

# California Healthcare Roadblock Removal Act

A constitutional amendment to exempt healthcare funding from the  
Gann Limit and Prop 98.

Enact Universal Healthcare for CA, Inc.



After opposing Prop. 13, Gov. Jerry Brown becomes a “born-again tax-cutter” and co-sponsors Prop. 4 with Jarvis and Gann in 1979.

**Howard Jarvis and Gov. Brown, NYT.**



**Paul Gann, Sacramento Bee.**



# Gann Limit allows \$12B in additional budget room 2018-19 - LAO

Proposition 4 (1979) added Article XIII B to the California Constitution.

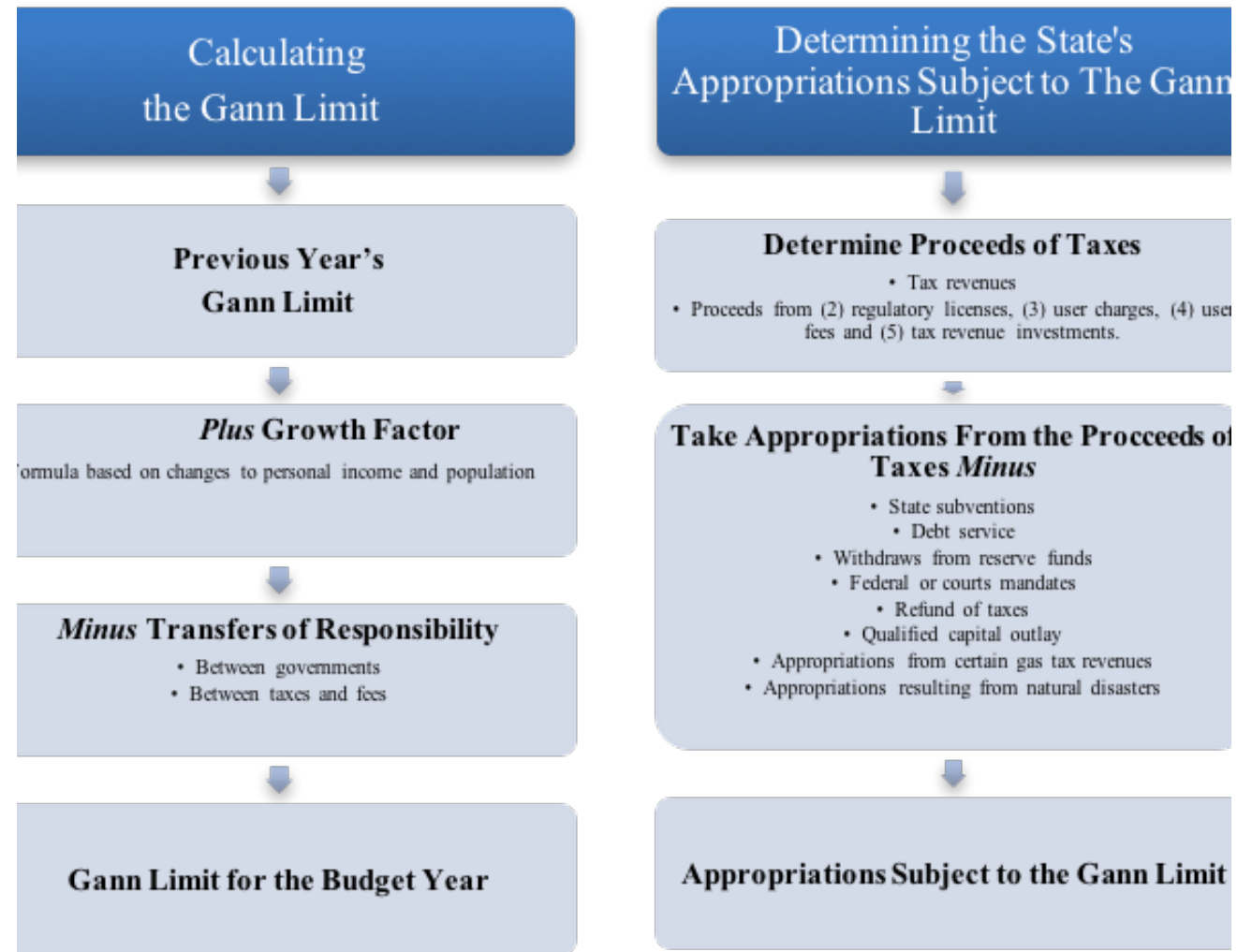


Table credit: SCOCAblog, Benjamin Gevercer

The LAO's Prop. 98 primer is given out to all new legislators. The funding formula in 2017 guaranteed \$75 Billion to K-14.

Figure 1

### Proposition 98 Basics

- ✓ **Over time, K-14 funding increases to account for growth in K-12 attendance and growth in the economy.**
- ✓ **There Are Three Formulas ("Tests") That Determine K-14 Funding.** Which test depends on how the economy and General Fund revenues grow from year to year.
  - **Test 1—Share of General Fund.** Provides 39 percent of General Fund revenues. This test has not been used since 1988-89.
  - **Test 2—Growth in Per Capita Personal Income.** Increases prior-year funding by growth in attendance and *per capita personal income*. Generally, this test is operative in years with normal to strong General Fund revenue growth.
  - **Test 3—Growth in General Fund Revenues.** Increases prior-year funding by growth in attendance and *per capita General Fund revenues*. Generally, this test is operative when General Fund revenues fall or grow slowly.
- ✓ **Legislature Can Suspend Proposition 98.** With a two-thirds vote, the Legislature can suspend the guarantee for one year and provide any level of K-14 funding.

Articles XIII B and XVI (Sections 8 & 8.5) have been overridden by voters six times.

- Proposition 98 (1988)
- Proposition 111 (1990)
- Proposition 10 (1998)
- Proposition 1A (2004)
- Proposition 52 (2016)
- Proposition 56 (2016)

# Popular Counter-Arguments

- “We can just ignore Gann and Prop. 98.”  
Good luck with the lawsuit by HJTF and CTA. Gov. Brown himself backed down on his “nowhere money” interpretation in 2017.
- “Just put Gann and Prop. 98 exclusions into a bill.”  
The California Constitution can only be overridden with a ballot measure.
- “Premiums are like Snickers bars (user fees).”  
User fees must provide a tangible service, such as bridge toll or vehicle license fee, etc. To further this distinction, disability premiums are explicitly exempted in XIII B Sec. 8(a).

# What about Cap-And-Trade?

- Auction proceeds are not a tax. A tax is a compulsory payment where the payer receives nothing of value. CAT program auctions do not fit in this category because the buyer receives something of value in a marketplace exchange. Furthermore, purchasing a CAT permit is voluntary, while taxes are compulsory.
- Auction proceeds also cannot be classified under any of the other government proceeds listed in Article XIII B. Auction revenues are not an excessive regulatory license. A regulatory license is a formal approval allowing an entity to conduct a regulated activity. Auction proceeds could possibly be categorized as a type of regulatory license: a permit conveying the privilege to pollute greenhouse gas. But the Gann Limit only includes “excessive” regulatory licenses. The reverse is true for CAT permits: the social cost of carbon is significantly *higher* than the CAT auction price. And the auction price fluctuates according to market forces. Thus, it is impossible to determine if the price a company pays for a pollution permit is excessive.
- CAT auction proceeds do not have the characteristics of a user fee or user charge, because these proceeds are a permit to conduct a regulatory activity, rather than a payment to offset the cost of a government service. Instead, CAT provides the state with revenue based on the sale of a valuable commodity: a property right to emit greenhouse gas pollution. Companies purchase this right voluntarily to mitigate the impact of the purchaser’s business operations.
- CAT revenue is unlike any revenue source the state has previously collected. Because CAT revenue does not fit within any of Article XIII B’s textual categories, the state should not be required to include that revenue when calculating the Gann Limit.
- Cap-and-trade auction proceeds are nowhere mentioned in the ballot pamphlet for Proposition 4; obviously, they had not been invented yet. Cap-and-trade proposals did not exist until a decade after voters approved the Gann Limit. Voters cannot anticipate new forms of revenue. The 1979 voters aimed their fiscal policymaking power only at limiting the state’s taxing and spending. Because the Gann Limit’s authors and voters could not have anticipated (either in fact or as a matter of law) CAT program revenue, there is no basis for inferring an intent to include what would have been imaginary money at the time.
- Source: **How the Gann Limit Interacts with Cap-and-Trade** by Benjamin Gevercer · January 8, 2018 SCOCAblog

“In short, rather than trying to devise a clever — and likely counterproductive — way to avoid going to the ballot, single-payer advocates would be well-advised to ask California voters to remove the key constitutional obstacles to the implementation of a single-payer system.”

**Can California Implement a Single-Payer Health Care System Without Going to the Ballot?**

- Scott Graves, California Budget & Policy Center