Commission on the 21ST Century Economy

MEMORANDUM

Date: March 16, 2009
To: Commissioners
From: Staff, Commission on the 21st Century Economy
Re: Tax Bills Vote Key

This memorandum is in response to questions raised by the Commission regarding the manner in which Legislative Counsel determines whether a bill making tax changes requires a two-thirds or a majority vote.

Pursuant to Section 3 of Article XIII A of the California Constitution, Legislative Counsel determines that a bill is subject to the two-thirds vote requirement if the bill changes one or more state taxes such that the cumulative effect of the changes results in a net increase in state revenues either over the first full year long cycle or over the entire period (typically based on three years) over which these changes are operative.

Legislative Counsel determines that a bill is subject to the majority vote requirement if the cumulative effect of the changes in state taxes proposed by the bill would be neutral or decrease state tax revenues over both the first full year long cycle, as well as over the entire period (typically based on three years) of operation of those changes.

Article XIII A of the California Constitution was added to the Constitution by the passage of Proposition 13 by the voters in the June 6, 1978 election. The two-thirds vote requirement for certain measures increasing state taxes is part of a system of provisions providing real property tax relief.

Section 3 of Article XIII A of the California Constitution reads as follows:

> "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 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."

Evaluation of Changes in State Taxes:

Legislation is evaluated in terms of the combined operation of all of its provisions that result in any change in the rate, base, or method of computation of state taxes. The duration of the provisions making the changes in state taxes is also considered. Factors not considered include behavioral changes by taxpayers, provisions in pending legislation, as well as possible changes in the same tax based on future action by the Legislature. The first full year cycle begins when the bill first commences operation and ends at the close of the first full calendar, fiscal, or taxable year, as applicable, during which all of the tax changes in the bill are operative.

Revenue Estimates:

Legislative Counsel relies on the revenue estimates produced by the Franchise Tax Board and the State Board of Equalization and does not make its own revenue estimates. Legislative Counsel relies on available revenue estimates in determining the net revenue effect of changes for all the years in which the changes would be operative. State tax agency revenue estimates for tax legislation are typically made only for the first three years for which the legislation would be operative. Thus, the determination by Legislative Counsel regarding the revenue impact of a tax change for all years generally relies on revenue estimates for the first three years.

The full written opinion from Legislative Counsel on this matter accompanies this memo.