in subparagraph (A) of paragraph (3) of subdivision (d) of this Section is applicable only under any of the following circumstances:

(1) for any bill or measure proposing to amend or revise the Constitution intended to restore reductions in appropriations made pursuant to a declaration of fiscal emergency as set forth in Section 10 of Article IV of the Constitution.

(2) for any bill or measure proposing to amend or revise the Constitution intended to restore reductions in appropriations made prior to the effective date of the measure adding this section, the Legislature must make a finding that the reduction in the program or agency's funding was necessary in order to balance the budget or to address a mid-year deficit and that the expansion of the program or agency is limited to restoring the program or agency's funding to the level that existed prior to the reduction.

(3) for any bill or measure proposing to amend or revise the Constitution intended to restore reductions in appropriations made on or after the effective date of the measure adding this section, the Legislature must make a finding (a) at the time the reduction is made, that the reduction in the program or agency's funding is necessary to balance the budget or to address a forecasted deficit, and (b) at the time that funding to the agency or program is restored, that the expansion of the program or agency is limited to restoring the program or agency's funding to the level that existed prior to the reduction made pursuant to Article VI, Section 10.

(f) For the purposes of this Section and Sections 8(e) and 12(a)(2) of Article IV, and Section 3.5 of Article XVIII of the Constitution, "additional revenue" includes, but is not limited to, revenue to the State that results from specific changes made by federal or state law and that the state agency responsible for collecting the revenue has quantified and determined to be a sustained increase.

**SECTION ELEVEN. Section 10247.5 is added to Article 2 of Chapter 1 of Part 2 of Division 2 of Title 2 of the Government Code to read:**

SEC. 10247.5. Before a bill or measure is read for a third time in either house of the Legislature, the Legislative Counsel's Digest shall be amended to reflect the Legislative Analyst's determination if the Legislative Analyst determines that a bill or a measure proposing an amendment or revision to the California Constitution would:

(1) create a new state program or a state agency or expand the scope of an existing state program or state agency; and

(2) result either in a net increase in state costs or a net decrease in state revenue in excess of twenty-five million dollars (\$25,000,000) annually, as adjusted for inflation pursuant to the California Consumer Price Index, pursuant to subdivision (a) of Section 9145.

**SECTION TWELVE. Sections 13335.3 and 13335.5 are added to Article 3 of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code to read:**

SEC. 13335.3 (a) The purpose of performance-oriented budgeting is to inform policy, fiscal, and oversight decisions by the Governor and legislators; to focus managers, supervisors, and rank and file workers on achieving desired goals; and, to communicate to the public the value of public programs, progress toward desired results, and the choices available to improve the expenditure of public funds.

(b) Every state agency for which an appropriation has been made shall submit to the Department of Finance a complete and detailed budget at the time and in the form prescribed by the Department, setting forth all proposed expenditures and estimated revenues for the ensuing fiscal year.

(c) The budget submitted to the Department and proposed by the Governor shall use performance-oriented budgeting methods that make it clear to policymakers and the public the value and results of existing operations and proposed changes.

(d) A performance-based budget shall identify and update all of the following:

(1) The mission and goals of the agency;

(2) The activities and programs focused on achieving those goals;

(3) Performance metrics that reflect desired outcomes for existing and proposed activities and a targeted performance level for the following year;

(4) Prior-year performance data and an explanation of deviation from previous year targets; and

(5) Proposed changes in statute, including the creation of incentives or elimination of disincentives that could improve outcomes or hold down costs.

(e) The Governor's website shall provide a summary of each department's mission, goals, prior-year performance, and future year objectives.

SEC. 13335.5. (a) Not later than the 2014-15 fiscal year, and each fiscal year thereafter, the budget submitted by the Governor to the Legislature as required by Section 12 of Article IV of the California Constitution shall use performance-based budgeting methods.

(b) The amount of each appropriation made in the Budget Act for the 2014-15 fiscal year, and each fiscal year thereafter, for expenditure by any state agency shall be determined after considering performance-related data. The Budget Act introduced by the Governor also shall include performance standards, which may be amended by the Legislature in the same manner as amendments to appropriations in the Budget Bill. These standards shall be applied to each state agency and should allow the public and policymakers to understand the effectiveness and efficiency of each program.

(c) The Legislative Analyst's Office shall review the adequacy of performance metrics and progress toward targeted outcomes in preparing its review of the Governor's budget proposal.

(d) A task force consisting of the Director of Finance, the Controller, the Chairpersons and Vice Chairpersons of the Senate and Assembly budget committees, shall do all of the following:

(1) Review and comment on guidelines and procedures drafted by the Department of Finance to be used by state agencies in developing performance-based budgets pursuant to Sections 13320 and 13335.3. The guidelines shall describe how state employees will be involved in establishing and implementing performance standards.

(2) Review and comment on a training program developed by the Department of Finance for appropriate executive branch personnel to ensure the successful implementation of performance-based budgeting and management by state agencies.

(3) Review and comment on a plan prepared by the Department of Finance for systematically phasing in the requirements of Sections 13320 and 13335.3. The plan should ensure that by the 2012-13 fiscal year, performance-based budgeting methods are used in preparing, reviewing, and enacting one-third or more of total

General Fund expenditures as proposed in the Governor's Budget for that fiscal year.

(e) For purposes of this article, "state agency" means any agency, department or other entity of the executive branch of the state that is required to submit a budget pursuant to Article 2 (commencing with Section 13320).

**SECTION THIRTEEN. Chapter 1.5 (commencing with Section 16330) is added to Part 2 of Division 4 of Title 2 of the Government Code, to read:**

CHAPTER 1.5. NONRECURRING REVENUE

SEC. 16330. For purposes of this chapter and Section 12 of Article IV of the California Constitution, the following definitions apply:

(a) Except as provided in subdivision (b), "nonrecurring revenue" means General Fund proceeds of taxes received in a fiscal year that exceed the amount that the state expected to receive in that fiscal year and that are not expected to be received in future fiscal years.

(b) "Nonrecurring revenue" does not include the following:

(1) The revenue necessary to meet the state's obligation under Section 8 of Article XVI of the California Constitution, including any maintenance factor allocation for the current fiscal year required pursuant to subdivisions (d) and (e) of Section 8.

(2) The revenue necessary to balance the budget for the fiscal year in which the revenue is received, the absence of which would produce a deficit for that fiscal year.

(c) The term "one-time expenditures" means any of the following:

(1) Transfer by statute to the Budget Stabilization Fund;

(2) Appropriation for one-time infrastructure or other capital outlay purposes;

(3) Appropriation to retire, redeem, or defease outstanding general obligation or other bonded indebtedness of the State;

(4) Return to taxpayers within the current or immediately following fiscal year by a one-time revision of tax rates, or by rebates;

(5) Appropriation for unfunded liabilities for vested non-pension benefits for state annuitants;

(6) Appropriations necessary to meet the outstanding balance of the maintenance factor owed by the State pursuant to subdivision (d) of Section 8 of Article XVI.

SEC. 16331. Based on an analysis of the General Fund proceeds of taxes received through April 30 of each year, the Franchise Tax Board and State Board of Equalization shall identify each source of General Fund proceeds of taxes that is higher than the tax proceeds received from that source in the preceding fiscal year. The Franchise Tax Board and the State Board of Equalization shall provide this information to the Legislature, the Governor, the Controller, and the public by May 15 of each year.

SEC. 16332. By May 31 of each year, the Legislative Analyst and the Director of Finance, jointly, shall do all of the following:

(a) Estimate the amount of nonrecurring revenue deposited in the General Fund as of that date for the current fiscal year and provide this estimate to the Legislature, the Governor, the Controller, and the public. In determining this estimate, the Legislative Analyst and the Director of Finance shall consider, at a minimum, the Governor's estimate of nonrecurring revenue for the current fiscal year; historical growth in General Fund proceeds of taxes, including data provided by the Franchise Tax Board and the State Board of Equalization pursuant to Section 16331; economic conditions and projections; stock market trends, including data regarding capital gains and the exercise of stock options; and an evaluation of the revenue forecast for the prior fiscal year and the extent to which that forecast was accurate.

(b) Determine whether the amount of nonrecurring revenue received during the prior fiscal year was less than the amount of nonrecurring revenue for that fiscal year that was appropriated pursuant to subdivision (a) of Section 16333, and provide a certification of that determination to the Legislature, the Governor, the Controller, and the public.

SEC. 16333. (a) By June 25 of each year, based on the estimate provided pursuant to subdivision (a) of Section 16332, the Legislature shall estimate the amount of

nonrecurring revenue received for the current fiscal year. Except as provided in subdivision (b), nonrecurring revenues shall only be used for one-time expenditures and shall be appropriated in the Budget Bill for the ensuing fiscal year.

(b) If the amount appropriated pursuant to subdivision (a) in a prior fiscal year exceeded the amount of nonrecurring revenue received during that fiscal year, that excess amount may be deducted from the amount of non-recurring revenues available for appropriation in ensuing fiscal years pursuant to subdivision (a).

**SECTION FOURTEEN. Effective Date.**

Amendments to the California Constitution made by this measure shall become operative on July 1, 2011.

**SECTION FIFTEEN. Amendment.**

The statutory provisions of this measure may be amended solely to further the purposes of this measure by a bill approved by a two-thirds vote of each house of the Legislature and signed by the Governor.

**SECTION SIXTEEN. Severability.**

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, such finding shall not affect the remaining provisions or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable.

