

## **SECTION 1. Findings and Declarations**

**The People of the State of California find and declare all of the following:**

**1. California, while currently a state, is also a nation in its own right, and it is in our best interest as Californians to act accordingly.**

### **Part 1: ON CALIFORNIA AS A NATION IN ITS OWN RIGHT**

**2. California has a history as a recognizable polity going back farther than the American Revolution.**

**3. California consistently ranks as one of the world's ten largest economies, and is a global leader in high technology, pharmaceuticals, entertainment, agriculture, sustainable energy, higher education, and many other fields.**

**4. Californians have a shared set of values, distinct both from those of Americans and other peoples, that contribute to our success:**

- (a) a focus on the future: not merely what was or what is, but what is possible**
- (b) respect for scientific knowledge, innovation, imagination, and higher learning**
- (c) a belief that people of all backgrounds are welcome and can live and work together in harmony, and enjoy equal rights**
- (d) a deep commitment to democracy in the strongest sense of the word**

**5. California is an influential and well-known actor on the world stage, particularly in our fight against climate change.**

**6. California's borders are not arbitrary lines on a map but reflect real physical geography.**

**7. California is tightly integrated economically and by water, electrical, and transportation infrastructure.**

### **Part 2: ON CALIFORNIA'S DIFFICULTIES WITH THE FEDERAL GOVERNMENT**

**8. California currently faces an openly hostile presidential administration which has already attacked California in the following ways:**

- (a) attempting to de-legitimize California's voting system**

(b) arbitrarily enforcing a broken immigration system that consigns more than two million Californians permanently to the shadows, and attempting to withhold billions of dollars from California's state and local governments in an attempt to strongarm them into enforcing this broken system

(c) threatening California's ability to work with the rest of the world in confronting the real and present danger of climate change

(d) creating uncertainty around free trade, particularly with California's three largest trading partners: Mexico, Canada, and China

(e) targeting California in a host of other policy areas, including health care, tax policy, marijuana, and offshore drilling.

9. However, these are merely symptoms of California's much longer-standing difficulties within the federal system, which transcend both a single president and a single party:

(a) federal ownership of more than 45% of California's territory, going back as far as statehood in 1850, and management of this land in ways that are often neither ecologically sound, economically valuable, nor respectful of local conditions.

(b) economically disadvantaging California by extracting a significantly larger share of federal taxes from California than it returns in spending in every year since 1986, and by allocating money which California needs for peacetime priorities to fund a needlessly expensive military, which has persisted through the start of the Cold War in 1947 to the present day. (Discussed in detail in Part 3, below)

(c) chronic underrepresentation of Californians in the United States' system of government, going back at least since California became the most populous state in 1962. (Discussed in detail in Part 4, below)

### Part 3: ON FEDERAL TAXATION AND SPENDING

10. For the past twenty years, California taxpayers have shouldered a significantly greater portion of federal taxation than is reflected in the percentage of federal spending Californians receive, generally between 80 and 90 cents on the dollar.

11. In essence, there are no federal dollars spent in California, only our own tax dollars, minus approximately 45 billion dollars annually to subsidize other states.

12. This picture is complicated somewhat by deficit spending at the federal level; however, debt incurred by the United States is not a gift to Californians but expected to be later repaid — presumably at a disproportionate rate.

13. Nor is the State of California's own public debt so poorly valued that California needs the United States' larger economic weight to weather economic recessions and

emergencies. In fact, California's economy is highly diversified and growing faster than the United States' economy as a whole.

14. Furthermore, the United States spends nearly 600 billion dollars a year on its military, more than the next seven countries combined. California taxpayers' share of this is more than 70 billion dollars annually.

15. In contrast, Canada, a country similar to California in population size and economic development, manages to defend a much larger land area and meet its international commitments while spending about 15 billion dollars a year. In essence, excessive military spending alone costs California taxpayers more than 55 billion dollars a year.

16. California is clearly willing and able to administer its own tax dollars. When federal and state spending is taken as a whole, nearly half of that is administered by state and local governments, with another sixth, mostly Social Security, disbursed according to a predefined formula.

17. There is nothing that would, in principle, keep Californians from better administering that sixth or the remaining third ourselves. For example, the federal government spends significant amounts of money on science and higher education, but California leads the world in those areas!

18. In sum, California's fiscal relationship with the United States costs Californians about one hundred billion dollars annually, that is, nearly the size of our state government's General Fund, while offering us nothing that we could not more readily do for ourselves.

#### Part 4: ON DEMOCRACY

19. California has practiced direct democracy since the adoption of the initiative in 1911, and is in fact the world's largest direct democracy.

20. While the initiative system presents its own challenges, there is no question that California practices democracy in the fullest sense of the word: where all adult citizens have the right to vote and have our vote counted, where all votes count equally, where the government must ultimately bow to the will of the people, and where fundamental reform to the system of government is not only possible but frequent.

21. Californians have enjoyed significant success in changing California by engaging in good faith with California's system of government and electoral system. It is tempting to believe that to change the United States, we need simply to do more of the same on a larger scale. However, this line of thinking runs up against some hard truths about the American system of government.

22. Californians are woefully underrepresented in the U.S. Senate. Though we comprise nearly one-eighth of the United States' population, we receive only one-fiftieth of the seats, that is, one-sixth the representation of the average American.

23. The Electoral College, while giving Californians a more proportionate share of representation than in the Senate, in practice reduces Californians' influence over the United States' choice of president to nearly zero. In fact, California's electoral votes have not been the deciding factor in a presidential race since 1916.

24. Californians do receive nearly equal representation in the House of Representatives. However our power is diluted by other states in two ways:

(a) partisan gerrymandering, which is practiced by the majority of states. As a result, though one major party earned slightly more than one percent more votes for its House candidates in the November 2016 election, it received ten percent more seats!

(b) use of the criminal justice system to permanently disenfranchise adult citizens, even after they have served their sentence. For example, in Florida, more than one-tenth of adult citizens are unable to vote.

25. California engages in neither of these undemocratic practices. In essence, California participates in good faith in a system which other state governments game.

26. These failings could be remedied by amending the United States Constitution, but again, this is a process where Californians have little say; California could provide only one of the 38 votes necessary to ratify such an amendment.

27. Thus, in engaging with the American system of government, Californians should see it for what it was designed to be, not a democracy in the modern sense of the word, but a means of harvesting the fruits of republican governance while at the same time protecting entrenched power. As abolitionist Frederick Douglass noted in his own struggles with the United States, power concedes nothing without a demand.

#### Part 5: ON WAYS FORWARD

28. If Californians wish to live in a democracy, we have three options:

(a) fundamental reforms to the American system of governance, including equal representation and an affirmative right of all adult citizens to vote

(b) significant autonomy within the United States for California, whereby decisions at the federal level have little impact on the lives of Californians

(c) California becoming an independent country

29. Paradoxically, the first of these options, while seemingly the most straightforward, is the one Californians can do least about, as it would require amending the United States Constitution.

30. In contrast, California could legally gain significant autonomy through a series of ordinary acts of Congress. If tradition and political pressure were not enough to keep the United States from later revoking this autonomy, it could be kept in place with contracts and other legal mechanisms. And transfers of federal land are clearly irrevocable.

31. The seemingly unthinkable, independence, could again be accomplished through either an act of Congress or a treaty. Even if it were not possible for Congress to voluntarily grant independence to a state, it is clear, under existing precedent, that Congress could grant independence to the bulk of California's territory, effectively reconstituting California as an independent country while allowing the United States to maintain the legal fiction of perpetual union.

32. The path to both autonomy and full independence is largely the same; for California to take stock of the leverage it has over the United States, and to use this leverage to negotiate for ever greater autonomy, culminating in a final settlement redefining California's relationship with the United States.

33. If at some point the United States does reform its system of government, Californians could choose at that time to abandon the pursuit of autonomy in favor of being equal participants in American democracy. Even if California had by then become independent, nothing would preclude it from seeking readmission as a state.

34. Thus, as Californians, we have much to gain and little to lose by pursuing autonomy.

## SECTION 2. Statement of Purpose

Therefore, the purpose of this measure is to put California on the path towards becoming a fully-functioning sovereign and autonomous nation, whether within continued association with the United States of America, or as an independent country.

## SECTION 3. Constitutional Amendments

SECTION 3.1. Section 1 of Article III of the California Constitution is amended to read:

Sec. 1. The State of California is an ~~inseparable~~ part of the United States of America, and the United States Constitution is the supreme law of the land.

SECTION 3.2. Article XXXVI is added to the California Constitution as follows:

### *ARTICLE XXXVI AUTONOMY AND INDEPENDENCE*

*Sec. 1. It is the intent of the People of the State of California that California become a fully-functioning sovereign and autonomous nation, whether within continued association with the United States of America or as an independent country, peacefully through negotiation with the federal government of the United States.*

*2. The Governor shall lead these negotiations, both:*

*(a) to continually gain greater autonomy from the federal government for California's State and local governments, and for its People.*

*(b) to negotiate the terms of a final settlement allowing California to become a fully-functioning sovereign and autonomous nation, not to take effect until adopted by the voters as a revision to this Constitution.*

*3. The governor shall regularly coordinate with California's Congressional delegation regarding these negotiations.*

*4. Other details of these negotiations may be provided by statute.*

*5. The People of the State of California call upon our state and federal elected officials:*

*(a) to support California in negotiations with the federal government, and to maximize its leverage in these negotiations.*

*(b) to help foster a sense of common identity and shared interests among all Californians that transcends the political divisions of the United States.*

*6. The People of the State of California call upon our state elected officials:*

*(a) to buffer Californians against chaos, dysfunction, and uncertainty at the federal level.*

*(b) to pursue reforms to California's system of government which would reasonably allow California to operate as an independent country, to the extent possible under the United States Constitution.*

*7. Sections 5 and 6 of this Article are advisory in nature and are meant solely to be enforced by the voters, at their own discretion.*

## SECTION 4. The Juan Bautista Alvarado Commission on Autonomy and Independence

SECTION 4.1. Chapter 11.3, “The Juan Bautista Alvarado Commission on Autonomy and Independence” is added to Division 1 of Title 2 of the Government Code as follows:

### *Article 1. Purpose*

*8849.1. There is in the state government the Juan Bautista Alvarado Commission on Autonomy and Independence, hereafter in this Chapter referred to as the “commission.”*

*8849.2. The intent of the People of California in creating the commission is to advise the Governor, the Attorney General, the legislature, and other elected officials as to how to help California become a fully functioning sovereign and autonomous nation, as described in Article XXXVI of the State Constitution.*

*8849.3. The commission shall advise and review on a general basis, not participate directly in negotiations with the federal government, nor meet in closed session with the Governor or other relevant persons to discuss sensitive and timely details of such negotiations. If such a body is necessary, it should be created by separate statute (see Section 4 of Article XXXVI of the State Constitution and subsection 8851.1 (f), below).*

*8849.4. The commission shall operate on a permanent and ongoing basis, to be disbanded or repurposed in conjunction with a constitutional revision altering California’s relationship with the United States (as described in subsection 2(b) of Article XXXVI of the State Constitution), or at the will of the voters.*

### *Article 2. Membership*

*8850.1. The commission shall be organized and constituted, and its members chosen to serve terms of the same duration and end time, in the same manner as the Milton Marks Commission on California State Government Organization and Economy (hereafter referred to in this Chapter as the “Little Hoover Commission”), as described in Sections 8501-8508.*

*8850.2. All initial appointments to the commission shall have been made within 90 days of this Chapter taking effect.*

### *Article 3. Powers and Duties*

*8851.1. The commission shall study and issue recommendations on the following:*

*(a) how the state of California can buffer its residents against chaos, dysfunction, and uncertainty at the federal level*

*(b) constitutional revisions and other structural reforms that would allow California's system of government to operate more like that of an independent country, using similar democratic countries as models*

*(c) how to address the real concerns of California residents who feel ignored by or left out of our current system of government*

*(d) California's fiscal relationship with the federal government, including federal funds collected from California taxpayers, federal expenditures in California, how those expenditures are administered, and how California could assume a greater role in their collection and administration*

*(e) other areas where California enjoys significant leverage over the federal government, or could gain such leverage*

*(f) statutory language and other details of how California might best conduct negotiations for autonomy and independence with the federal government*

*(g) latent forms of autonomy that California already has the legal authority to exercise but does not*

*(h) legal strategies that would allow California to gain additional autonomy through the court system, and to defend autonomy already gained*

*(i) forms of autonomy that California could reasonably demand from the federal government, given its leverage*

*(i) legal avenues that would allow California to make autonomy gained from the United States binding and durable, without requiring an amendment to the United States Constitution*

*(j) legal avenues that would allow California to become an independent country, without requiring an amendment to the United States Constitution*

*(k) how international law might help California achieve greater autonomy and/or full independence*

*(l) comparing the status quo against several feasible scenarios wherein California achieves greater autonomy, including full independence*

*8851.2. The commission shall publish one or more preliminary reports covering each of the topics in Section 8851.1 no later than one year after its first meeting.*

*8851.3. In carrying out its duties and responsibilities, the commission shall have the same powers granted to the Little Hoover Commission in Section 8541.*



*8851.4. The commission, on its own motion, may, for the purpose of making reports and recommendations on the topics described in Section 8851.1, examine in detail the use of federal funds administered by state or local government; funds, collected by state or local governments on behalf of the federal government, including (in aggregate) tax withholdings; and contracts and other binding agreements between state or local government and the federal government.*

*8851.5. The Governor shall submit to the commission, at least once in each calendar year beginning with 2019, a report regarding the progress of ongoing negotiations with the federal government. The commission may then request the Governor provide additional details, which the Governor shall supply within 30 days. The commission shall publish this report, to which it may make its own amendments, within 90 days of receiving the initial report from the Governor.*

*8851.6. The commission shall be adequately funded to perform its duties, and in no case shall the commission receive funding less than one one-thousandth of one percent of the General Fund in any fiscal year. (As described in Section 8503 of the Government Code, referenced by Section 8508.1, above, the members of the commission shall serve without compensation and receive only reimbursement.)*

#### *Article 4. Miscellaneous Provisions*

*8852.1. References in this Chapter to code enabling the Little Hoover Commission (sections 8501-8542) refer to the code as of January 1, 2017.*

#### **SECTION 4.2 Amendment**

The provisions of the legislation created by Section 4.1 may be amended by a two-thirds vote of the Legislature to further its purposes.

#### **SECTION 5. Severability**

If any provision of this measure, or any part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable.

#### **SECTION 6. Proponent Standing**

Notwithstanding any other provision of law, if the State, its government agencies, or any of its officials fail to defend the constitutionality of this measure following its approval by the voters, any other government employee, any proponent, or, in their absence, any citizen of this state shall have the authority to intervene in any court action challenging the constitutionality of this measure for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, or on discretionary review by the Supreme Court of California or the Supreme Court of the United States. The fees and

costs of defending the action shall be a charge on funds appropriated to the Attorney General, which shall be satisfied promptly.