

KC Fiscal Focus: Summary and Analysis of the Recommendations of the Think Long Committee

[By David Kersten](#)

[Kersten Communications](#) has completed a summary and analysis of the key recommendations put forward by the [Think Long Committee](#).

On November 21, after a year of deliberations, the Think Long Committee unveiled a package of reforms that are intended to update and modernize California's broken system of governance.

The 14-member Think Long Committee was assembled and funded by billionaire [Nicolas Berggruen](#). The creation of the committee was announced in October 2010 and was tasked with constructing a package of constitutional reforms that are designed to break the current political gridlock in California and make state government more responsive and efficient.

It included an array of wealthy corporate executives and political operators such as Google CEO Eric Schmidt, former Yahoo CEO Terry Semel, businessman Gerald Parsky, former Assembly Speakers Willie Brown and Bob Hertzberg, and former Governor Gray Davis, among others.

Overall, Kersten Communications was pleasantly surprised by the recommendations given the heavy business executive make-up of the committee and rumors that had been circulating about some of the recommendations that could be made by the committee. To view the report with the committee's recommendations [click here](#).

Perhaps most surprising is that the committee acknowledged that the Golden State needs additional tax revenues—to the tune of \$10 billion annually--to fund vital public services such as education, public safety and infrastructure, among other things. This consensus forged by the committee is a major departure from the current debate in the Legislature.

The range and depth of many of the recommendations also came as a welcome surprise, such as the far-reaching changes proposed to the state's initiative process, tax system, and economic development policy and administration.

The committee plans to take the ideas and translate them into ballot initiatives for the 2012 ballot. However, this process will require a closer examination and refining of many of the proposals into something that can ultimately garner majority voter support.

The following report presents a brief summary of the key recommendations followed by an analysis.

Revamp of State's Tax System to Raise \$10 Billion in Additional Revenues

The centerpiece of the committee's recommendations is a tax reform package that would raise an additional \$10 billion in annual revenues to fund the public sector. Given that the Think Long Committee is composed of primarily billionaires and millionaires, Kersten Communications believed that it was likely that the committee would propose cutting taxes on the rich as part of its package of reforms.

On the one hand, the committee proposes reducing the progressivity of California's tax system, something abhorrent to progressive Democrats, but on the other hand the committee proposed tax changes that would raise the additional \$10 billion annually for the public sector. This has set up an interesting political dynamic, whereby Democratic interests are not quite sure how to respond to the package.

Specifically, the committee proposes to broaden the sales tax base, flatten the personal income tax by removing the top brackets but reduce income taxes across the board, and reduce the corporate tax.

Summary of Specific Tax Changes Proposed:

► **Broaden the Sales Tax Base to include Services:** The committee proposes to extend the state sales tax to services but lower the rate slightly. The new state sales tax on services would be at a rate of 5-5.5% and apply to all services, to businesses as well as consumers, except for health care and education services. Current projections by the committee show that the rate will need to be 5 1/8% to achieve the revenue gains targeted in the initiative.

► **Reduce Deductions in Personal Income Tax (PIT), Increase Standard Deduction:** The Committee proposes to broaden the PIT tax base by reducing deductions and eliminating tax expenditures. The measure would eliminate most credits and all itemized deductions except for mortgage interest, property tax exemption, charitable contributions and the R&D credit. Taxpayers would receive an expanded standard deduction of \$45,000 for joint filers and \$27,500 for single filers, which would essentially take Californians who make less than these amounts off the income tax rolls.

► **Eliminate PIT Top Brackets, Consolidate Brackets to Two and Reduce PIT Taxes Across the Board:** The state's current PIT tax brackets would be reduced from the six brackets we have currently (which range between 1% and 9.3%) to two brackets of 2% and 7.5%. Under the revised structure, beginning in 2014 there would be no personal income tax on joint filers with incomes up to \$45,000, due to the standard deduction. A tax rate of 2% would be applied to income of joint filers up to \$95,000, and the 7.5% rate would apply to incomes above \$95,000 for joint filers. The 1% surcharge for mental health would remain on those with incomes over \$1 million, making the effective rate 8.5% for millionaires.

► **Low-Income Households Would Receive a Sales Tax Rebate:** Few details are currently publicly available on the amount of these rebates but they are said to be

significant and would offset most of the direct and indirect impact of the new sales tax on services on the average household.

► **Reduce Corporate Tax Rate from 8.84% to 7%:** The state’s corporate tax rate would be reduced from 8.84% to 7%. The Committee did not recommend the broadening of the corporate tax base or the elimination of any corporate tax expenditures.

► **Net \$10 billion in Increased Annual State Tax Revenues:** Initially, this new revenue would be used to start paying down the state’s “wall of debt” and provide funding for K-14 schools and higher education. Beginning in 2014-15, the Committee’s package would provide \$5 billion in additional funding for K-12 education, \$2.5 billion for higher education, \$1.5 billion for public safety, and \$1 billion to California cities in block grants.

Analysis of Committee’s Proposed Tax Changes: The most positive aspect of the committee’s tax proposals is that it acknowledges the need to raise additional revenues, while making California’s tax system more fair and equitable. A closer examination of the committee’s tax package reveals several positive elements, but also raises potential issues of concern.

► **Tax Changes Will Reduce State Revenue Volatility by Reducing Reliance on State’s Volatile Income Tax:** The major intent of the Committee’s tax changes were to reduce state revenue volatility which is responsible for huge swings in the amount of revenues the state collects—a boom and bust cycle characterized by huge windfalls in good economic times and steep revenue declines in tough economic times. “It’s the combination of lowering the top rate and broadening the base that in combination tames volatility,” said [Nathan Gardels](#), a senior advisor to the Think Long Committee. Gardels noted that in the 1950s only 11% of the state’s revenues came from the income tax and nearly 60% came from the sales and use tax. That situation is just the reverse today, with only about 22% coming from the sales and use tax, and 57% coming from the personal income tax, according to the Legislative Analyst’s Office. The committee’s recommendations would reverse this trend and provide a heavier reliance on the sales and use tax and less of a reliance on the personal income tax.

► **Extending Sales Tax to Services is Good Economics and Will Increase Tax Equity:** As a matter of economics and tax equity, it makes no sense to tax only tangible personal property sold in California but not tax services provided in the state. According to the Think Long Committee, since 1970 “the California economy has been transformed from a mainly manufacturing and agricultural economy to one increasingly dependent on services and information. Half of California’s \$2 trillion economy today is composed of services—none of it taxed.” This only serves to provide special tax treatment to certain sectors of the economy while placing the entire sales tax burden on other arbitrarily chosen sectors of the economy. The current system defies rational economics and is contrary to principles of tax equity.

► **Reducing PIT Tax Expenditures and Deductions Will Simplify Tax Code and Increase Tax Equity:** Generally, eliminating tax expenditures and deductions in the tax code will simplify the tax code and increase tax equity, which is a good thing. Some of these tax deductions such as the child credit and earned income tax credit help low income households but these appear to be more than made up for by other tax changes proposed by the committee.

► **Increasing Standard Deduction, Eliminating and Reducing Tax Brackets, Across the Board Tax PIT Tax Cuts Will Lower PIT Tax Burden for All Taxpayers, Particularly Lower-Income and Lower-Middle Income Households:** The various changes mentioned on the previous page will effectively move more families off the tax rolls and serve to reduce PIT taxes for nearly all categories of taxpayers. The committee's incidence analysis shows that there would be 0.6% or less added tax burden for any category and the top 5% of taxpayers would still pay 62% of all income taxes. Those earning \$45,000 and under would not pay any income taxes and the working middle class with incomes up to \$95,000 would pay only 2%.

Increases in taxable income under the current system move taxpayers into higher brackets much more quickly than the changes proposed by the committee. To illustrate, the current system taxes single taxpayers with taxable income of zero to \$7,316 at a 1% rate, taxable income \$7,316 to \$17,346 at a 2% rate, taxable income of \$17,346 to \$27,377 at a 4% rate, taxable income of \$27,377 to \$38,004 at a 6% rate, taxable income of \$38,004 to \$48,029 at an 8% rate, and taxable income of \$48,029 and over at 9.3% rate. The current standard deduction is \$3,637 for single taxpayers and \$7,274 for joint filers, which moves taxpayers into California's current income tax brackets relatively quickly compared to the changes proposed. Increasing the standard deduction to \$27,500 for single filers and \$45,000 for joint filers would allow many taxpayers to avoid paying income taxes on income that is currently taxed. These taxpayers would have to earn significantly more income to move into the proposed 2% bracket as well as the 7.5% bracket, which results in significant tax savings for large segments of taxpayers.

For example, a family with income of \$90,000, which would have paid \$1,449 in personal income taxes under the current system, would now pay \$832—a more than 40% reduction.

Key Issue #1: Should California Get Rid of Its Top Income Tax Brackets? The key issue with regard to the committee's tax proposal is whether California should get rid of its top income tax brackets. The current tax system includes top income tax brackets of 8% for single filers with taxable income between \$38,004 and \$48,029 and 9.3% for single filers with taxable income of \$48,029 and over, 8% for joint filers with taxable income between \$76,008 and \$96,058, and 9.30% for joint filers with taxable income over \$96,058.

The committee's proposed changes would consolidate and reduce these brackets to a top income tax bracket of 7.5% for joint filers with taxable income over \$95,000. California's current top brackets of 8% and 9.3% ensure that the state's income tax is

progressive and balances out the regressivity of the state's sales tax. Expanding the sales tax to services will serve to make the state's tax system more regressive, and the elimination of these two top brackets will further increase the regressivity of the state's tax system.

The Committee's recommendations state that sales tax rebates will be given to lower-income households but it will be important to examine exactly what the amount of these rebates are and whether they sufficiently counterbalance the increased regressivity introduced into the system mentioned above. Furthermore, the committee justifies the elimination of the state's top income tax brackets with the need to reduce revenue volatility in the system, but is it a worthwhile trade off to reduce volatility while reducing progressivity and tax revenue collected under the personal income tax?

Moreover, in recent decades income has been increasingly concentrated at the top and the personal income tax represents the only way to sufficiently tax this increased wealth.

As the chart on the next page illustrates, according to a new report by the Congressional Budget Office, for the 1% of the population with the highest income, average real after-tax household income grew by 275% between 1979 and 2007—more than four times the increase for the next largest income category, namely the increase of 65% for the 81st to 99th percentile income category.

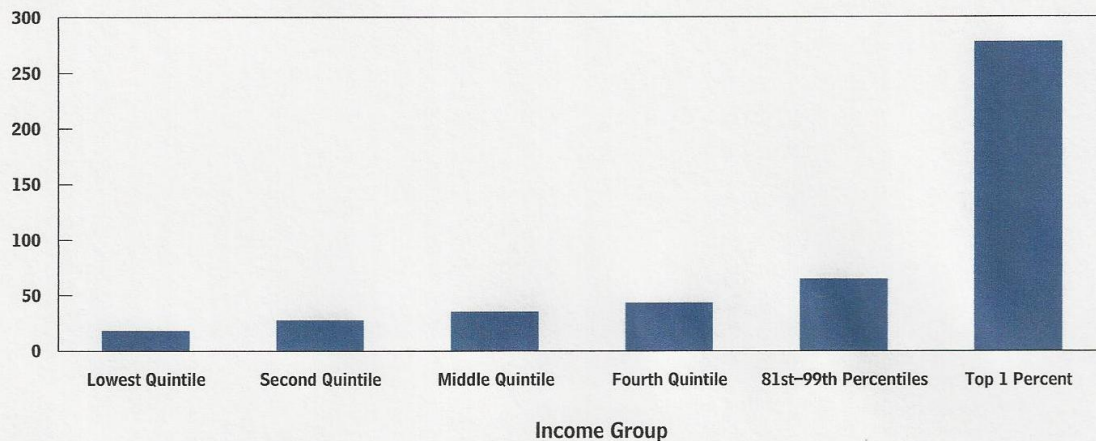
In California, between 1987 and 2009 the percent change in average adjusted gross income was 50.2% for the top 1% of the population, which far exceeded every other income category, according to the California Budget Project.

Most of the income categories experienced a decline in average adjusted growth income over the period in constant 2009 dollars. Specifically, between 1987 and 2009 the incomes of the top 1% increased by 50.2%, the top 10 percent increased by 29.5%, the top fifth increased by 21.4%, and all income categories below those realized decreases of -7.3% for the fourth fifth, -14.8% for the middle fifth, -17.1% for the second fifth, and -19.5% for the bottom fifth, according to the California Budget Project.

Summary Figure 1.

Growth in Real After-Tax Income from 1979 to 2007

(Percent)



Source: Congressional Budget Office.

Note: For information on income definitions, the ranking of households, the allocation of taxes, and the construction of inequality indexes, see "Notes and Definitions" at the beginning of this study.

As an alternative, the Committee and the public should consider adopting the simplified brackets but maintaining a top income tax bracket similar to 9.3% albeit at higher income levels.

Key Issue #2: Will the Sales Tax Rebates Granted to Low Income Taxpayers Sufficiently Counterbalance the Regressive Elements of Flattening the Income Tax and Extending the Sales Tax to Services?

To counterbalance some of the regressive elements of the committee's proposals, the committee has proposed offering sales tax rebates to low-income households to offset the direct and indirect impacts of the new sales tax on services. Few details and specifics have been provided on the amounts of these rebates. Kersten Communications has requested additional figures from the Think Long Committee to further assess the overall impact of the tax changes on low and middle-income taxpayers. The real question is whether these rebates will be sufficient to counterbalance the regressive impacts of extending the sales tax to services. And if they are sufficient for low-income taxpayers, middle-income taxpayers will still be paying additional percentages of their income on the sales taxes on services and should likely receive some additional relief as well. More information is needed to assess the overall impacts on the low and middle income taxpayers to determine if sufficient offsets will be provided.

Response from Think Long Committee: Nathan Gardels, senior advisor to the Think Long Committee, assured Kersten Communications that the committee's proposed tax changes will not make the state's tax system significantly more regressive and place an increased tax burden on low-income and middle income taxpayers. Gardels reiterated the figures from the committee's analysis showing that the impact of "all direct and indirect taxes shows an increase of not more than 0.6% in overall tax burden for any income category."

“In a strict sense that is slightly more regressive, but it is hardly a regressive tax system, especially since those who pay less use more of government services while the upper income [taxpayers] tends to consume more private services because they have more discretionary income,” Gardels wrote in an email to Kersten Communications.

“The sales tax rebate, greatly expanding the standard deductions, the reduction in sales tax on goods, the 2% personal income tax rate on the working middle class, doubling the homeowners and renters credit—all were designed precisely to prevent as much of a regressive impact as possible,” Gardels wrote.

Gardels said the study commissioned by the committee will be released in a couple of weeks.

Gardels also noted that “one key thing to keep in mind is that the sales tax on services is the most discretionary of all taxes, unlike a vehicle license fee, property tax or income tax. Polling has shown people would rather have their income tax reduced in all categories.”

Notable Omissions from Committee’s Tax Proposals: Perhaps what is most significant about the committee’s proposed overhaul of the state’s tax system is what is omitted.

► **Committee’s Recommendations Fail to Address State’s Loophole-Ridden Commercial Property Tax:** The most notable omission from the committee’s tax overhaul is the committee’s failure to address the state’s loophole-ridden commercial property tax. Kersten Communications and the [California Tax Reform Association](#) have done extensive research into the California commercial property tax and found that significant potential exists to close loopholes in the system that would raise significant tax revenues, while improving tax equity, provide for better land use decisions, and improving the state’s business climate. Additional reports documenting the failure of the state’s commercial property tax will be forthcoming but for a detailed examination of problems with the current system [click here](#) to review a report produced by the California Tax Reform Association with research assistance provided by Kersten Communications.

Recent reports produced by the Minnesota Taxpayers Association have shown that California is among the bottom 10 of states in its overall commercial property tax burden, despite its high land values. In addition, strengthening the state’s commercial property tax would provide state and local governments with a stable source of revenue that would be used to fund education, infrastructure, public safety and other vital public sector programs that would bolster the state’s economy.

It is no secret why the committee chose to leave this issue untouched. Commercial property tax reform involves tinkering with the commercial side of Proposition 13—widely regarded as a sacred cow in California politics despite all its shortcomings. In 2009, former state Assemblymember Fred Keeley proposed reforming the commercial

property tax as part of his blue proposal submitted under the Governor's Tax Commission on the 21st Century Economy. More recently, Los Angeles Mayor Antonio Villaraigosa proposed an examination and the need to enact commercial property tax reform.

► **Committee's Recommendations Fail to Reform California's Corporation Tax:**

The committee proposes reducing the corporation tax rate from 8.84% to 7% but does not propose eliminating any tax expenditures or closing other loopholes in the corporate tax. According to University of Connecticut Law Professor and tax expert Richard Pomp, the state's corporation tax currently provides an element of progressivity to the states tax structure and to some extent falls on nonresidents who exploit the California market and benefit from the state's public services and infrastructure. Pomp states that the California corporation income tax was once viewed as a model for other states, but has been emasculated and eviscerated through secret closed door deals.

The solution is to reinvigorate the corporate tax by eliminating loopholes and tax giveaways to corporations. The committee's recommendations fail to reform the corporation tax in any meaningful way despite great potential to improve the tax, while raising significant revenues for the state. For a summary of loopholes in the state's corporation tax that could be eliminated, view a 2005 report prepared by the California Tax Reform Association, with the assistance of David Kersten by [clicking here](#).

Creation of Citizens' Council for Government Accountability

Another key structural reform proposed by the Think Long Committee is the creation of the "Citizens Council for Government Accountability."

According to the committee's proposal:

The Think Long Committee believes it is not enough for elected political figures to pledge they will pursue good governance. To ensure accountability and to balance the short-term politics of Sacramento, good governance should also be entrusted to a body of citizens invested with the power to demand performance from their elected officials as well as the power to place initiative proposals, addressing reform in areas such as jobs and education, directly before their fellow Californians for approval.

The creation of such a council would require a constitutional amendment. This council would be an independent, impartial, and non-partisan body. It would be charged with developing a long-term vision for the state of California in an array of areas including education, infrastructure, environmental quality and a competitive business climate.

The council would have the power to place initiatives directly on the ballot. It would also be authorized to direct the Secretary of State to publish the Council's comments and positions on relevant proposed initiatives and referendums on the election ballot. The council would be granted the same subpoena power currently held by the Little Hoover Commission.

Council Creation, Composition and Rules: The council would be composed of 13 voting members and four ex-officio non-voting members. Nine members would be appointed by the Governor. Two members would be appointed by the Senate Rules Committee, one from each of the state's two largest political parties. Similarly, the Speaker of the Assembly would also appoint two members, one from each of the two parties. At least two of the Governor's appointees would be required to not be registered in either of the state's two largest political parties. The four ex-officio and non-voting members would include the Director of Finance, the State Treasurer, the State Controller and the Attorney General, whose duties would include the analysis of initiative proposals.

Terms would be limited to two six-year staggered appointments. A simple majority of the Council vote would be required to place statutory initiative proposals on the ballot and a two-thirds vote would be required to place constitutional amendment proposals on the ballot. Any member of the council could be removed by a two-thirds vote of the Senate for malfeasance or corruption.

The council would hold regular meetings to obtain public input on its policy proposals and also maintain a "social media window" for direct public consultation and participation. The Council would be guaranteed a continuous base funding appropriation of no less than \$2.5 million indexed to inflation each year.

Origin and Intent of Citizen's Council: Think Long Committee spokesperson Nathan Gardels said, "The Citizen's Council was somewhat modeled on the Virginia Council for the Future, with variations including, obviously, the ability to place initiatives on the ballot. In our group, this idea was particularly championed by Ron George, former chief justice of the California Supreme Court."

"We didn't want the body to be elected because the whole point is to insulate it from the short-term, special interest nature of politics. That is also why the rules of contributions to appointing officials are also strictly limited, to avoid patronage, and the terms cross political cycles to avoid the same thing," Gardels said.

Analysis of Proposed Council for Government Accountability: The creation of such a council would essentially introduce another branch of government to California's political landscape which is already mired by political gridlock, dysfunction and failed political institutions.

The California Legislature is widely believe to be dysfunctional and ineffective as an institution and is often bypassed through the initiative process. The creation of such a council as proposed would essentially let the Governor bypass the Legislature through the use of this new initiative process, given that the Governor appoints nine of the committee's 13 voting members and only nine members are needed to place constitutional amendments on the ballot and a simple majority of seven for statutory measures.

In short, the creation of such a council would establish a more centralized form of government for California, similar to the British parliamentary system of government, in contrast to California's current separation of powers which is modeled after the federal constitution. Power would be increasingly concentrated in the executive branch of government.

Under the committee's proposed change, the Governor would hold all the power, particularly given the 2/3 vote requirement for veto override and passage of the budget that raises revenues in the Legislature. The Governor would dominate the Legislative process and not need the Legislature to submit statutory legislation or constitutional amendment proposals directly to California voters. This would be a major departure from our current form of government which allows the Legislature to serve as a check on the power of the executive branch.

Stanford University Professor Roger Noll, an expert on California structural reform issues, said "The committee proposal will not fly as proposed because it essentially gives the Governor unilateral power to create ballot measures. So the real issue is whether something that is less unilateral (more partisan balance) would be a good idea. I don't think so," Noll said.

"My preference would be to allow the Legislature to put statutory initiatives on the ballot by less than a 2/3 majority if the Governor approves, and by 2/3 if the Governor vetoes," Noll said.

"Our intent was not to give more power to the Governor, but to the citizens. And, in the end, of course, nothing proposed by the Council would go into effect unless voted in by the public at the polls," Gardels said.

"The appointments are apportioned to the legislative leadership of both parties and the Governor—the statewide elected executive. This makes sense—the legislative leaders only represent their constituents, the Governor represents all voters and was elected by them as an expression of their interests. That makes him the most trusted person to make the most appointments," Gardels said.

"The real point here is that we want a body formed to comment on, advise and present initiatives with the public's interests in mind so you don't have to sort through the thicket of sping [new word for spam] and special interests at the usually overcrowded ballot box," Gardels said.

The committee appears open to addressing concerns raised about the Governor having too much influence in the appointment of council members.

"One way to remedy this, as was included in earlier drafts, is to assign three seats—one each for the League of Cities, the State Association of Counties and the master plan education institutions—to the Council. The Governor would appoint their designated

nominee, or draw from a pool of nominees they propose,” according to a rebuttal by the committee on concerns raised about the Citizen’s Council.

Alternative Approach: A major goal of the Think Long Committee, and its founder Nicolas Berggruen, is to provide for a government that is more long-term in its thinking, more effective, and more accountable to citizens.

California’s current system of government is mired in political gridlock and largely unaccountable to its citizens due to the legislative 2/3 vote requirement, a fragmented and unaccountable executive branch of government, and the existence of an initiative process that creates layers of government that cannot be changed except by initiative.

Kersten Communications believes the solution to this is not creating another layer of government that is essentially an agent of the Governor, even if it is referred to as a “Citizen’s Council.” We need to either fix the political institutions that we have to ensure that the state’s entire system of government functions better or we need to replace or transform the state’s current political institutions into new institutions that function better.

Option #1: Keeping state’s current system of government but improving its functionality: The first option is to keep the system of government that we currently have in California but improve its functionality. A review of the history of California government shows that California State government was initially modeled after the federal constitution when the state’s first constitution was drafted in 1849, and amended by constitutional convention in 1878-79.

In short, the system of government established by the California Constitution is a three-branch system of government—the executive, legislative and judicial branches—each independent branches of government with their prescribed powers (“separation of powers”) that are intended to serve as a check on the powers of the other branches of government (“checks and balances”).

The introduction of the initiative process in 1911 upset this three branch system of government and introduced a fourth branch of government into the California Constitution, which is largely unchecked by the other branches of government. The initiative process allowed any special interest with sufficient resources to bypass the other three branches of government and put statutory legislation or constitutional amendments directly on the ballot by collecting the requisite number of signatures.

Since 1911, the initiative process has allow the California Constitution to be amended and transformed in innumerable ways, of which many are inconsistent with any rational governing principle other than they were all approved by voters at one time or another.

[UC Berkeley Professor Bruce E. Cain](#) and [Stanford University Professor Roger G. Noll](#), two advisors to the 1996 California Constitution Revision Commission and authors of several widely cited articles and reports on structural reform, believe that institutional reform is key.

“If the cause, as argued here, is the death of a thousand cuts from a series of initiatives that have created a budgetary process that lacks accountability, the only solution is wholesale reform of California’s governance structure,” wrote Cain and Noll, in a 2010 article, titled “Institutional Causes of California’s Budget Problem” (35).

Option #1 is to retain this system of government but improve its functionality. This inevitably involves improving the four branches of government and their relation to one another. A discussion of what this would involve is beyond the scope of this analysis but has been discussed in greater detail in another Kersten Communication publication that is available by [clicking here](#).

In a nutshell, the state would have to strengthen and improve the functioning of each of the four political institutions. For example, for the Legislative branch this would require changing the 2/3 vote requirement and allowing the Legislature to provide some check on the initiative process since it is largely held accountable for the failure of the initiative process to provide workable public policy. For the executive branch, this would involve consolidating the constitutional offices as proposed by the Constitution Revision Commission in the 1990s. Initiative reform would also be required as will be discussed later.

Option #2: Significantly Alter or Replace California’s Current Form of

Government: The second option would be to significantly alter or replace California’s current four branches of government. This could involve eliminating or consolidating one or more of the state’s branches of government.

Democratic governments are usually assessed according to their degree of centralization of power. The United States was established as a republican form of government that was more decentralized in its earlier years and has become more centralized in the modern age. Similarly, California government was more decentralized in its early years and its political power has become more and more centralized in state government, as opposed to local government, since the advent of the initiative process and further accelerated by the passage of Proposition 13.

Reform could involve moving to a parliamentary form of government, such as the British model, where power is more centralized. Centralizing political power is normally considered to be more appropriate when the governed entity is more politically homogenous or similar.

On the contrary, recent publications, such as the [New Political Geography of California](#), have provided convincing evidence that California’s electorate has become more heterogeneous. Given these facts, it would make more sense to decentralize power from Sacramento, devolving power to the local levels of government. This is something advocated by the Think Long Committee, but few concrete recommendations or policy proposals have been put forward.

A more detailed discussion of the justification and options for this is beyond the scope of this analysis but is merely intended to illustrate this as an alternative option to option #1 that should be considered.

Initiative Reform

The Think Long Committee has proposed a series of reforms that would significantly alter the state's initiative process.

Summary of Initiative Reforms:

► **Pay-Go Funding Required for Initiatives:** The committee's proposals would require proponents of legislation or initiatives costing more than \$25 million to include provisions sufficient to credibly establish how the cost of the measure would be paid for. For example, an initiative that required new spending for park operation could include a provision increasing vehicle license fees. "If an initiative measure is determined to cost more than \$25 million, after considering the proposed offsets, it would not be placed on the ballot," according to the committee report. An exception would be made for legislative bond measures.

► **Legislative Review of Initiatives:** The committee proposes a constitutional amendment to allow the Legislature to review pending initiative proposals and fix flaws or propose an alternative version, contingent upon final approval by the proponents of the initiative measure. "The Committee is also generally supportive of a Constitutional Amendment that would allow the Legislature to amend an initiative after adoption by the voters, in a manner consistent with the objectives of the initiative," states the Committee report. The Committee proposes to amend Article VI, Section 10, subdivision (c) of the California Constitution to read: "The Legislature may amend or repeal referendum statutes. It may amend an initiative statute by another statute in a manner that furthers the purpose of the initiative, and may otherwise amend or repeal an initiative statute by another statute that becomes effective only when approved by electors..." The Committee has not publicly suggested language to make the first change, providing for alternative initiatives.

► **Increase in the Number of Signatures Required to Qualify an Initiative Measure, Provide for Electronic Signature Gathering, Extend Time Period for Collection of Signatures from 150 Days to 365 Days:** The Committee proposes that the number of signatures required to qualify an initiative measure should be based on five percent of registered voters eligible to cast ballots in the last gubernatorial election in the case of statutory changes, and eight percent in the case of proposed constitutional amendments. Current law requires the collection the signatures of five percent of voters that actually cast ballots in the last gubernatorial election for statutory changes, and eight in the case of proposed constitutional amendments. This would have the effect of significantly increasing the number of signatures needed to qualify an initiative measure.

To illustrate, in the November 2010 gubernatorial election only 10.3 million of the state's 17.3 million registered voters actually cast ballots—some 60% of voters. Thus, the committee's proposal would increase the base upon which the signature thresholds are calculated from 10.3 million to 17.3 million voters—translating into nearly a 70% increase in the number of signatures required, assuming the November 2010 as a base year. According to the California Secretary of State's Office, the total number of signatures required for initiative measures is currently 504,760 and 807,615 for constitutional amendment changes. The Committee's proposed thresholds would increase these thresholds to roughly 858,000 signatures for statutory measures and 1.4 million for constitutional amendment changes--a sizeable increase.

"The Committee also supports electronic signature gathering if the Secretary of State can credibly verify these signatures," states the committee report. Lastly, the committee supports legislation to extend the time period allowed for collection of signatures from 150 days to 365 days.

► **Allow Ballot Measures that Amend the Constitution in General Elections Only:**

"The Committee supports the principle that amendments to the Constitution should be submitted to the electorate only in general elections, where there is a likely turnout of voters higher than at primary elections," states the report. It is not clear from this language about whether the Committee actually intends to change this or if it is just supportive of such a change.

► **Increased Transparency of Contributions by Proponents/Opponents:** The committee also proposes provisions to increase transparency of the initiative process to provide voters with better information on who an initiative's proponents and opponents are. "The Committee proposes requiring the Secretary of State to include in ballot pamphlets a list of the five top contributors of \$50,000 or more in an initiative campaign (both in support and in opposition), and to provide the total amount of their contributions," states the committee report. In the months following publication of the pamphlet, the Secretary of State would be required to update this information regularly on its website.

Analysis of Committee's Proposed Initiative Reforms: The committee's proposed initiative reform package is substantial and would represent a vast improvement to the state's current initiative process.

In short, the changes would make it more costly and harder to qualify initiative measures, and also serve to deter initiative proponents from using the initiative process as an end around the Legislature. In particular, the pay-go requirement would deter many initiatives from being filed and serve as an incentive to proponents to reduce initiative costs because they would have to specify how they would be paid for.

Generally, academics and constitutional reform experts believe that it should be made harder to qualify initiative measures, which is the result of the committee's proposals.

On the other hand, some conservative academics feel differently because they see the initiative process as a way to circumvent the Democratic-controlled legislature.

“Right now you can change the rules of the game as Proposition 13 did, with only 50% plus one person. Most political scientists say if you are going to change the rules of the game that should be hard, you should not make that too easy because that is going to mess things up often,” said [Henry E. Brady](#), professor of public policy and Dean of the Goldman School of Public Policy at the University of California at Berkeley, during a budget forum hosted by the university in 2009. “Most political scientists, including all that I know, say this is just backwards. We got it backwards,” Brady said.

“I do place high priority on initiative reform, but more as a means for stopping more damage in the future. I do not see fixing the past errors as very likely,” said Roger Noll, in an email to Kersten Communications.

Most constitutional reform experts support enacting a “pay-go” provisions for initiatives because it would provide for more responsible budgeting and serve as a deterrent to placing initiatives on the ballot that cannot be easily paid for.

“The easiest fix is that all initiatives must be self-financing: expenditure increases must be paired with tax increases or cuts in other programs, and tax cuts must specify what expenditure(s) will be cut. This requirement would make initiatives far more difficult to pass and hence less attractive to interest groups as a means for getting around the legislature,” said Stanford University Professor Roger Noll.

Most constitutional reform experts are generally supportive of legislative review of initiative measures as well. Other states provide for such as review and a similar reform reform was suggested by Mark Paul and Joe Mathews in their book [California Crack Up](#). Such a change was also recommended in the [1996 final report of the California Constitution Revision Commission](#).

Stanford University Professor Roger Noll provided the following comments:

“I think legislative review of initiatives and the power to amend them (perhaps after a waiting period) is a very good idea. One big problem with initiatives is that they lock in the state, making it difficult to respond to new information or changed circumstances. This plus a pay-as-you-go requirement are the two most attractive, politically feasible changes available.”

One other potential positive aspect of the committee’s proposed changes in extending the qualification period is that it would make it easier for grassroots citizen efforts to qualify measures for the ballot by using volunteer signature gathers.

Budget and Oversight Reforms

The Think Long Committee has also proposed a package of budget and oversight reforms that “aim to change the “budget culture” in Sacramento to focus” on long-term results and performance.

These reforms include:

Expanded Rainy Day Fund: “The Committee advocates the Rainy Day Fund as proposed in ACA 4 be included along with its other proposals on the ballot for November 2012, and not be delayed to 2014,” states the committee report. ACA 4, chaptered in 2010 as part of the 2010 budget deal, requires the approval of voters prior to implementation. The measure is currently scheduled to appear on the November 2014 ballot. This measure would increase the amount of potential savings in the state’s ‘rainy day’ fund from 5% to 10% of General Fund revenues. It would require 3% of the General Fund revenues to be deposited each year into the fund, except when revenues drop below last year’s budget, adjusted for population and inflation. The measure would limit the spending of the ‘rainy day’ fund to when state revenues drop below last year’s budget, adjusted for population and inflation, and other limited purposes such as a declared emergency. The measure is intended to limit spending and force the state to save for tough budget times created by economic downturns.

► **Increased Multi-Year Budgeting Requirements:** “The Committee is supportive of requiring the budget to be balanced over a two-year period, and of publication of revenue and expenditure estimates for the succeeding three years. Reform group California Forward has developed a proposal that effectively addresses these objectives that the Committee supports,” states the Committee report.

► **Legislative Oversight in Two-year Session:** The committee believes “a constitutional amendment is needed to require the Legislature to focus on budget oversight...to ensure that state programs are meeting their intended goals...The Committee proposes having the first year of the two-year session focus on regular session legislation, and the second on budget oversight and performance review, with only urgency legislation allowed. An exception would be made for legislation that passes its house of origin in the first year,” states the committee report.

► **Requirement that All Regular Session Legislation be in Print for Seven Days Prior to Passage in Either House:** “The Committee believes that oversight and accountability in the legislative process would be improved by requiring that all regular session legislation be in print for seven days prior to passage in either house,” states the committee report. A shorter period of three days would be required for the budget and trailer bills. Emergency legislation could still be enacted in a special session without meeting these requirements.

Analysis of Committee’s Budget and Oversight Reforms: Compared to some of the other changes proposed by the Committee, the changes with regard to budget and oversight are relatively minor. The rainy day fund measure is already scheduled to appear on the ballot. The problem with such measures is that they usually do not serve

their intended purpose because the legislature always finds a way around them, or ends up gutting them as it did with the Gann limit—a prior state spending limit. Generally, the Legislature needs more flexibility in dealing with the budget process, not less. Setting up arbitrary transfers to a rainy day fund, which represent a relatively small amount of money when compared to overall state spending, will not have a significant impact when it comes to closing multi-year structural budget deficits.

The increased multi-year budget requirements are a desirable change but relatively marginal.

Similarly, the increased legislative oversight provisions are marginal and not likely to significantly increase meaningful budget oversight.

“I do not think the problem with the legislature has much to do with being overworked. I do not think that this proposal [on legislative oversight] would have any material effect on anything,” said Roger Noll.

The change requiring a bill to be in print for seven days prior to passage, and three days in the case of the budget, would have a significant impact on legislative proceedings. This would have the effect of making it more difficult for the leadership to jam through major proposals in the dead of night or at the end of session. On the other hand, not acting is sometimes worse than passing a proposal that has been quickly “gutted and amended.”

Legislative 2/3 Vote Requirement Not Addressed: The committee failed to address the legislature’s 2/3 vote requirement for the passage of a budget that includes tax increases or any legislation that increases tax revenues. Most academics agree that California’s “budget culture” cannot be changed without addressing this vote requirement.

Kersten Communications has written extensively on the importance of this change in the past. Click on the links below to view past KC reports.

--[“California Constitutional Reform Experts Reach Common Ground on Reform Options for California,”](#) KC Fiscal Focus, June 2011.

--[“CA Republican Party Does Not Govern and Only Serves to Obstruct Governance by Democratic Majority, Devolution of CA Republican Party Provides Mandate for Lowering 2/3 Vote Requirement,”](#) KC Fiscal Focus Report, March 2011.

--[“Summary of Benefits and Costs of California’s 2/3 Vote Requirement for Taxes or a Budget With Increased Tax Revenues,”](#) KC Fiscal Focus Report, March 2011.

Additional Changes Proposed by the Committee

The Think Long Committee has proposed a number of additional changes that Kersten Communications is still reviewing. The changes discussed in this memo were believed to be the most significant and most pressing changes to analyze.

The committee has also proposed amending the California Environmental Quality Act (CEQA) and has submitted a number of proposals on education reform, infrastructure, job creation and economic development.

Kersten Communications will continue to monitor the development of these proposals and likely provide analyses on them in the future.

Conclusion: Most Committee Recommendations Represent a Great Improvement on the Status Quo

Overall, Kersten Communications was generally impressed with the breadth and scope of the changes proposed by the Think Long Committee. We admire the work of the Think Long Committee and were impressed with the committee's ability to reach a degree of consensus on such a far-reaching package of reforms.

The committee's tax changes represent a great improvement from the changes proposed by the [Governor's Commission on the 21st Century Economy](#), which were essentially dead on arrival in the Legislature and not worthy of being submitted via initiative.

Overall, the committee's tax changes appear to be positive, but more investigation needs to be done to ensure that they do not significantly increase the regressivity of the state's current tax system. In response to requests from Kersten Communications, the committee has provided valuable and useful information that provides reassurance that this is not the case and provides evidence that the overall impact of the tax changes will indeed represent a great improvement in the state's current tax system.

The committee's decision to provide for an additional \$10 billion in additional revenues is significant and a major departure from the potential to raise those kind of revenues in the California Legislature with the existence of the 2/3 vote requirement.

Moreover, the committee's proposed initiative reforms are significant and are widely acknowledged by experts to represent a major improvement to the status quo.

Perhaps the most notable shortcomings of the committee's recommendations are its failures to address the 2/3 vote requirement, the state's loophole-ridden and ineffective commercial property tax, and the state's corporation tax. These issues continue to represent three of the most polarizing and contentious tax issues in California politics so it is not surprising that the committee was not able to achieve consensus on meaningful reforms to address these issues.

The Citizen's Council is an interesting concept to consider, but it is not clear that it is prudent to set up another political institution in a political landscape that is already

littered with failed political institutions. Kersten Communications believes it would make more sense to fix the political institutions that we have first, or replace them with new institutions, prior to creating yet another political institution that could further contribute to political gridlock and dysfunction.

Kersten Communications will continue to evaluate additional information as it is provided by the committee and provide independent and objective analysis of the committee's proposals.

We welcome the opportunity to be part of structural reform discussions and provide in-depth analysis of the reform measures submitted.

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This brief was written by David Kersten, president of Kersten Communications. Kersten has conducted extensive research into constitutional reform issues and specializes in public policy research and analysis, particularly tax, budget, business climate and fiscal issues.