17-0055 Amdt. # 1

VIA MESSENGER

January 16, 2018

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JAN 22 2018

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

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

Attention: Ashley Johansson, Initiative Coordinator

Re: Submission of Amendment to The California Schools and Local Communities Funding Act of 2018, No. 17-0055, and Request to Prepare Circulating Title and Summary

Dear Ms. Johansson:

On December 15, 2017, the proponents of a proposed statewide initiative titled "The California Schools and Local Communities Funding Act of 2018 ("Initiative") submitted a request that the Attorney General prepare a circulating title and summary pursuant to section 10(d) of Article II of the California Constitution. Pursuant to Elections Code section 9002(b), the proponents hereby submit timely amendments to the text of the Initiative. As one of the proponents of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,

Anthony Thigpenn, President
California Calls

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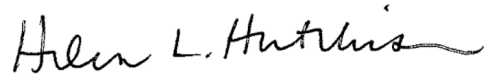

Helen Hutchison

VIA MESSENGER

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Sincerely,

Benjamin McBride

SECTION 1. Title

This measure shall be known as "The California Schools and Local Communities Funding Act of 2018."

SEC. 2. Findings

a) California's public schools, once the envy of the nation, are severely underfunded. Restoring funding to create world-class schools that educate the next generation of entrepreneurs and the workforce for tomorrow's economy is critical to California's future.

b) California has slid to 41st in the nation in per pupil spending, putting a severe strain on students, families, and teachers of our K-12 schools and community colleges.

c) California's local governments are also chronically underfunded, which has hurt the quality of local services including emergency responder services, parks and libraries, health clinics and trauma centers, housing construction and homeless services, roads and bridges, and local schools and community colleges.

d) A loophole in California's tax system has been the primary driver of this disinvestment by failing to reassess commercial and industrial real property on a regular basis.

e) A recent study by the University of Southern California has found that commercial and industrial property owners avoid over $11 billion in local property taxes.

f) Closing this loophole would raise billions in new funding for schools, and local city and county services to extend library hours, fix roads, expand health access, and re-open fire stations each year.

g) This loophole creates an unequal playing field for new and small businesses in California. Thousands of large commercial property owners are paying a small fraction of what many other businesses and property owners are paying.

h) A relatively small number of properties owned by the largest corporations and wealthiest investors get most of the benefits from this tax loophole. Almost 80% of this tax avoidance comes from only 8% of the properties worth $5 million or more.

i) The federal tax law recently enacted by Congress provides huge tax cuts to the same large corporations and wealthy investors that benefit from California's commercial property tax loophole. And unlike California individual taxpayers, all their state and local taxes will still be deductible from their federal taxes.

j) Much of the money pocketed through the existing loophole flows to out-of-state and foreign shareholders. Reassessing commercial property would ensure that money stays here in California.

k) Recent analysis demonstrates that reassessing commercial and industrial real property will have a net positive effect on California's economy, improving competition and helping new business and new investment which creates jobs.

l) Reassessing commercial property is critical to smart and environmentally safe local development. The failure to reassess commercial property has encouraged owners to keep land parcels vacant, exacerbating the housing crisis and promoting sprawl.

m) Reassessing commercial property at fair market value will close the loophole and still maintain California's property tax rates as among the lowest in the country.

n) By closing this loophole, California can restore funding to its underfunded schools, provide for high-need students, invest in local communities, level the playing field for business, and stimulate the economy. Given the consequences of the recently enacted federal tax law, closing this loophole is important to California's future.

SEC. 3. Purpose and Intent.

It is the intent of the people of the State of California to do all of the following in this measure:

(a) Provide for increased and stable revenues for schools, cities, counties, and local agencies by requiring that all commercial and industrial real properties are assessed at their full market value.

(b) Ensure that the portion of any new revenues going to local schools and community colleges is treated as new revenues that are in addition to all other funding for schools and community colleges, and is allocated in a manner that benefits all schools and community colleges consistent with constitutional requirements to advance equity.

(c) Distribute to cities, counties and special districts any new revenues resulting from the implementation of this law in the same manner as other property tax revenues.

(d) Provide funding for infrastructure through faster payment of current bonded indebtedness on the property tax.

(e) Preserve in every way Proposition 13's protections for homeowners and for rental residential properties. This measure only affects the assessment of taxable commercial and industrial real property.

(f) Provide small commercial real property owners owning and operating their business on their property an exemption that ensures stability for their business.

(g) Make no change to existing laws affecting the taxation or preservation of agricultural land.

(h) Assist businesses, whether they own or rent their place of business, by reducing the business tangible personal property tax on equipment and fixtures for each business by exempting $500,000 of that property from taxation, and by eliminating this tax for small businesses with 50 or fewer employees. This would eliminate the tax on equipment and fixtures for about 90 percent of all California businesses. The Legislature would be prohibited from lowering this exemption but would be authorized to increase it.

(i) Require the Legislature to provide for the phase-in of the assessment of under-assessed commercial and industrial real properties to give county assessors time to effectively implement the new law.

(j) Require the Legislature to provide owners of under-assessed commercial and industrial real properties time to meet their obligations under the law by phasing in assessment increases resulting from the initial implementation of this law.

(k) Make sure schools, community colleges, counties, cities, and special districts are appropriately spending any new revenues they receive from this measure by requiring that new revenues and their expenditure be publicly disclosed.

(l) Ensure that the General Fund and other funds of the State are held harmless by reimbursing the State for reductions in personal income tax and corporation tax revenue caused by the deductibility of the property tax.

SEC. 4. Section 8.7 of Article XVI of the California Constitution is added to read:

SEC. 8.7. (a) The Local School and Community College Property Tax Fund is hereby created in the State Treasury, to be held in trust, and is continuously appropriated for the support of local education agencies as that term is defined in section 421 of the Education Code as that statute read on January 1, 2018, and for the support of community college districts. The moneys deposited in the Local School and Community College Property Tax Fund shall be held in trust for schools, and shall be distributed pursuant to the local control funding formula for local education agencies and other distribution formulas for community college districts as these formulas were operative on January 1, 2018, or pursuant to any subsequent modification of the formula that provides for funding, as provided by statute, for local education agencies and community college districts. Basic aid districts as defined in section 41544(c) of the Education Code, necessary small schools as defined in section 42283(a) and necessary small high schools as defined in section 42285(a) of the Education Code shall receive for each high-need student, as designated by the local control funding formula, an amount of funding equal to the average per-pupil funding calculated by dividing the total funding available for allocation to local education agencies in the Local School and Community College Property Tax Fund by the statewide K – 12 attendance. For these districts and schools, these funds shall be used to support services for high-need students. For purposes of this subdivision high-need student shall have the same meaning as unduplicated pupil as defined in section 42238.02(b) of the Education Code.

(b) Notwithstanding any other law, the moneys deposited in the Local School and Community College Property Tax Fund shall not be subject to appropriation, reversion, or transfer by the Legislature, the Governor, the Director of Finance, or the Controller for any purpose other than those specified in this section, nor shall these revenues be loaned to the General Fund or any other fund of the State or any local government fund.

(c) Moneys allocated to local education agencies, as that term is defined in section 421 of the Education Code as that statute read on January 1, 2018, and to community college districts from the Local School and Community College Property Tax Fund shall supplement, and shall not replace, other funding for education. Funds deposited into the Local School and Community College Property Tax Fund and allocated from the Local School and Community College Property Tax Fund shall not be part of "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes" for purposes of paragraphs (2) and (3) of subdivision (b) of Section 8 of this Article or for purposes of Section 21 of this Article. Except as provided in subdivision (c) of Section 8.6 of this Article, revenues generated by Section 2.5 of Article XIII A shall not be deemed to be General Fund revenues which may be appropriated pursuant to Article XIII B for purposes of paragraph (1) of subdivision (b) of Section 8 of this Article, nor shall they be considered in the determination of per capita General Fund revenues for purposes of subdivisions (b) and (e) of Section 8 of this Article.

(d) Revenues generated by Section 2.5 of Article XIII A shall not be deemed to be General Fund proceeds of taxes that may be appropriated pursuant to Article XIII B for purposes of Section 20 or Section 21 of this Article.

SEC. 5. Section 8.6 of Article XVI of the California Constitution is added to read:

SEC. 8.6. (a) The county auditor shall annually determine the additional revenue in the county resulting from the application of the tax rate specified in subdivision (a) of Section 1 of Article XIII A and the application of Section 2.5 of Article XIII A pursuant to a methodology prescribed by the Legislature by statute.

(b) After transferring the necessary funds pursuant to subdivisions (c) and (d), the additional revenue resulting from the application of Section 2.5 of Article XIII A shall be allocated and transferred as follows:

(1) First, to the Local School and Community College Property Tax Fund created pursuant to Section 8.7, in an amount equal to the school and community college share of property taxes as determined pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code, as that chapter read on January 1, 2018.

(2) Second, among cities, counties and special districts pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code, as that chapter read on January 1, 2018.

(c) The Franchise Tax Board shall determine the reduction to the General Fund and any other affected state fund of revenues derived from the taxes imposed by the Personal Income Tax Law (Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code) and the Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code), as those laws read on January 1, 2018, due to the deduction of any net increase in property taxes resulting from the implementation of Section 2.5 of Article XIII A and subdivision (a) of Section 3.1 of Article XIII. The amount of reduction as determined by the Franchise Tax Board shall be transferred to the General Fund and any other affected state fund prior to the allocation specified in subdivision (b). For purposes of making the determinations required by Section 8 of this Article, the amount transferred to the General Fund pursuant to this subdivision shall be deemed to be General Fund revenues which may be appropriated pursuant to Article XIII B and General Fund proceeds of taxes appropriated pursuant to Article XIII B, and shall be included in the calculation of per capita General Fund revenues. The amount transferred pursuant to this subdivision shall for each fiscal year be apportioned among the counties in proportion to each county's contribution to the total additional revenue resulting from the application of Section 2.5 of Article XIII A determined for all counties.

(d) Each county or city and county shall be annually compensated for the actual direct administrative costs of implementing Section 2.5 of Article XIII A as identified by the board of supervisors of the county or city and county consistent with statutes identifying those costs. The board of supervisors of the county or city and county shall identify the annual direct administrative costs of implementing Section 2.5 of Article XIII A. The Legislature may determine by statute what constitutes actual direct administrative costs for purposes of this subdivision.

(e) All local education agencies, community colleges, counties, cities and counties, cities, and special districts that receive funds from the revenues generated by Section 2.5 of Article XIII A shall publicly disclose for each fiscal year, including in their annual budgets, the amount of property tax revenues they received for that fiscal year as the result of Section 2.5 of Article XIII A and how those revenues were spent. This subdivision shall not apply to funds transferred pursuant to subdivision (c) of this section.

SEC. 6. Section 2.5 of Article XIII A of the California Constitution is added to read:

SEC. 2.5. (a) (1) Notwithstanding Section 2, for the lien date for the 2020-21 fiscal year and each lien date thereafter, the "full cash value" of commercial and industrial real property that is not zoned for commercial agricultural production or otherwise exempt under the Constitution is

the fair market value of that property as of that date, except as provided by the Legislature pursuant to subdivision (b).
(2) Paragraph (1) shall not apply to residential property as defined in this section, whether it is occupied by a homeowner or a renter. Residential property as defined in this section shall be assessed as required by Section 2 of this Article. Paragraph (1) shall also not apply to real property used for commercial agricultural production as defined in this section. Real property used for commercial agricultural production as defined in this section shall be assessed as required by Section 2 of this Article.

(b) The Legislature, after conferring with county assessors, shall provide by statute for the phase-in of the reassessment of commercial and industrial real property as required by paragraph (1) of subdivision (a). Any such phase-in shall provide for reassessment of commercial and industrial real properties commencing with the lien date for the 2020-21 fiscal year and extending over two or more lien dates each fiscal year thereafter, in order to ensure a reasonable workload and implementation period for county assessors and taxpayers, including provision for processing and timing of assessment appeals. After the initial reassessment of commercial and industrial real property pursuant to this subdivision, such commercial and industrial real property shall be periodically reassessed no less frequently than every three years as determined by the Legislature.

(c) For purposes of this section:
(1) "Commercial and industrial real property" means any real property that is either used or zoned as commercial or as industrial property, or is vacant land not used or zoned for residential use or used for commercial agricultural production. For purposes of this paragraph vacant land shall not include land zoned for open space or the equivalent designation for land essentially free of structures, natural in character to provide opportunities for recreation and education, and intended to preserves scenic, cultural and historic values.
(2) "Mixed-use real property" means real property on which both residential and commercial or industrial uses are permitted.
(3) "Real property used for commercial agricultural production" means land that is used or zoned for producing commercial agricultural commodities.
(4)(A) "Residential property" shall include property used or zoned as residential property, including both single-family and multiunit structures, and the land on which those structures are constructed or placed.
(B) The Legislature shall provide by statute that any property zoned as commercial or industrial but used as long term residential property shall be classified as residential for purposes of paragraph (2) subdivision (a). For mixed-use real property, the Legislature shall ensure only that portion of the property that is used for commercial and industrial purposes shall be subject to reassessment as required by paragraph (1) of subdivision (a).

(d) Using the methodology prescribed by the Legislature pursuant to subdivision (a) of Section 8.6 of Article XVI, the percentage change in gross taxable assessed valuation within a city, county, or a city and county used to calculate an entity's vehicle license fee adjustment

amount pursuant to Section 97.70 of the Revenue and Taxation Code shall not include the additional assessed valuation that results from the application of this section.

SEC. 7. Section 3.1 of Article XIII of the California Constitution is added to read:

SEC. 3.1. (a) (1) For each taxpayer paying the tax on tangible personal property used for business purposes, either of the following shall apply:
(A) Except for a taxpayer subject to subparagraph (B), an amount of up to five hundred thousand dollars ($500,000) of tangible personal property per taxpayer is exempt from taxation.
(B) (i) For a taxpayer that is a business with 50 or fewer annual full-time equivalent employees in the state, all tangible personal property owned and used for business purposes is exempt from taxation.
(ii) A taxpayer shall certify annually to the assessor under penalty of perjury that the condition required by this subparagraph for exemption has been met and shall be subject to audit by the assessor as to that certification.
(2) Fixtures shall be included as tangible personal property subject to this exemption, but aircraft and vessels shall not be included.
(3) The Legislature shall not lower the exemption amounts provided by this subdivision or change their application, but may increase the exemption amount specified in subparagraph (A) of paragraph (1) consistent with the authority enumerated in Section 2 of this Article.

(b) (1) Real property owned by a taxpayer that operates a business or businesses on that real property shall not be subject to reassessment pursuant to Section 2.5 of Article XIII A if both of the following conditions are met:
(A) The owner-operator operates the business on a majority of the real property.
(B) The total fair market value of all property owned by the taxpayer in the state on which the business operates is less than two million dollars ($2,000,000). This amount shall be adjusted for inflation every two years commencing January 1, 2023, as determined by the Board of Equalization.
(2) Real property described in paragraph (1) shall be subject to reassessment pursuant to Section 2.5 of Article XIII A if either of the following occurs:
(A) The property is sold.
(B) The business or businesses no longer operate on a majority of the property.
(3) A taxpayer shall certify annually to the assessor under penalty of perjury that the conditions required by this subdivision have been met and shall be subject to audit by the assessor as to that certification.

SEC. 8. Section 15 of Article XIII B of the California Constitution is added to read:

SEC. 15. (a) For purposes of this article, proceeds of taxes shall not include the additional revenues generated by Section 2.5 of Article XIII A.

(b) For purposes of this article, appropriations subject to limitation of each entity of government shall not include appropriations of the additional revenues collected as a result of the implementation of Section 2.5 of Article XIII A.

SEC. 9. Effective Date.

This measure shall become operative on January 1, 2020, except that subdivision (a) of Section 3.1 of Article XIII shall become operative on January 1, 2021.

SEC. 10. Severability

The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase; word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.