

MEETING
STATE OF CALIFORNIA
CALIFORNIA PERFORMANCE REVIEW COMMISSION
GOVERNMENT REORGANIZATION

UNIVERSITY OF CALIFORNIA, DAVIS
1 SHIELDS AVENUE
DAVIS, CALIFORNIA

MONDAY, SEPTEMBER 27, 2004

10:00 A.M.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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Larry Vanderhoef, Chancellor

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Bill Hauck, Co-Chairperson
President, CA Business Roundtable

Joanne Kozberg, Co-Chairperson
Partner, CA Strategies

Patricia Bates, Assembly Member
California State Legislature

Jess "Jay" Benton, Executive Vice President
ABM Industries

Dale Bonner, Partner
Epstein Becker & Green, P.C.

James Canales, President & CEO
The James Irvine Foundation

Mike Carona, Sheriff
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David Davenport, Distinguished Professor
Pepperdine University

Joel Fox, President
Small Business Action Committee

Steve Frates, Ph.D.
Claremont-McKenna College

Russ Gould, President
The Gould Group

Irene M. Ibarra, Executive Vice President
The California Endowment

J.J. Jelincic, President
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University of California, Los Angeles

Beverly O'Neill, Mayor
City of Long Beach

Peter Taylor, Managing Director
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Leland Yee, Assembly Member
California State Legislature

ROLES OF BOARDS AND COMMISSIONS PANEL

Kevin Starr, Ph.D., University Professor of History
University of Southern California
State Librarian Emeritus

Robert C. Fellmeth, Executive Director
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Price Professor of Public Interest Law, UCD School of Law

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Michael Cohen, Director of State Administration
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Ted Gaebler, City Manager, City of Rancho Cordova
Co-Author, Reinventing Government

Jean Ross, Executive Director
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Fred Silva, Senior Advisor, Governmental Relations
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California Workforce Association

Art Pulaski, Executive Secretary-Treasurer
California Labor Federation, AFL-CIO

Willie Washington, Director of Human Resources
Safety and Health and Workers' Compensation
California Manufacturers and Technology Association

Office of Management and Budget and
California Tax Commission Panel

Gerald H. Goldberg, Executive Officer
California Franchise Tax Board

Lenny Goldberg, Executive Director
California Tax Reform Association

Bill Leonard, Member
Board of Equalization, District 2

Dave Tirapelle, Client Services Manager
Cooperative Personnel Services

Lois Wolk, Assemblywoman
California State Legislature

Larry McCarthy, President
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GOVERNMENTAL REORGANIZATION TEAM

Chon Gutierrez, Executive Director
Joan Borucki, Team Leader
Susan Hogg, Team Leader
Chris Reynolds, Team Leader

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1 P R O C E E D I N G S

2 COMMISSION CO-CHAIRPERSON KOZBERG: This is the
3 California Performance Review on Government Reorganization.
4 And to welcome us on the beautiful UC campus is Chancellor
5 Larry Vanderhoef.

6 CHANCELLOR VANDERHOEF: Thank you, Chair Kozberg.
7 I'm delighted to see all of you here, the Commission here
8 and, of course, everybody in the audience as well. And I'm
9 here on behalf of all of our students, and staff and
10 faculty.

11 So welcome all of you, Commissioners and people in
12 the audience, as well.

13 The students are just coming back, they trickle in
14 over the month of September, but the biggest dollop of
15 students came in over the weekend, it's all of those in the
16 dormitories, so they're here to welcome you as well.

17 I'm really pleased that the Commission has chosen
18 to hold its seventh and final hearing on our campus. It's
19 not quite the final, I know that there's going to be one
20 more at Irvine, a kind of summary.

21 This process, I think, is so important to the
22 State, and I'm sure you've realized it by now, as well, it's
23 a comprehensive examination that we haven't had in a long,
24 long time in the State. And we should always be looking at
25 government reform and we will have, today, several experts,

1 as I'm sure you will say more about a little bit later.

2 There are lots of players in this process and I
3 just want to begin by thanking them, because I think as a
4 State-funded organization, the University of California is
5 very grateful for this process. And I know it's not just
6 the Governor, but it was the Governor that did request it in
7 the first place, and that's extremely important. But then
8 staff wrote the report, Commissioners are examining the
9 report. Members of the public, like all of you out there,
10 are coming to be expert witnesses and commentators on the
11 report. All of that is so important to doing the best job
12 that we can.

13 This self-examination also stands as an example.
14 I think it has certainly had an effect on all of our
15 campuses in different ways.

16 We, at UC Davis, have taken a critical look at how
17 we operate and deliver services to the people of California,
18 and I'll come back to that in just a moment.

19 We developed a long-term strategic academic plan
20 with that solely in mind, how can we better serve the State
21 and the people of the State.

22 We also, as part of that process, quantified the
23 campus's economic contribution to the region and to the
24 State. In this particular area, this seven-county area, we
25 are, next to the State, the largest employer in this region,

1 we have 29,000 workers. And so, in addition to everything
2 that a university does, we are an important economic force
3 as well.

4 In addition, we were ranked 15th in the nation,
5 among all universities, when it comes to research support,
6 and those are dollars that come into this community,
7 somewhere between 400 and 500 million dollars worth.

8 It turns out, when you add it all up, that for
9 every dollar that's invested in the campus by the State of
10 California, we generate about five dollars back into the
11 economy.

12 And this same kind of data are available for all
13 of our campuses, it's what we all do within the University
14 of California.

15 Davis is unique in particularly ways. We are
16 often considered to be the campus of greatest breadth. I
17 don't think that's quite true, but it certainly is close to
18 being the truth. As far as professional schools go, we have
19 law, and we have medicine. We have veterinary medicine, the
20 only vet med school in the State, public vet med school,
21 there's a new private school just started recently, and we
22 are expanding down to San Diego. And we also have a
23 business school and a school of education.

24 So we cover, pretty much, those things that are
25 important to the State. In addition to all of this, we have

1 all of the undergraduate majors that you would expect.

2 Now, there's one thing especially that I wanted to
3 be able to say this morning and it has to do with Davis, and
4 our traditions, and really the traditions of the University
5 of California.

6 We are often referred to as a land grant
7 University, and I am always surprised at how few people know
8 what that means. It's very simple, the states and
9 territories, way back in 1862, received a grant of land,
10 that's where land grant comes from. And it's because the
11 federal government didn't have a lot of money at that time,
12 they weren't doing taxes quite like they're doing them
13 today, and so what they gave to each state and territory was
14 a grant of land. And they said, build a college, we don't
15 have enough college education. We have it only for the
16 landed gentry on the east coast and we need so much more if
17 this country is to become what it can become.

18 And you must do two things, said the Moral Act
19 that established those land grant universities, one of which
20 is the University of California, the entire University of
21 California, the Moral Act said you must do two things, you
22 must educate people, as I've just described, and we've been
23 hugely successful at that. Every state has wonderful public
24 education.

25 But the second is one that people often forget,

1 and you will find it in great abundance in the University of
2 California and, in my mind, especially here at UC Davis, and
3 that is, the second principle was, you must pay attention to
4 the problems in society and react to them, react to them
5 with your teaching, and with your research, and with your
6 service.

7 And so back then we worried about whether or not
8 we could feed ourselves and we were worried about becoming a
9 world power, and so those were the things that dominated the
10 University. But those were not the sole content of the
11 edict, the edict was pay attention to what's going on in
12 society and be as reactive as you possibly can.

13 That's what this Commission is about, in my mind,
14 it's paying attention to what's going on in society and
15 trying to be as reactive as we possibly can to those needs.

16 I want to recognize the leadership in this whole
17 effort, of Joanne Kozberg, a long-time colleague, because
18 she has served on the Board of Regents for all of my time as
19 a Chancellor, at least most of it, and Bill Hauck, who I've
20 known for a long time as well, Co-Chairing this very
21 important Commission. They are probably both victims of the
22 adage, if you need a job done, ask a busy person, because I
23 can't imagine that either of these people have the time to
24 do this. But indeed, what happens is what always happens
25 with good people, and that is that the Commission is being

1 run extremely well.

2 And I'm very grateful because, as I started out by
3 saying, this is so important. Parochially, it's important
4 to the University of California at Davis, but it's important
5 to all of us in the State. And I'm glad you're here and I'm
6 glad you're doing what you're doing.

7 Thank you so much and welcome to UC Davis. Thank
8 you.

9 (Applause.)

10 COMMISSION CO-CHAIRPERSON KOZBERG: This is the
11 period where we always learn how to use our microphones, so
12 if you want to put your mike on, just push the button and
13 your mike is on if it is red. I understand that if we are
14 finished speaking, it's best to turn off our mike so that
15 there's less feedback into the audience.

16 With that, I'd like to introduce us. We are the
17 Commission. We are not the 275 talented people that put the
18 report together, we are the next phase. We are going around
19 the State and getting diverse opinion, public opinion, and
20 their response to the CPR report.

21 And I'd now like to start with Pete Taylor, so we
22 can briefly introduced ourselves to you.

23 COMMISSIONER TAYLOR: Good morning. My name is
24 Peter Taylor, I'm the Managing Director of the Los Angeles
25 Office for the investment banking firm of Lehman Brothers.

1 COMMISSIONER CANALES: Good morning. I'm
2 Jim Canales, President and CEO of the James Irvine
3 Foundation.

4 COMMISSIONER FOX: Hello, I'm Joel Fox, with the
5 Small Business Action Committee.

6 COMMISSIONER BONNER: I'm Dale Bonner, I'm a
7 Partner in the law firm of Epstein Becker & Green, and
8 previously served as the State's Commissioner of
9 Corporations.

10 COMMISSIONER JELINCIC: I'm J.J. Jelincic,
11 President of the California State Employees Association, the
12 token special interest.

13 COMMISSIONER O'NEILL: I'm Beverly O'Neill, the
14 Mayor of Long Beach, California.

15 COMMISSIONER DAVENPORT: David Davenport,
16 Professor of Public Policy at Pepperdine University and a
17 Research Fellow at the Hoover Institution.

18 COMMISSIONER BATES: Good morning. I am Patricia
19 Bates, I represent the 73rd Assembly District, which is
20 Orange County and North San Diego County.

21 COMMISSION CO-CHAIRPERSON KOZBERG: I'm Joanne
22 Kozberg, a Partner in California Strategies, and former
23 Secretary of State and Consumer Services Agency.

24 COMMISSION CO-CHAIRPERSON HAUCK: I'm Bill Hauck,
25 I'm the President of the California Business Roundtable.

1 COMMISSIONER OLSEN: I'm Steve Olsen, I'm Vice
2 Chancellor for Finance and Budget at the University of
3 California, Los Angeles.

4 COMMISSIONER BENTON: Good morning. I'm Jay
5 Benton, Retiring Chief Operating Officer, ABM Industries,
6 San Francisco.

7 COMMISSIONER IBARRA: Good morning. I'm Irene
8 Ibarra, I'm the Executive Vice President of the California
9 Endowment.

10 COMMISSIONER FRATES: Good morning. I'm Steve
11 Frates, Senior Fellow at the Rose Institute of State and
12 Local Government.

13 COMMISSIONER GOULD: Good morning. I'm Russ
14 Gould, I'm President of the Gould Group Consulting Firm, and
15 former Director of Finance and Secretary for Health and
16 Welfare for the State of California.

17 COMMISSION CO-CHAIRPERSON KOZBERG: Before we
18 start, just a couple of housekeeping items. You'll see that
19 we're divided today between boards and commissions and then
20 government operations.

21 We're very grateful to our speakers coming today
22 and we realize that they have other commitments, and we're
23 going to try and help facilitate their ability to be with us
24 and then move on to do the things that they do during their
25 normal day jobs.

1 We've been going around the State for the past six
2 weeks, we will have one more meeting in mid-October, as we
3 begin to collect public testimony.

4 To that end, I'd like to remind everyone that
5 public testimony closes for the Commission on September
6 30th. If you have missed that deadline and want to continue
7 to give input, the Governor's Office will be pleased to
8 receive whatever additional testimony you have.

9 We are anxious to hear your comments. You'll see
10 that public testimony is also divided into two parts, boards
11 and commissions and then government organization. We'll
12 have roughly about two hours of public testimony.

13 I know that the interest has been tremendous, so
14 we hope to honor those speakers that have signed up but, no,
15 we may not be able to get to everyone. So I'd like to call
16 your attention to the back of the room, in that direction,
17 there are computers. If you could give us your input via
18 computer, we will receive all of that information as well.

19 Additionally, if you have personal issues, not
20 CPR-related in nature, we have two ombudsmen that will be
21 happy to help you on any issue you feel needs attention,
22 local or State government.

23 For public testimony, we are going to be limiting
24 that to three minutes. If you agree with the prior speaker,
25 please say you agree and that your points have already been

1 stated. We will be clustering the information so that we
2 hear the broadest possible representation of ideas that we
3 have available.

4 And also, if you have testified previously, at
5 other hearings around the State, we will be taking new
6 testimony, especially about those boards and commissions.
7 There are people who have not had the opportunity to testify
8 on those boards and commissions around the State.

9 I'd like to remind all of us, on the Commission,
10 and in the audience, to please turn off your cell phones.
11 And also that you know our website, and we would refer you
12 to that because testimony will be posted on that website,
13 cpr.ca.gov.

14 And with that, I'd like to turn to Chon Gutierrez,
15 who helped Co-Chair the CPR effort. Chon.

16 EXECUTIVE DIRECTOR GUTIERREZ: Thank you, Madam
17 Chair, Mr. Chair, Members. My name is Chon Gutierrez, I'm
18 the Co-Director of the CPR process.

19 Governor Schwarzenegger, through Executive Order,
20 created the CPR process in February of this year and
21 commissioned us to look at government and bring it into the
22 21st century.

23 The 21st century government, in our opinion, is a
24 government that is innovative and dynamic, is a better
25 provider of services, that is more responsive, that is

1 accountable to the people, that is efficient, that is
2 transparent, and that it relies on information technology as
3 a critical tool for delivery of services.

4 The focus, then, on the CPR effort was to make it
5 more efficient and more effective and we took a two-prong
6 approach in dealing with that.

7 Today, we're going to be looking at one of those
8 prongs. The first prong we did is to take a look at the
9 organizational structure of government, how it exists today,
10 with all of its boards, with all of its commissions, with
11 its 79 departments.

12 We wanted to build a government organization that
13 was effective, that was responsive, that was accountable to
14 the people, an organization and a structure that could
15 embrace change, particularly as we looked at information
16 technology and the new tools that are available for more
17 effectively managing government.

18 That process, we call it the Little Hoover
19 Commission process, but under the authority of the
20 Government Code, it is a process that allows the Governor to
21 organize his organization in a way that he deems
22 appropriate, and there is a special process that is used by
23 the Legislature to consider such reorganizational proposals.
24 So today we'll be looking at those parts of our
25 recommendation.

1 In addition to that, we did produce Volume A and
2 B, some 2,500 pages of recommendations. All of those are
3 policy changes or administrative recommendations that we're
4 making, that either the Governor can implement himself,
5 through Executive Order, or that the Legislature will have
6 to address through legislation.

7 To accomplish all of this, we put together 14
8 teams, they were made up of those 275 people that the
9 Chairperson addressed at the beginning of the meeting. They
10 were people with a great deal of experience in State
11 government. I would say that you could easily characterize
12 a typical member of the team to have 20-plus years of
13 experience in State government.

14 We had a methodology that was put together by
15 Billy Hamilton, who was the Assistant Controller for the
16 State of Texas. He's done 12 such studies, using this
17 methodology, and the methodology has been successful in
18 producing the documents in other states, as it has been
19 here, in California.

20 Today we're going to cover form follows function.
21 We're going to make the presentation in two parts. The
22 first part is going to be strictly on boards and
23 commissions, and then we will turn it over to a panel. And
24 then after the panels are over, we will return and talk
25 about the broader organizational structure of government.

1 But to set the stage, at least for the purposes of
2 the commissions, we evaluated 339 specific commissions.
3 There are more, and Chris will speak to that.

4 Our recommendations, in form follows functions, is
5 that we retain 222 of those boards and commissions that we
6 looked at, that we eliminate 117 of them, either by
7 eliminating the board or commission and eliminating its
8 functions or by transferring functions, in certain cases, to
9 other areas where they could be performed more efficiently.

10 The projected savings, the Commission has asked me
11 about this, is \$34 million. And we will discuss the
12 methodology, I know there will be interest in trying to
13 determine how we came up with \$34 million, and we'll be
14 happy to respond to that.

15 And it is a variety of different funds with, I
16 would say the majority of them being special funds that are
17 derived by the constituency of each of the boards and
18 commissions.

19 Chris Reynolds, to my immediate right, will be
20 making the presentation. To his immediate right is Joan
21 Borucki, and between the two of them they probably have the
22 majority of the commissions that we are recommending be
23 eliminated, that you will hear testimony on or may have
24 questions about.

25 So on that note, I'll turn it over to

1 Chris Reynolds.

2 TEAM LEADER REYNOLDS: Good morning. My name is
3 Chris Reynolds, I was the Team Leader for the Resource,
4 Conservation and Protection Team. And as Chon said, I'm
5 joined by Joan Borucki, the Team Leader for the
6 Infrastructure Team, to help respond to Commission
7 questions.

8 Today's presentation attempts to provide the
9 Commission and the public with a better understanding of the
10 scope of this issue, the analytical methodology employed by
11 CPR to arrive at its recommendations, and the balance of
12 public policy goals we tried to achieve.

13 CPR discovered, during its research, there has
14 been a proliferation of boards and commissions in the State
15 of California. In some ways we've lost track of government.
16 In fact, there is no centralized, definitive list of State
17 boards and commissions, and they are not generally
18 identified on the State's organizational chart.

19 It forced CPR to undertake a painstaking statute-
20 by-statute search just to identify boards and commissions.

21 The last two bullet points on this slide
22 illustrate the fundamental attributes of the board's
23 structure that must be considered and weighed when analyzing
24 boards and commissions. Government must be efficient and
25 accountable, but in a representative democracy, government

1 must also be accessible and interactive.

2 We also attempted to confront practical
3 difficulties that seemed to arise with the board's
4 structure, including disputes about consistency, and
5 interpretation and application of fundamental State
6 authority, when that authority resides in independent boards
7 and especially when there are multiple overlapping
8 authorities.

9 A lack of coordination among independent boards,
10 when boards focus narrowly on the need to complete their own
11 process, which can happen with consideration of cross-
12 cutting issues, such as cross-media implications and
13 implications of environmental policies, and captured boards
14 as a function of independence, derived through budgeting,
15 reporting, mission, and statutory mandates, and as a
16 function of responding to its own constituency.

17 There's an institutional mechanism that exists for
18 evaluating boards and commissions. The Legislature created
19 a Sunset Review process for this purpose, and that process
20 is proven, understood, and accepted as appropriate. But
21 there are limitations on staff resources in the Legislature
22 that prevent the kind of comprehensive review undertaken by
23 CPR.

24 For the last three legislative years the committee
25 has reviewed an average of nine boards each year.

1 Based on the Sunset Review model, CPR created a
2 template and exposed the information it gathered to
3 analytical review, at multiple levels, on structural policy
4 and fiscal grounds, a process that began nearly at CPR's
5 inception and continued through the final days of the
6 process.

7 Specifically, we looked at the underlying goals
8 that led to the formation of the board. We looked at the
9 functions of the board, whether its charge was advisory,
10 regulatory, oversight, licensing, or enforcement and
11 appeals, or all of the above.

12 We assessed the cost associated with supporting
13 the board. And in several cases CPR found examples where
14 the responsibilities are fragmented structurally, so that
15 the functions of the board can be subsumed elsewhere,
16 although this is not a situation that is unique to boards
17 and commissions.

18 By and large, though, CPR analysts focused
19 attention on the final major analytical question, must this
20 duty be performed by an autonomous board, because we believe
21 the function of the programs administered by the vast
22 majority of these boards are viable and important. But we
23 asked whether the responsibilities should and must be vested
24 in a board.

25 The proper design of government is not a new

1 issue. In California, specifically, since the turn of the
2 century, the question was being asked, has State government
3 become unwieldy, confusing, and beyond the reach of its
4 citizens?

5 According to a field poll, release just six weeks
6 ago, 74 percent of registered voters support the idea of a
7 major overhaul of State government. By a ten point margin,
8 voters rejected the idea that eliminating boards and
9 commissions would weaken government oversight of air quality
10 and water quality. And 53 percent did not believe that
11 reducing the number of government agencies would lower the
12 quality of government services.

13 The point is that the public favors a critical
14 look at the role of government, and even boards and
15 commissions, to determine whether the structure of
16 government is responsive to our present day needs.

17 But CPR appreciates the difficult task ahead. We
18 grappled with it ourselves. Because the goal is not merely
19 to cut or shrink the size of government, but to be
20 purposeful, to improve government functions without
21 sacrificing fundamental goals.

22 The power of governmental inertia should not be
23 ignored, either. Sociologist Max Weber called bureaucracies
24 irresistible, but he also sang the praises of that
25 bureaucratic structure. Boards and commissions are as

1 alluring and as powerful as any bureaucratic structure,
2 maybe more so, and I urge the Commission not to attribute
3 any bias or negative connotations to that characterization.

4 What I hope to do next is to provide you with a
5 sense of what CPR analysts confronted when they undertook
6 this comprehensive review. We hope that it will be helpful
7 to the Commission's deliberations.

8 The primary benefits we believe are inherent in
9 the boards' structure are transparency, through the use of
10 tools of public notice and a public hearing process, access,
11 by allowing for public comment and testimony, and a sense of
12 finality or closure by making a public decision and casting
13 a public vote.

14 The primary drawbacks we believe are inherent when
15 a board structure is used include a lack of accountability,
16 because its members are unelected, yet autonomous. There
17 are impediments to shared goals because boards can insulate
18 elected officials and boards can pursue narrow goals from an
19 independent power base. And the potential loss of public
20 confidence when board appointments are perceived to be perks
21 of privilege or tools of patronage.

22 Before moving on to a thumbnail sketch of the
23 analytical process, I'd like to focus on the word "balance"
24 at the top of the slide. For those who have characterized
25 CPR's efforts on boards and commissions as painting with too

1 broad a brush, or too zealous, or biased against boards and
2 commissions, I'd like to reiterate something that the
3 Director mentioned. CPR analyzed 339 boards and
4 commissions. We found among them one that's defunded, seven
5 that are inactive, and seven that are expired.

6 So in those cases we believe we're talking
7 fundamentally about statutory vestiges without real meaning.
8 But the bottom line is that ultimately, even if all our
9 recommendations are adopted as presented, two-thirds of the
10 State's active boards will continue to exist.

11 In analyzing the options, we focused on public
12 expectations and public needs. Public expectations about
13 who's responsible. Public expectations that we can achieve
14 one government, working toward one goal, delivery of
15 services that enhance our quality of life, and public
16 expectation that boards exist to serve broad public interest
17 and provide access to the general public.

18 At the same time, boards and commissions provide
19 basic public needs in a representative democracy. Public
20 input is critical in a representative democracy.
21 Interpretation of governing statutes is critical to
22 implementation.

23 Regulation gives practical meaning to broad goals
24 and the effectiveness of government programs is enhanced
25 through partnerships.

1 Fundamentally, CPR analysts believe that
2 government is made more accountable and accessible with
3 vertically integrated structures. Because government is
4 more intuitive, you cannot engage what you cannot understand
5 and navigate. And because a clear chain of command clearly
6 identifies the decision makers, responsibility for decision
7 making and success or failure of government programs lies
8 closer to accountable elected officials, and these
9 structures give those responsible the authority and the
10 practical tools to coordinate activities.

11 In addition, there are at least five mechanisms
12 that CPR does not recommend be eliminated, that provide for
13 public access to the rule-making process. Public notice
14 requirements for rule making. Public workshops on proposed
15 policies used universally by agencies now. The
16 Administrative Procedures Act, which provides the
17 opportunity for public comment and a public hearing, if one
18 is requested. Recommended expert advisory panels and ad hoc
19 advisory panels.

20 When CPR balanced the four elements that I
21 mentioned, existing avenues for public participation, CPR
22 recommendations to enhance the effectiveness of those tools,
23 the need and the public desire for more intuitive,
24 accountable and effective government, and the basic core
25 need for public participation, we concluded that we could

1 enhance accountability without sacrificing accessibility to
2 a degree that undermines our principle goals.

3 Finally, I'd like to make two observations before
4 I conclude. This Commission was criticized, recently, by
5 the defenders of the status quo, for meeting during the work
6 week, during work hours, in a remote location. That
7 criticism, unfortunately, could be leveled at any one of the
8 boards and commissions that CPR has recommended for
9 elimination. It is, in many respects, a fact legitimately
10 driven by practicality and logistics, but it is true,
11 nonetheless.

12 And finally, with technology our processes can be
13 made and are being made more accessible through internet
14 access to public notices, regulatory packages, and other
15 information with two-way e-mail communications and
16 videoconferencing. These mechanisms for increasing access
17 to the process and government cannot be overlooked,
18 regardless of the final determination regarding any specific
19 board or commission, and they must be improved and expanded.

20 I mention them only as a recent fact of life
21 that's relevant to your deliberations and the public's
22 consideration.

23 As Chon mentioned, CPR's evaluative process
24 resulted in the recommendations before the Commission. We
25 recommend the elimination of 117 boards, which results in

1 1,053 fewer executive level and, in a few cases, legislative
2 appointments. Cumulatively, this results in \$34 million in
3 projected savings.

4 Thank you. Joan Borucki and I are available for
5 questions.

6 COMMISSION CO-CHAIRPERSON KOZBERG: Joan, did you
7 want to add anything?

8 Okay, we have about ten minutes for questions and
9 then we're going to go into our distinguished panel.

10 Jim, then Joel.

11 COMMISSIONER CANALES: Chris, if I could take us
12 back to the slide that had the five major questions on it,
13 because I think it's enormously helpful to give us a sense
14 of the criteria that CPR used, I wanted to ask questions and
15 I'll ask them both, and then allow you to answer them in
16 whatever order.

17 The first had to do with the issue that you raised
18 about the role of boards and commissions to increase
19 transparency and public access, and I didn't see that
20 addressed in the five questions in terms of the role that a
21 board played to address that kind of concern or issue. And
22 if I've heard the testimony that we have heard over the last
23 number of weeks correctly, I think that's been one of the
24 areas where people have been concerned about the proposed
25 elimination.

1 So if you could address how you all thought about
2 that and whether there was any factor, if you will, to look
3 at the effectiveness of a board or commission on the issue
4 of transparency and public access.

5 And then my second question is a relatively
6 specific one, but I think it ties to another potential
7 criteria. You've got, as the third question there, what are
8 the costs associated with the entity?

9 And my question is whether you all looked at what
10 other revenues might be generated by the entity? And to be
11 very specific, we've heard testimony at virtually every
12 hearing thus far from representatives of the Heart Disease
13 and Stroke Prevention Task Force, and they have made the
14 argument, a fairly compelling argument, it seems, that that
15 Task Force does not cost anything and, indeed, by creating a
16 master plan for California on issues of heart disease and
17 stroke prevention the State might be able to receive up to a
18 million dollars in CDC funding.

19 So it prompts the question to what extent we
20 looked at, or you all looked at, the issue of revenues that
21 are potentially generated by the existence of these task
22 forces, commissions, boards? Thanks.

23 TEAM LEADER REYNOLDS: With respect to the
24 effectiveness of any given board, in terms of providing that
25 transparency that you referenced, we looked at it as a major

1 factor, the major factor in the importance of having a
2 board. And it was difficult, with the scope of undertaking
3 that we had, to delve into the minutiae of a specific board.
4 We didn't have the resources or the time to evaluate, for
5 instance, how many people came to testify before a given
6 board, whether that in some way affected the decision-making
7 process.

8 We did assume that the very existence of a board
9 or commission served the purpose of providing for
10 accessibility and transparency. And I outlined for you the
11 tools that we think are available in a board structure,
12 public notice, rule-making packages that are provided to the
13 public in advance and, in particular, the decision-making
14 process and the casting of a public vote.

15 We think all those things can be attributed to a
16 board almost because it's a board, it's inherent within its
17 structure.

18 But there is a further level of analysis that you
19 could go to that would try to pinpoint public participation
20 and public utilization of the board structure that might be
21 instructive. We didn't have the time to do that, frankly.

22 When it comes to generation of revenue, cost was
23 not a major consideration for us when we looked at boards
24 and commissions, but we did recognize that the revenue
25 that's being derived to support a board is, generally

1 speaking, from special funds. So we're not talking about
2 cost savings that would be devoted to the structural deficit
3 that the State still faces, we generally assumed that the
4 resources would be poured back into program.

5 And in the case of a board that develops a plan
6 that results in the generation of additional dollars, there
7 was mention made of a board at the last hearing, that is
8 required by federal law that apparently the board has to
9 exist in order to receive the federal funds. But lacking a
10 specific federal mandate that you employ a board structure,
11 you could generate the revenue as readily by preparing a
12 plan inside an organization, without a board structure.

13 And in fact, I would suspect that the plan that's
14 being evaluated by the board is probably generated
15 internally by staff, within a bureaucracy.

16 COMMISSION CO-CHAIRPERSON KOZBERG: I have Joel
17 Fox, Steve Olsen, Peter Taylor, and David Davenport. Oh,
18 my, we have a lot more, Dale Bonner and then J.J. And then
19 we're going to have to cut it off and go to our panel.

20 Okay, Joel.

21 COMMISSIONER FOX: I also have two quick questions
22 for you. A number of these boards have the power to
23 adjudicate disputes, particularly in the license areas and
24 others. If, in fact, they become part of the Executive
25 Branch, what vision do you have on an appellate process for

1 whatever decision that comes out of the Executive?

2 My second question is dealing with how did you go
3 about categorizing some of the functions performed by these
4 boards, and I have a specific example for you to work off
5 of, when they're subsumed into the new departments?

6 For example, under the Health and Human Services
7 you have functions such as Optometry Board and Physical
8 Therapy Board, even Veterinary Medicine under Human
9 Services, but you took the Speech Pathology and Audiology
10 Board and you put it into Commerce and Consumer Protection,
11 and I just wondered how that anomaly took place?

12 TEAM LEADER REYNOLDS: When it comes to
13 adjudication, my experience at the Air Resources Board was
14 that as opposed to sitting as an adjudicatory board, in its
15 history, in its recent history, let's say, the Air Resources
16 board has only sat as an adjudicatory body on one occasion.
17 There was a dispute between LADWP and the folks in Owen
18 Valley about particulate matter, and they, as a Board, tried
19 to mediate that dispute, let's say.

20 But in the main what they did was they referred
21 appeals of fines to an Administrative Law Judge, and you can
22 use the structure of an Administrative Law Judge and provide
23 for all the due process mechanisms under that structure.
24 And, in fact, that's how we envision handling appeals.

25 When it comes to categorizing the functions, you

1 will find that the Medical Board, the Chiropractic Board, a
2 number of boards that have an expertise that relates to
3 Health and Human Services, now reside with Consumer
4 Services. They generally provide for the oversight and
5 licensing function.

6 I believe that in this particular case the
7 decision was made that Speech Pathology and --

8 COMMISSIONER FOX: Speech Pathology and Audiology.

9 TEAM LEADER REYNOLDS: Thank you. That function
10 was closer to a consumer licensing function, as opposed to a
11 medical function, so that it could continue to be handled by
12 Consumer Services.

13 COMMISSIONER FOX: Because of the hearing aid?
14 But the Optometry Board has glasses? I'm not going to get
15 into details, but I mean is that what it came down to?

16 TEAM LEADER REYNOLDS: I beg your pardon. Yes.

17 COMMISSIONER FOX: It came down to that?

18 TEAM LEADER REYNOLDS: Yes.

19 COMMISSIONER FOX: I'm not so sure I agree but,
20 okay, thanks.

21 COMMISSION CO-CHAIRPERSON KOZBERG: Okay, Steve
22 Olsen.

23 EXECUTIVE DIRECTOR GUTIERREZ: Did we answer your
24 questions on the appellate process?

25 COMMISSIONER FOX: Well, there was an answer, but

1 I'm not sure I agreed with the conclusion. But yes, I
2 mean --

3 EXECUTIVE DIRECTOR GUTIERREZ: Okay, because we
4 did spend -- we spent a little more time on it, and I'm not
5 going to take the Commission's time to go into it in any
6 detail.

7 The appellate process, for example, as Director of
8 the Department of Motor Vehicles, I license --

9 COMMISSIONER FOX: I'm sorry, Chon, I
10 misunderstood you. Yes, you answered my question on the
11 appellate process, I thought you said the second question.
12 The first one's fine, thank you.

13 COMMISSION CO-CHAIRPERSON KOZBERG: Steve Olsen,
14 then Pete Taylor.

15 COMMISSIONER OLSEN: Mr. Reynolds, you mentioned
16 the availability of the Administrative Procedures Act as a
17 substitute for obtaining public input in a rule-making
18 situation, compared to the existence of a statutory board.

19 If one were to transform more regulatory
20 organizations into that type of model, are there any Brown
21 Act implications in which the rule maker would have to act
22 in some sort of public setting, rather than simply having a
23 closed door decision-making process and issuing a set of
24 rules, or does the Administrative Procedures Act serve that
25 purpose?

1 TEAM LEADER REYNOLDS: Under the Administrative
2 Procedures Act, there's a requirement that there be a public
3 hearing, if one is requested, but it doesn't speak to the
4 question of making that decision or announcing that decision
5 in public.

6 Under the prevailing Sunshine Law for the State,
7 the Bagley-Keene Act, that does dictate the process and the
8 procedure for decision making for a board.

9 But we have regulatory boards now -- I'm sorry,
10 regulatory entities, now, that do not operate in a board
11 structure. And the decision needs to be made public, and is
12 made public, but is it made public at a gathering, no, not
13 generally.

14 COMMISSIONER OLSEN: Okay.

15 TEAM LEADER REYNOLDS: But there is an opportunity
16 in the rule-making process. Once the decision is made and
17 that decision is made public, the Administrative Procedures
18 Act requires that there be a public comment period and that
19 the agency, if it's not a board, well, even if it is a
20 board, respond to those public comments.

21 So there is a kind of a give and take, in a public
22 way, that resembles something of a board, but doesn't exist
23 in the same kind of structure.

24 COMMISSIONER OLSEN: Okay, thanks.

25 COMMISSION CO-CHAIRPERSON KOZBERG: Pete Taylor.

1 COMMISSIONER TAYLOR: Thank you. Mr. Reynolds, I
2 want to drill down a little bit more on this issue of
3 accountability. Your written commentary talked about
4 concerns on accountability in the boards and commissions,
5 because they're accountable to no one. I guess I want to
6 flesh that out a little bit. Why can't the Legislature and
7 Governor play the role of holding these boards and
8 commissions accountable should they go off and engage in
9 rogue behavior?

10 I think back 20 years ago, there was a board that
11 used to regulate dry cleaners, that was engaging in such
12 rogue behavior as having dry cleaners, who failed to pay
13 their dues, arrested and thrown in jail.

14 The Legislature and the Governor, outraged at this
15 behavior, did away with them.

16 Why, number one, cannot they play that role of
17 holding them accountable?

18 Secondly, on the issue of accountability of staff,
19 one of the valuable things, it seems to me, that boards and
20 commissions do is that they hold staff accountable to
21 setting goals each year, and on a monthly basis or every-
22 other-month basis, whenever they meet, actually pull the
23 staff in front, in a public setting, and hold them
24 accountable about how they're doing in achieving those
25 goals.

1 Your report didn't talk as much about the valuable
2 role I think they play in terms of holding staff accountable
3 in that regard. So can you comment on those two points?

4 TEAM LEADER REYNOLDS: I guess I would point out
5 that the action that the Legislature and the Administration
6 took with respect to that rogue board was its elimination.

7 That is the ultimate tool of accountability and
8 that continues to exist, and we're talking about that same
9 action here. What we're talking about is trying to make
10 government more accountable by eliminating the boards and
11 commissions and then making a clearer chain of command.

12 Why can't -- what are the impediments to
13 accountability? As I've mentioned, they have, in some
14 cases, term appointments, so you have a Governor who
15 appoints someone, or a legislative body, the Rules
16 Committee, or the Speaker of the Assembly, they appoint
17 someone to a Board, and that Board member serves a term
18 appointment.

19 In theory, then, they're beyond the scope of
20 removal, the ultimate tool of accountability. And in that,
21 I'll just leave it at that.

22 How about holding staff accountable? Well,
23 there's a mechanism that takes place on an annual basis for
24 holding staff accountable for any department, for any board,
25 for any commission, for any agency, for government as a

1 whole, and it's called the budget process.

2 The Governor engages in a process, through the
3 Department of Finance, of either agreeing to increase
4 funding or to withhold funding for an agency, and the boards
5 and commissions, the agencies, the departments must go
6 before a Budget Subcommittee and speak with the Legislature
7 about what they've been doing and how they've been doing
8 good things. And the members of those Subcommittees will
9 point out where they think there's shortcomings.

10 So there are some mechanisms that will exist and
11 continue to exist to hold staff accountable, even absent a
12 board structure.

13 I guess the question is well, now you have two
14 mechanisms, is the one mechanism adequate?

15 COMMISSION CO-CHAIRPERSON KOZBERG: Dale Bonner
16 and then the last question goes to J.J.

17 COMMISSIONER BONNER: Thank you. I wanted to
18 return, for a minute, back to the issue of transparency,
19 because we've heard a fair amount of testimony, at a number
20 of these hearings, based on what I believe is a false
21 assumption, and that is that all of the important work of
22 these boards and commissions is necessarily done in an open
23 meeting and on public record.

24 And I'm familiar with a number of boards and
25 commissions where the professional staff have lots of

1 meetings in between the public meetings, they have lots of
2 interaction with the regulative community, industry, and so
3 on. So I'm just wondering if, in your review, whether you
4 looked in any way at the issue, or issue of how any
5 particular board or commission actually operated?

6 In other words, did you look differently at those
7 that were heavily staff driven and may have been run by and
8 large by professional staff, that maybe have lots of private
9 meetings with the regulative community, as opposed to those
10 that may conduct all of their business in a public session,
11 was there any rhyme or reason along those lines?

12 TEAM LEADER REYNOLDS: Yes, there was. In some
13 respects, the argument can be made that the larger the
14 organization governed by the board, the more important it is
15 to have a board structure.

16 On the other hand, boards, the larger the
17 organization, the greater the tendency is for that board to
18 sit atop a very sophisticated staff that does a terrific job
19 in terms of providing whatever service it is that they're
20 supposed to provide.

21 And that staff, as you point out, routinely goes
22 out and conducts public workshops, meets with stakeholders
23 and, in fact, there is a recommendation, within the body of
24 the Issues and Recommendations for CPR, that talks about
25 improving the Administrative Procedures Act process by

1 employing the attributes of the Federal Negotiated Rule-
2 Making Act.

3 It's a process that the federal government uses
4 where they bring in stakeholders. And again, I'll harken
5 back to the point made at other hearings, where we are
6 essentially creating a federal model here. So the Federal
7 Negotiated Rule-Making Act is used by the federal
8 government, which does not typically, or almost routinely is
9 absent a board structure, they bring in the stakeholders and
10 they actually start writing the regulations or proceeding
11 with the rule-making process there, in a conference type
12 setting.

13 There's a recommendation that California employ
14 that same mechanism. So not only do we say the
15 Administrative Procedures Act should be used, we say it
16 should be expanded to include these attributes.

17 And again, as you point out, there's the public
18 workshop process, there's public notice requirements, and
19 there are other mechanisms, including an expert advisory
20 panel, that we recommend.

21 So the answer to your question is yes, it was a
22 factor in our analysis, and that's the way, I hope that what
23 I've said, in some way, is informative about what that meant
24 to us.

25 COMMISSION CO-CHAIRPERSON KOZBERG: J.J.?

1 COMMISSIONER JELINCIC: The first question is
2 actually for Chon. Mr. Gutierrez, I've now asked you for a
3 list of the employees that were part of these teams, and I
4 have not received that. I've asked for the bio on the
5 Executive Committee, have not received that. I assume that
6 will be forthcoming, quickly?

7 EXECUTIVE DIRECTOR GUTIERREZ: We'll be happy to
8 provide it. You and I did have a verbal conversation in
9 which I advised you that they were administrative support
10 staff and did not have a role in preparing the document, the
11 substance of the document, and you advised me at that time
12 that you didn't need that information so, perhaps, I
13 misunderstood.

14 COMMISSIONER JELINCIC: Okay. I don't need the
15 support staff, the clerical staff, those fine people. I do
16 need to know who the rest of the people on the teams were?

17 EXECUTIVE DIRECTOR GUTIERREZ: Like Paul Miner,
18 and others?

19 COMMISSIONER JELINCIC: Well, Paul Miner is not
20 listed but, yeah.

21 EXECUTIVE DIRECTOR GUTIERREZ: No, you did list
22 him in your e-mail.

23 COMMISSIONER JELINCIC: Okay, yeah, I mentioned
24 Paul Miner was not listed as one of the people who worked on
25 this report.

1 EXECUTIVE DIRECTOR GUTIERREZ: Why don't you and I
2 get together and work on that list, and I'll be happy to
3 provide that?

4 COMMISSIONER JELINCIC: Okay. One of the other
5 issues is, you know, there's been a lot of discussion over
6 time about the elimination of these commissions. I don't
7 think anybody believes they are particularly efficient but,
8 clearly, efficiency is not our highest priority, or we would
9 choose a form of government other than democracy, but they
10 do provide input, and that has created a lot of the
11 discussion.

12 You've recommended, you know, that perhaps we
13 should look at the federal model. You know we could talk
14 about the Cheney's Energy Policy Committee, how open that
15 was.

16 But part of the problem I have actually is
17 reflected by this Commission. I've been contacted by some
18 of the press, who have said, you know, they've been trying
19 to find out what's been going on with this Commission and
20 have been told documents don't exist. I've been told by
21 some of the people, who did work on it, that they were
22 ordered to shred documents.

23 The Treasurer asked for the records of meetings
24 and was told he wasn't a person. And so I really have -- if
25 we eliminate these commissions, how do we deal with this

1 transparency that is, in fact, so important?

2 EXECUTIVE DIRECTOR GUTIERREZ: Madam Chair, do we
3 need to comment on some of the points that were made about
4 public records requests or just respond to the question?

5 COMMISSION CO-CHAIRPERSON KOZBERG: If you could
6 just respond to the question.

7 EXECUTIVE DIRECTOR GUTIERREZ: Thank you.

8 TEAM LEADER REYNOLDS: In the same respect that
9 the CPR report is available to the public, the work product
10 of departments and agencies is available to the public.
11 There's a requirement that the regulatory rules be made
12 available to the public, that they be made available in
13 advance, and that the public be able to comment on those
14 rules.

15 In the same way that the CPR report is in front of
16 the public, now, and the Commission is being used as a
17 mechanism to try to gather additional input, the question
18 facing the Commission and the public is whether that's
19 enough.

20 As I said, there are five existing mechanisms that
21 we looked at, that provide for public input and transparency
22 of decision making. The question is, is that enough?

23 COMMISSIONER JELINCIC: One of the other issues
24 is, quite frankly, the ideas that were considered and then
25 rejected. In some ways, that is as important as the things

1 that were actually adopted, and how do you get to that
2 exposure?

3 EXECUTIVE DIRECTOR GUTIERREZ: I'm not sure that I
4 would characterize it as ideas rejected. That implies a
5 value, that implies a deliberative process that gets to the
6 issue, itself.

7 The universe was greater than what we ended up
8 with. There were some things that we felt, that given the
9 129 days that was available to us, that could be adequately
10 staffed to hold up to the kind of review, and we envisioned
11 a review very similar to this, perhaps even more intensive
12 than this of each of the ideas.

13 And so we examined them, each team leader was
14 given those parameters and given that vision of the future.
15 Each one of the ideas that you've put together is going to
16 be publicly debated, because it could very well be a
17 legislative proposal, and you've got to research it
18 thoroughly and completely so that it stands on its own.

19 And I think during the course of the process, and
20 that's the methodology I spoke to at the beginning of the
21 hearing, the process was to identify the biggest universe of
22 issues possible and then, given the time that we had, go
23 ahead and select those that we could reasonably staff.

24 Some of us envision CPR 2, that goes back and
25 picks up those issues that we didn't have time to staff.

1 COMMISSION CO-CHAIRPERSON KOZBERG: Thank you.

2 We're now going to move on with our Panel on the
3 Roles of Commissions, and we're very pleased to bring up
4 Dr. Kevin Starr and Robert Fellmeth, both of whom are
5 outstanding contributors to California governance.

6 COMMISSIONER BENTON: Madam Chair, while they're
7 coming up, Jay down here, at the end, a question. Where
8 Commissioners have asked for information that staff will
9 provide, will that be made available to all the
10 Commissioners or just to the one requesting the information?

11 COMMISSION CO-CHAIRPERSON KOZBERG: We'll make
12 that available to all the Commissioners.

13 COMMISSIONER BENTON: Thank you.

14 COMMISSION CO-CHAIRPERSON KOZBERG: We're going to
15 start with Dr. Starr. And Kevin, we're grateful to have you
16 with us, we know you have a number of other demands on your
17 day, as well. And we've asked him to speak on the role of
18 the commissions in California.

19 You have to turn your mike on direct.

20 PANEL MEMBER STARR: Thank you. Thank you, Madam
21 Chairperson. I'm here and also my successor, State
22 Librarian Susan Hildreth, who will be discussing, at a later
23 point with you, certain library-related issues.

24 Now, for a number of reasons, the progressives,
25 who reformed the government of California in the nineteen

1 teens believed in boards and commissions.

2 For one thing, the progressives were suspicious of
3 the political process, as it then existed. Too many elected
4 officials, they believed, were beholdened to labor unions,
5 special interests, and corporations, most notably the
6 Southern Pacific Railroads.

7 The progressives thus sought to create an
8 intermediate and intermediary third sector between elected
9 officials and private organizations and interests, whether
10 emanating from labor or Capitol.

11 The progressives believed in expertise and had a
12 preference for appointive authority, which they felt was
13 especially appropriate in the fields of public utilities and
14 public works, particularly when proprietary interests, as in
15 the case of the harbors of California, for example, were
16 involved.

17 As they, themselves, were almost exclusively
18 educated professionals, the progressives naturally saw
19 citizen boards and commissions, staffed largely by citizens
20 resembling themselves, to be this new and necessary sector
21 of government.

22 Initially, the boards and commissions created by
23 the progressives, exercised their jurisdiction in major
24 sectors, the regulations of railroads and public utilities,
25 most notably, but also road and then later highway

1 construction, harbor construction and management, water
2 resources and related public works, agriculture, education,
3 the regulation of professions, in that order.

4 As California developed, however, and new
5 challenges arose, new boards and commissions were
6 established. The Wheatland riot, of 13 August 1913, in Yuba
7 County, for example, prompted Governor Hiram Johnson to
8 create a Commission on Immigration and Housing to
9 investigate working and living conditions of migratory farm
10 workers.

11 Two of the most noted public servants in our
12 history, reformer Simon J. Lubin, of Sacramento, and writer
13 Carey McWilliams, of Los Angeles, served as Executive
14 Directors of this Commission.

15 One can almost plot the growing complexity of
16 California by noting the new commissions that were
17 established and the dates they began operation.

18 A system of boards and commissions, serving a
19 State of 2.5 million people, in 1911, 3.5 million people by
20 1920, grew to accommodate a State of 35 million by 2004.

21 The problem was, however, and it remains a
22 problem, was the fact that such boards and commissions,
23 being governmental entities, by their very definition, do
24 not put themselves out of business.

25 It's been requested that I do some research. I'm

1 going to request that of the California Research Bureau, at
2 the State Library, of boards and commissions that were
3 sunsetted over time. I'm sure it's going to be a very short
4 list.

5 Terms limits and other considerations, moreover,
6 rendered the largely remunerated positions on a number of
7 these commissions and made them desirable options for
8 termed-out elected officials, between elections, but wishing
9 to continue in government, or for political activists
10 wishing to be rewarded. A system, in short, designed to
11 bypass electoral politics in favor of appointed expertise
12 became, in time, itself, part of the political process.

13 This was inevitable given the fact that all public
14 business in some way involves political opinions and
15 choices. But when you combined the multiplying number of
16 boards' and commissions' paychecks, politics, a rapidly
17 changing State, calling for new boards and commissions to
18 deal with new problems, and the inertia intrinsic to all
19 bureaucracy, you have the problem that we face today in
20 California, an overlapping network of sometimes redundant,
21 sometimes out of date, sometimes unnecessary boards and
22 commissions.

23 We should not be surprised at this. As society
24 evolves, it makes different demands on government. Those
25 demands can continue across one hundred years. The

1 management of State lands, for example, the management of
2 public utilities, transportation, forestry and fire, the
3 coastline, or they can be time dated.

4 New needs, meanwhile, surface and certain
5 perennial concerns, the care of children, concern for
6 culture and heritage reach a point of focus and intensity
7 requiring a State level response.

8 Boards and commissions, in short, should be
9 reviewed at stated intervals, updated, enhanced, or
10 amalgamated or, when necessary, disestablished. Or as the
11 elegant usage of State government has it, sunsetted.

12 Indeed, for those of us who revere efficiency in
13 government, there is no sunset so beautiful, even off
14 Malibu, than the site of a duplicative or inefficient
15 government program, or a program that has done its business
16 and is complete, sinking into the sundown sea.

17 California would not be California without it's
18 State boards and commissions. The era of progressive reform
19 is in our very DNA code. But that does not mean that every
20 board and commission, once created, has to last forever.
21 Times change, needs change, and boards and commissions
22 should likewise be changed when times and conditions call
23 for such adaptations.

24 Nor, I believe, should we seek to purge boards and
25 commissions entirely of their political importance. We need

1 structures, on occasion, to bring to bear political, as well
2 as technical expertise, in dealing with the ongoing
3 challenges of California.

4 There is such a thing, after all, as wisdom and
5 experience in the conduct of public affairs. On any given
6 board or commission a seasoned politician or two can help
7 his or her fellow board members see what is possible. As in
8 Aristotle's definition of politics, as "the art of the
9 possible."

10 We should also remember that citizen members of
11 boards and commissions are not necessarily the experts.
12 Civil servants are supposed to be the experts, and
13 California, so I learned in my ten years of State
14 government, has many, many talented and dedicated people in
15 its service.

16 Commission and board members, rather, should have
17 a special expertise in relating the business and
18 jurisdiction of a specific board or commission to the common
19 good, and making sure that the common good relates to a
20 specific piece of business.

21 We citizens, after all, are finally the ones
22 responsible for the conduct of California's public business.

23 When Governor Schwarzenegger correctly sought to
24 review the organization and performance of State government,
25 as it enters the 21st century, he assembled more than 250

1 experts. Progressive that he is, the Governor also
2 appointed this Commission to hear testimony, conduct its
3 analysis, and keeping efficiency and the common good in
4 mind, make its recommendations.

5 Thank you.

6 COMMISSION CO-CHAIRPERSON HAUCK: Dr. Starr, let
7 me just guarantee you one thing, this Commission will
8 sunset.

9 COMMISSION CO-CHAIRPERSON KOZBERG: We're now
10 going to hear from Robert Fellmeth, at the Center of Public
11 Interest Law, at the University of San Diego School of Law.

12 Bob, you have been vigilant with so much that goes
13 on in State government, we welcome your perspective.

14 PANEL MEMBER FELLMETH: Thank you, Madam
15 Chairwoman.

16 Just for those of you who don't know, the Center
17 for Public Interest Law was created in the late 1970s, and
18 its specialty is monitoring State boards and commissions.

19 We've seen the growth of State boards and
20 commissions, as we've just heard, I think, properly
21 described. We've worked on sunrise and sunset criteria.
22 The Legislature has adopted our proposed sunrise criteria in
23 the Government Code Section 9148, in 1994. We've also
24 worked on deregulation.

25 And Commissioner, you might want to know that the

1 Board of Dry Cleaners bill, to abolish it, was sponsored by
2 us. And I think Mr. Starr is right in saying that there are
3 very few commissions and boards that have been sunsetted.
4 That's the only one I know of that's really been sunsetted
5 and has not returned in some way, shape, and form.

6 And you'd think from the testimony, in the hearing
7 in that case, that the sky was going to fall if the dry
8 cleaners did not have licensing.

9 We also have worked very hard on sunshine
10 statutes, open meeting statutes, and amended those, worked
11 to amend those. We've helped with the growth of public
12 members on boards and commissions. California is one of the
13 few states, now, that is not dominated by the profit stake
14 interest being regulated, except for our medical-related
15 boards.

16 We have also been empowered by the Legislature to
17 serve as enforcement monitors or to review boards and
18 commissions and to recommend reforms of them, and we've done
19 so with the State Bar, the Contractor's State Licensing
20 Board, and CPIL is now doing it as the Legislature's
21 enforcement monitor for the Medical Board. We've also, of
22 course, engaged in reforms of the Board of Accountancy, with
23 the bills passed two years ago, Correa's bills.

24 And, of course, we publish the California
25 Regulatory Reporter, which monitors these boards. We

1 actually go to all the meetings, we've gone to all the
2 meetings for 24 years. So we know what they do, we know
3 their jurisdiction, we know some of their problems.

4 Now, I have 22 pages of single-spaced testimony
5 and I have five minutes, so I'm not going to be able to
6 really go into the kind of depth that I would like to, but I
7 would really appreciate it if you would consider reading the
8 22 pages, based on the 25 years of our experience on these
9 boards and commissions. Our only bias is the public
10 interest, we have no representation of any of the profit
11 stake interest at all in our work.

12 We have the same interest the Governor states he
13 has, which is increased efficiency.

14 And the key lodestar here, in terms of our
15 reforms, has always been to combine expertise and
16 independence. Sufficient independence of the decision maker
17 is making the decisions based on the interest of the body
18 politic, not on the profit-stake interests, and sufficient
19 expertise so that you've no unintended consequences. That's
20 the lodestar of our analysis and I hope it will be yours, as
21 well.

22 Now, what you've done here in this document, and I
23 hope you look at this document that you've received as a
24 first draft that needs a lot of work, and it does. It needs
25 both subtractions and additions.

1 And I'm going to go over just a few of the major
2 points. Again, my extended testimony goes into more detail
3 on each of these, and this is going to be more like a table
4 of contents.

5 First of all, there's an overemphasis in the
6 report on eliminating boards and commissions and not their
7 functions. There's a big difference in sunseting a board
8 and sunseting a function.

9 You recommended the sunseting of the New Motor
10 Vehicle Board. God bless you. I shouldn't say you, but the
11 staff has, or the report has. God bless you. It belongs in
12 hell, it has no business being a part of the law of
13 California, and it's strictly a cartel structure.

14 And there are other such structures. And attached
15 to my testimony is an article I wrote in 1985, called "A
16 Platform for State Regulatory Reform," recommending the real
17 deregulation of some 9, 10, 11 boards and commissions. That
18 is, not wiping out the board or commission and putting the
19 power in some department head, working under the Governor,
20 but ending the function, ending the regulatory prior
21 restraint. Use prior restraint licensing only when you have
22 to, it's an intrusive form of government involvement.

23 Instead use other mechanisms. And I explain in
24 that article the other mechanisms that are available, and
25 that are preferable, and more efficient.

1 By the way, the comment on the Federal Negotiated
2 Rule-Making Act, I just want to make it clear, that's a
3 terrible Act, do not follow it, please. It represents
4 everything that's wrong with government. It involves a
5 bunch of people that have some vested profit stake interest
6 negotiating, with a private mediator, a public rule. You do
7 not want to do that.

8 And there's an article in Duke Law Journal that
9 exposes it, and pillories it, it's cited in my remarks, as
10 well as the philosophical problem with that Act. It's a
11 1996 creation of the Clinton administration, it's being
12 largely abandoned, as it should be.

13 Blowing up boxes, 117 boards and commissions blown
14 up. When you consolidate and change, and rearrange
15 government, look at the commonality of the subject matter,
16 look at the economy of scale of structure.

17 The 11 departments you've created, to me, make a
18 lot of sense insofar as departments are created. I have no
19 idea why we ever, for example, combined the Department of
20 Consumer Affairs with Police and Government Buildings.

21 And I know that Chairwoman Kozberg probably shared
22 this same feeling when she was in charge, why do these
23 things belong together, what is this all about?

24 And I think the staff has made a lot of
25 constructive suggestions in that direction.

1 So independence with expertise but, first,
2 enforcement. Don't take all of the investigators, DC and
3 elsewhere, all the boards and commissions, and stick them in
4 a Homeland Security Department because they're peace
5 officers. First of all, guess what, they're not peace
6 officers. Some boards and commissions, they're all peace
7 officers, some only a few are peace officers, some half are
8 peace officers, some none are peace officers. It's all over
9 the map.

10 Secondly, it's the wrong direction to go in. You
11 don't want to have the AG, over here, prosecuting these
12 enforcement cases. And by the way, this report is the
13 weakest in its enforcement area, extremely weak. An area we
14 have a lot of expertise.

15 And as a former white collar crime prosecutor for
16 nine years, I can tell you a lot that's wrong with the
17 report in this area.

18 But first and foremost you do not put the
19 prosecutors in the AG's office, the agency over here in some
20 department, and then all of the investigators over here in
21 some other department. That's the opposite direction you
22 want to go in.

23 The proper reform is to do the opposite and take
24 the investigators, keep their specialization, don't lose
25 that expertise. You need it. You don't want someone who

1 investigates an alcohol and beverage case to investigate a
2 neurosurgeon the next day. You don't want that.

3 You want to combine expertise, again, and
4 independence. Put them under the prosecutors, put them
5 under the AG, because that's where they belong. The AG is
6 going to be making the decision about who to prosecute, when
7 to prosecute, what to prosecute, have the person gathering
8 the evidence, for that purpose, run and supervised by the
9 person who has to make that presentation and make those
10 critical decisions. That's the direction you should be
11 going in.

12 We accomplished that a little bit with the Medical
13 Board reforms, but only went one step of the way. And if
14 you ask the people who are involved in that process, they'll
15 tell you that it's much improved. So look at the evidence
16 when you make your decisions.

17 Also, in terms of getting rid of boards, keep in
18 mind something that's been alluded to here, but glossed over
19 a little bit, boards are making a lot of public decisions.
20 It's not just rule making, they're making a lot of public
21 decisions.

22 They have to meet in public because of the Bagley-
23 Keene Act. Every time you throw something into a
24 department, you lose that. You have someone making a
25 decision in their office, in secret, after ex parte contacts

1 with who's campaign contributors with who, from the
2 Administration, serving at the pleasure of the Governor.

3 With a board or a commission, as much as we are
4 critical of boards and commissions, they have to make
5 decisions in public, they have to hear public comment, they
6 have an opportunity to event. You have public notice
7 before. You have continuity, which hasn't been mentioned,
8 between administrations, which can be important. Having
9 some institutional memory has a value, as those Legislators
10 who are encountering term limits will testify. There is an
11 advantage in having some continuity between administrations.

12 You have legislative buyoff because they are
13 involved in the boards and commissions. Maybe a bit too
14 much, maybe they've been over aggressive there. But the
15 point is you have, in rule-making functions, some
16 legislative buyoff.

17 You have very little cost, \$34 million. Come on,
18 I mean some of these boards and commissions should be
19 abolished, I agree. But to do the environmental ones,
20 especially. And some of the ones that are being suggested,
21 I think are a bad idea. And \$34 million is not a reason to
22 do it, given the public nature.

23 I do agree with the Librarian about the Integrated
24 Waste Management Board and the other sinecures that have
25 been created, but most of these boards are people who are

1 serving per diem, \$100 a day for their meetings, they're not
2 that expensive. Some of them should be abolished primarily
3 because they lack economies of scale. And some of them
4 should be abolished, that you're keeping, in this report.
5 Why we have to have Podiatry and Osteopathy separate from
6 the Medical Board, I have no idea, for example.

7 There are lots of examples, there are lots of
8 things I have to say here about the specifics, I'm not going
9 to have time to say.

10 Very quickly, your omissions. I just want to
11 mention them, just table of contents wise, I know I don't
12 have much time.

13 OAL, necessity. Good, thank you, report, for
14 saying that each individual paragraph of each rule should
15 not be reviewed by OAL for necessity. I would go further,
16 remove the necessity criteria from OAL. It already has five
17 others that are very useful, very important. You can't have
18 some young, law school graduate, one of my students pray
19 tell, heaven forbid, sitting in an office, in Sacramento,
20 making a decision about whether that rule is necessary, not
21 having been at the hearing, having no expertise, in a
22 department that's serving at the pleasure of the Governor.
23 Not a good idea.

24 In general, you want to be very careful about
25 handing too much over, so much over as you are to department

1 heads. Why? Because this is a creature of the Governor.
2 And when you have a reform document, which the essential
3 thrust is, take away the independent boards and commissions,
4 take away the continuity, give it all to me, and my people,
5 all appointed, who serve at my pleasure, who can have ex
6 parte contacts and make decisions in secret.

7 If you're a creature of the Governor, a document,
8 whose basic thrust is give me power, it's not going to be
9 credible when it hits the Legislature, and it shouldn't be
10 credible.

11 You've got to have other themes and there are many
12 other themes you can have. I mentioned the necessity with
13 OAL. One more, the enforcement system as a whole.

14 And I'm going to go real quickly here, you have,
15 right now, an indefensible system of five steps. If you
16 want to discipline a doctor, or any professional, any
17 tradesperson, what this board has to go through and what the
18 public does to this person is, the respondent, is five
19 separate proceedings. There's a hearing in front of the
20 Administrative Law Judge, a proposed decision de novo to the
21 board or commission, who didn't hear the evidence. A trial
22 de novo -- there's been a judgment in the Superior Court, an
23 appeal to the Court of Appeals, up to the Supreme Court,
24 five steps. We put people in the gas chamber after three.
25 And we do this five separate steps, taking four to six

1 years, six, seven figures it costs everybody. It's
2 indefensible.

3 It grew like topsy, first the administrator's side
4 and then the court's side, the two never communicated.

5 You can create a two-step, two-and-a-half-step,
6 three-step system, with more expertise, more independence,
7 again combine expertise and independence and have a very
8 economical, efficient, fair system. And we've described how
9 to do it in the extended remarks.

10 Finally, the last point, the Intracompetition Act
11 interplays very much with what these boards and commissions
12 do. The public and private prosecutors, and even the DCA of
13 Parks and Consumer Affairs has the authority to bring
14 actions under it.

15 We're talking about boards and commissions
16 marketplace, the Intracompetition Act is the State charter.
17 You now have an initiative, Prop. 64 which is, I think, very
18 bad, and you have the Trial Lawyer's Alternative, which I
19 think is very bad.

20 There is, in fact, a solution to the Create Unfair
21 Competition Act, which does not hurt the boards and
22 commissions, which assists the boards and commissions in
23 their function, and which resolves the other problems, the
24 other abuses.

25 I've outlined it in my extended remarks. I've

1 tried to introduce a bill, Senator Correa's bill, that would
2 do so, and so far nobody's interested, they want to fight.

3 Thank you, Madam Chair.

4 COMMISSION CO-CHAIRPERSON KOZBERG: Questions?
5 David Davenport, then Dale Bonner.

6 COMMISSIONER BONNER: I'd like to ask Professor
7 Fellmeth, if you agree with this, and then if you have any
8 recommendations about it.

9 It seems as though your presentation is very
10 compelling, but it strikes me as almost an alternative way
11 to go about examining commissions than the CPR followed.
12 Which, if true, puts us in an awkward position because we're
13 a Commission serving with very limited time, essentially
14 asked to recommend, you know, up or down on the proposals
15 before us, as opposed to creating an alternative way to have
16 done the report in the first place.

17 So I find your presentation very compelling, but
18 it seems like it's sort of beyond our scope to go back and
19 say we wished we had approached the Commission's issue
20 differently.

21 Do you have any way for us, at this stage, to sort
22 out sort of an up and down approach to this report using, I
23 guess, the systematic ideas you presented?

24 PANEL MEMBER FELLMETH: Well, I think it's very
25 dangerous for you to view your role as simply voting up and

1 down a report. This report has not been subject to, really,
2 the scrutiny by outside experts, or people it would affect,
3 their public interest community, their environmental
4 community, or really anybody else who you want to hear from.

5 What I think you want to do is axe those things,
6 like the Federal Negotiated Rule-Making, for crying out loud
7 just axe those, that's pretty easy.

8 And then I think you want to send some things
9 back. I think you want to say, okay, enforcement. Give us
10 an improved enforcement system, we want three steps instead
11 of five, look at the model of the Medical Board.

12 Send it back with instructions. That's what an
13 appellate court does, and an appellate court will say this
14 is too important to simply say well, it's up or down, this
15 is too important.

16 Every Legislature amends, and you've got a lot of
17 amending to do here. I'm not saying that everything in the
18 report should be scrapped, I think there's a lot of good
19 ideas in here. But I think there are too many dangerous,
20 bad ideas, and too many omissions for you not to remand some
21 things and give them a list of remands, and tell them, give
22 them some instructions, as any appellate court does.

23 I view this Commission as an appellate court here.

24 COMMISSION CO-CHAIRPERSON KOZBERG: Dale Bonner.

25 COMMISSIONER BONNER: Thank you. This is a

1 question for Dr. Starr, please.

2 One of the things I've observed, in participating
3 in this Commission and also in serving government, is many
4 times when you are interacting with members of the public,
5 often they come before the board, or the commission, or a
6 government official, and have very legitimate concerns, but
7 oftentimes have nothing, very little or nothing to do with
8 the jurisdiction of the particular board or commission that
9 they have come before.

10 And to some degree I'm sympathetic to it because
11 what it reflects is that the public, in many cases, feels
12 that they have so little access to government, in a broad
13 sense, that if they see a government official or a
14 government agency, they're going to come there and state
15 their case, and have some sense of access.

16 And I'm wondering if you can comment on the degree
17 to which that dynamic, itself, should have any bearing on
18 whether the board or commission structure is accessed. In
19 other words, how does that accessing the board or commission
20 structure compare to, say, the voter access to the
21 initiative process, or electorate, or just some of the other
22 avenues available to the public?

23 PANEL MEMBER STARR: Yes, sir. When the boards
24 and commissions first came in, in a big way in the
25 progressive era, you have approximately 3 million people,

1 you have most of the people interested in government, and
2 knowing each other in the State, or in some connection, even
3 though communication didn't have the rapidity that we have
4 now.

5 But you have 35 million, you have the anxiety that
6 you're talking about, you very well could create, could
7 create for the future, and that's why I tried to leave my
8 recommendations open-ended, you could create an Ombudsmen
9 Board, you could create a place where people could go if
10 they had specific anxieties about government, et cetera.

11 And just other areas, for instance sport,
12 recreation, culture, California heritage. That's another
13 area where I think an emerging consciousness is occurring
14 that would demand a new board.

15 The care of children is obviously a major
16 priority. We have boards already, some will be sunsetted,
17 but perhaps new formulations can be made.

18 And so, consequently, the question of trust and
19 accountability in government can be, itself, theoretically,
20 a future board, if that need defines itself over time.

21 Take a look at the organization of government in
22 the 1930s, the 1940s, the '50s, the '60s, and you can plot
23 the growing social complexity, sophistication, but also the
24 multiplication of anxieties regarding what government should
25 do.

1 COMMISSION CO-CHAIRPERSON KOZBERG: Any other
2 questions?

3 We'd like to thank you very, very much,
4 outstanding perspective of the role of government. And Bob,
5 we will read all the information you've submitted. Thank
6 you.

7 Next, we're going to go back to the Reorganization
8 Team and we're going to have the Principles of
9 Reorganization reiterated.

10 I think we're then going to bring up the panel of
11 experts. Okay. And this is on general government
12 organization.

13 TEAM LEADER BORUCKI: What we're going to try to
14 do here, myself and the whole team here, is going to try and
15 take you through the thought process and what we ended up
16 with, in the next 15 minutes. Hopefully, we'll get there.
17 Chris is the fastest talker, so we've put him at the end.

18 This is a slide that you've seen many times now.
19 I'm Joan Borucki. Susan Hogg, and Chris Reynolds, and the
20 three of us are going to try and get you through this.

21 As in any kind of a business operation, the CEO
22 has the authority to organize the administration of their
23 business in order to achieve certain outcomes. The
24 Government Code provides that kind of ability to the
25 Governor, actually requires that the Governor, from time to

1 time, examine the organization of all the agencies in State
2 government and examine them with certain purposes in mind.
3 Those being to promote more effective management, to reduce
4 expenditures, to increase the efficiency of the operation of
5 government, to group, consolidate, and coordinate agencies,
6 to reduce the number of agencies by consolidating those
7 having similar functions under a single head, and to
8 eliminate overlapping and duplicative efforts.

9 I'm going to take you through a little history
10 lesson here. This first slide is, in 1919 Governor Stephens
11 was faced with the above organization. It looks a little
12 bit like what Ma Bell used to look like.

13 He asked the Legislature for a reorganization to
14 greatly reduce the number of independent commissions and
15 independent bodies reporting to the Governor at that time.
16 Nothing happened, this stayed the same.

17 In 1927, Governor Young, faced with this kind of
18 an organization chart, created a Governor's Council to
19 provide a forum for all of these independent commissions,
20 agencies, and departments to report to the Governor.

21 By the time Governor Reagan had abolished it, the
22 Council had grown to over 60-some members, it was very
23 unwieldy.

24 In 1936, you start to see the beginnings of the
25 classic pyramid style and more structure, it's still

1 growing.

2 In 1960 we had, under Governor Pat Brown,
3 approximately 123 agencies and 363 boards and commissions.
4 The organization chart doesn't quite reflect that.

5 In 1973, this is when we first saw the institution
6 of the Cabinet structure that, thereby Governor Reagan
7 trying to create some accountability and some streamlining.
8 However, you start to see those boxes growing again from the
9 chart on 1983.

10 Then it brings us to today. And when you first
11 look at this you definitely get the impression that every
12 time State government stepped up to a problem, we created
13 another box.

14 You've got to ask yourself, when looking at this,
15 12 agencies, 79 departments, 339 boards and commissions, is
16 this a logical, intuitive organizational structure, or is
17 this something that looks very chaotic and cumbersome? It's
18 the product of many incremental changes made over the last
19 five decades, without regard to the need for coordinated
20 leadership or management, and without thinking about how the
21 changes might interfere with effectively serving the people.

22 So why do we really need to change? Why all this
23 emphasis on the organization of government? Is it just the
24 processes and procedures that we need to change? No. We
25 need to look at a fundamental change in the organizational

1 structure, as well as the processes and procedures of
2 government.

3 The citizens have lost confidence and government
4 has lost touch. This organizational chart doesn't reflect
5 today's needs and priorities, it's a product of that
6 incremental change. The excess in government isn't
7 necessarily in any individual program, however, it can be
8 found everywhere within the structure of government. It's
9 built right into what government does, we're not questioning
10 the services the government provides, we're questioning how
11 government provides it.

12 How can we preserve those essential functions
13 while putting in place an organization that better serves
14 the interests of the people of California and takes less
15 money to operate?

16 We also have the issue of the human capital crisis
17 within State government, as well, and that's the issue
18 of -- and you've heard this before, several times from us,
19 the issue of how do we continue to efficiently and
20 effectively provide those services to the State of
21 California, knowing that we have a State work force that
22 one-third is going to be eligible for retirement in the next
23 five years, and two-thirds of the State's managers are going
24 to be eligible for retirement in the next five years.

25 And so what do you do with the organization and

1 what do you do with the policies and procedures to continue
2 those vital services that government does provide?

3 We had some basic principles of reorganization
4 that we used in looking at the organization of government,
5 and where we want it to go. Those included making
6 government more accountable and accessible, keeping the
7 focus on the citizens of California, not on process.
8 Reducing duplicative effort and consolidating similar
9 functions. The thought being that by aligning programs by
10 function and related activities, duplication should be
11 eliminated and best practices shared. That it will improve
12 the effectiveness, the impact, and the overall productivity
13 and performance of government.

14 It's important to underscore that the goal of
15 these changes is not to eliminate State jobs. It's not to
16 necessarily cut government, but it's to produce a more
17 effective service.

18 Our proposal for California government looks very
19 different than the existing state of government in
20 California. The framework has five elements. First, we do
21 have the proposal to abolish the 117 boards and commissions,
22 and I would note that within that concept of abolish is also
23 the concept of consolidating some of those boards and
24 commissions.

25 We also establish an office to oversee statewide

1 operational activities. We consolidate the administration
2 of motor vehicle, corporate, and personal income taxes under
3 the authority of one commission.

4 We centralize independent community service and
5 volunteer programs into one organization and we realigned
6 existing agencies and departments into 11 integrated
7 departments.

8 The framework for the integrated departments have
9 some common features. One of them is the concept of shared
10 services at the Department Secretary's level. Each of these
11 11 departments, that you see across the bottom of the
12 organization chart, would be headed by a Department
13 Secretary, with direct accountability to the Governor.

14 The Department Secretary, what we're talking about
15 doing is taking those common, you could call them back
16 office functions, the lawyers, the human resources people,
17 the information technology people, the accounting, the
18 budgeting people, the fiscal people, and consolidating those
19 up to a shared services function within the Department
20 Secretary's office. That is a common theme across all these
21 departments, thereby gaining some efficiencies in this
22 process.

23 What we're going to do now is take you quickly
24 through each of these boxes down below, starting with the
25 Infrastructure Department, which was the subject of the very

1 first Commission hearing. I'm not going to repeat too much
2 of what I said there, but what we're looking at, again, is a
3 single department for all of infrastructure planning, and
4 execution, and financing in the State. Infrastructure again
5 being defined as water, transportation, energy,
6 telecommunications, boating and waterways, asset management,
7 the State's asset management, as well as -- did I say
8 energy? As well as energy.

9 We've created an Infrastructure Department but we
10 also, in this case, have created a new board or commission,
11 and that's where I talk about consolidating several, many
12 existing boards or commissions that deal independently with
13 different infrastructure issues, starting from
14 transportation, to water, and energy, and different places
15 beyond, into one Infrastructure Authority that would take on
16 all the functions of those different commissions that exist
17 today.

18 As well as having this single Infrastructure
19 Department to deal with all of those issues, you'd have
20 consolidated planning, you'd have your consolidated
21 financing ability on your infrastructure, you'd start to get
22 some cross-fertilization of your ideas across those.

23 With that -- oh, I have the next one, also, Public
24 Safety.

25 You recently heard the hearing on Public Safety

1 and this, again, is a consolidation of one department and
2 that department would include the California Highway Patrol,
3 the Division of Law Enforcement, the Division of Fire and
4 Emergency Management, the Division of Victim Services, and
5 an Office of Internal Affairs.

6 The thought being the ability to gain some
7 efficiencies by consolidating these under one roof, that the
8 command structure for emergency response would be unified,
9 we would eliminate duplicative training programs across all
10 these law enforcement functions, that the process for
11 purchasing equipment and resources would become coordinated,
12 and the Division of Victim Services also would become
13 coordinated and would receive a higher level of service, is
14 the thought to this.

15 There's two points to be made here, under the
16 Public Safety. One, it does pull in the various staff,
17 throughout State government, that are now identified as
18 peace officers, and it pulls them in under one agency, but
19 that doesn't mean that they're physically housed under that
20 one agency.

21 For instance, if there's a park ranger, and
22 they're designated as a peace officer, they still are in
23 that park, they're still reporting to that parks director,
24 they're still providing the security for that park.

25 What's different, now, is they're part of a Public

1 Safety and Homeland Security Agency, and so they're
2 receiving the same training, they're receiving the same
3 status as all other peace officers.

4 In conjunction with this, there were many
5 positions, identified in State government as peace officers,
6 that the recommendation is that, perhaps, they should not be
7 peace officer status, as well, and I think some of your
8 prior panelists have spoken to that issue, as well, and
9 those are all issues that, in implementation of the
10 reorganization need to be dealt with and coordinated.

11 On the Fire and Emergency Management, as well,
12 there have been issues that have been raised about what
13 needs to be housed over here, as well. And again, the goal
14 here is trying to provide some statewide fire and emergency
15 management services in a consolidated and efficient manner.

16 TEAM LEADER HOGG: Thank you, Joan.

17 Trying to not be too repetitive, the forefront of
18 the reorganization proposal is about government being
19 fragmented and scattered, things being in separate
20 locations, lack in coordination and leadership, and that the
21 practical systems reflect the 1970s.

22 This is imperative as the backdrop for the
23 following reorganizations. You've already had a workshop on
24 the Education and Work Force Preparation Department, just
25 the highlights. In this arena, there are 16 entities that

1 are dealing with education, separate, large, independent and
2 autonomous, that lack education and accountability, and
3 education is not aligned with our workforce needs.

4 We have a high tech economy, dependent on a
5 skilled, educated workforce, and 55 percent of all jobs
6 require education or training beyond high school.

7 The proposed reorganization consolidates selected
8 education agencies, removes administrative duplication
9 inefficiency, and aligns with the workforce needs. It
10 creates four divisions, the Division of Higher Education
11 Policy and Programs, the Division of Teacher and Program
12 Accountability, the Division of Workforce Preparation, and
13 brings in the State Library.

14 I know you've had a lot of discussion on this and
15 so I am going to move on.

16 The second area where you've already held a
17 hearing, as well, is in Health and Human Services
18 Department. This is definitely one of those agencies that
19 has not been able to move on because of its size, its depth,
20 and a myriad of other problems and issues. The organization
21 does reflect old priorities, and we need to really work on
22 combining like functions into one agency, known as the
23 Health and Human Services Department.

24 They have six major goals. This is a critical
25 department for the State. They are involved in public

1 health systems. They are involved in operating health
2 facilities and professional licensing to protect our
3 consumers. They address the common link of mental health
4 and substance abuse, and this is some of the important goals
5 in the organization in how things line up.

6 We need to provide services to the disabled
7 community, assist families needing temporary support, and
8 ensure that taxpayers get their best value for health
9 services purchased by the State.

10 To do this, there are six major centers to focus
11 on the various areas of importance. We have a Division for
12 Health Servicing, a Division for Public Health, the Division
13 for Quality Assurance, which covers health inspections,
14 licensing, the Division for Behavioral Health, the Division
15 for Services to Disabled, and the Division for Social
16 Services.

17 And again, I know you spent a whole focused
18 hearing on this item.

19 Moving towards items that you have not spoken on,
20 deliberated at the hearing level, is the Commerce and
21 Consumer Protection Department. Currently, licensing is
22 split among more than 45 independent departments, bureaus,
23 and divisions, and the current system does not license
24 qualified individuals timely because of the inflexible
25 resource allocation.

1 As you know, when they have separate entities,
2 governing boards, and directors, it is hard for them to
3 reallocate resources as things change and work loads shift.

4 California licensing boards have not adopted best
5 practices and standards used elsewhere, in reviewing other
6 states.

7 Towards this goal, the CPR recommends the
8 integrated Department of Commerce and Consumer Protection,
9 with the Office of the Secretary having the Office of
10 Consumer Protection, the licensing portal, the Office of
11 Gaming, and the Office of Hearings and Appeals.

12 This is really important, this is in addition to
13 the shared services, that Joan referred to, for human
14 resources, legislation, legal staff, budget, and accounting.

15 The Department would have four divisions, a
16 Division of Real Estate, a Division of Financial Services, a
17 Division of Commercial Licenses, and a Division of Motor
18 Vehicles. Within this area there would also be the Gambling
19 Control Commission and the California Lottery Commission.

20 This new department would be flexible and allow
21 staff to work on areas as changing needs occur. It would
22 also establish a single point of contact and accountability
23 for the majority of licensing and consumer complaints.

24 Within this, the Horse Racing Board would be
25 transferred and then it is recommended for elimination.

1 The next department is the Labor and Economic
2 Development Department. This is another area where CPR has
3 not been able to hold a hearing dedicated to this function.
4 This is where six separate entities are responsible for
5 economic development programs. There are more than 30
6 different job training programs housed in 13 State entities.
7 These multiple entities are not coordinated and it is
8 difficult to develop the overall economic and job training
9 strategies and to allocate resources.

10 Multiple entities are responsible for resolving
11 workplace disputes. Again, duplicative administrative
12 efforts and unnecessary costs can be consolidated through
13 the Office of the Secretary.

14 The Department of Labor and Economic Development
15 would have four divisions, an Economic Development Division,
16 a Workforce Development Division, a Workforce Protection,
17 which is the areas to protect for discrimination, unfair
18 wage and work conditions, and a Benefit Section. They also
19 would have a council to assist them in looking at -- I'm
20 sorry. They have, already, the Workforce Investment Board
21 and others to assist them.

22 The California Tax Commission. The California Tax
23 Commission is looking at multiple agencies, the Franchise
24 Tax Board, the Board of Equalization, the Department of
25 Motor Vehicles, and the Employment Development Department,

1 who all house portions of our tax system.

2 It is inefficient because these agencies have
3 difficulty, as well, in coordinating with each other, and
4 for the customer, for the taxpayer, it is confusing if they
5 have a tax question.

6 The California Tax Commission would have five
7 divisions, the Council for the Area of Settlement Appeals, a
8 Division for Accounts Receivable, a Division for Tax Filing,
9 an Audits Division, an Employer Tax Division.

10 And I know earlier you were asking about appeals
11 and, as you can see, in certain of these departments that
12 have a high preponderance of appeal processes, certain
13 appeals sections have been set aside.

14 The idea is to consolidate the revenue agencies
15 into one California Tax Commission, integrate the revenue
16 collection activities, retain the Board of Equalization, and
17 have their members serve as ex officio members of the
18 California Tax Commission.

19 Veterans Affairs. Veterans Affairs falls into a
20 different type of situation, they have a specialized
21 constituency that is unlike other members in other areas of
22 consolidation. Their divisions are things such as the
23 Veterans Loan Program, the Veterans Benefits Advocacy,
24 Veterans Homes, and changing over from private postsecondary
25 vocational ed. to making it the Veterans Education Program.

1 This is an area where we feel veterans have
2 special needs and can't be merged with another department.

3 The Correctional Services Department.
4 Governor Deukmejian spoke to you on September 10th, and
5 pointed out the problems with the current system. The
6 current organizational structure of Corrections is totally
7 ineffective. The Secretary has no line control over
8 operations. There are over 30 wardens, operating systems
9 independently, and the system has lacked accountability.

10 I know that Governor Deukmejian did a marvelous
11 job in his presentation and I know you're all aware of this.

12 The major solution, in the Independent Review
13 Panel, is to create a Civilian Corrections Commission to
14 head the Department of Corrections, appointed by the
15 Governor, responsible for all policy, similar to a board of
16 directors.

17 The Secretary would serve as the chief executive
18 officer, with real operational authority to establish
19 department-wide policies and guidelines. It would flatten
20 the organization and have items, such as research and
21 planning, fiscal management, healthcare, risk management,
22 information technology reporting to the Secretary, and
23 service all areas, and provide an organizational structure
24 with a stronger central control.

25 TEAM LEADER REYNOLDS: Hi, my name's Chris

1 Reynolds, it's good to see you again.

2 Californians are committed to the goals of
3 environmental protection and resource conservation. I
4 mentioned at the hearing in Fresno that there's a PPIC poll,
5 from July of this year, that shows a majority of
6 Californians say the environment should be a top policy
7 concern, and they've committed themselves to long-term debt,
8 on the order of \$20 billion over the next 30 years, for
9 environmental protection programs.

10 During its research, CPR came to the conclusion
11 that there's been a heightened awareness over the last 30
12 years, and for each new crisis that emerged, there was an
13 addition of a new box, as Joan mentioned.

14 It's an issue that has not gone beyond the
15 recognition of the Little Hoover Commission, the Legislative
16 Analyst's Office, Agency Secretary's, Department Directors,
17 and the Legislature.

18 So drawing largely on a body of work that already
19 existed, we recommend that there be a Department of
20 Environmental Protection created that will roll up the
21 administrative functions, including fiscal, legal, policy,
22 communication, personnel, information technology, and
23 audit/ombudsmen, and include an Expert Advisory Panel and
24 Office of Local Assistance.

25 Specifically, there will be an Air Quality

1 Division, where there's now an Air Quality Board, the
2 programs will remain intact.

3 There will be a Water Quality Division, where
4 there are now ten Water Quality Boards. We will transfer
5 the Water rights functions to the Resources Agency. Basin
6 plans will be developed on an ad hoc basis.

7 We will transfer site cleanup programs to a new
8 Site Cleanup Division. And we will transfer the Department
9 of Health Service's Drinking Water Function into the Water
10 Quality Division, and we will consolidate clean water
11 funding.

12 There will be a Division of Pesticide Regulation.
13 The programs will be intact and we will transfer the
14 Structural Pest Control Licensing, now at Consumer Affairs,
15 to this Division.

16 There will be a Site Cleanup and Emergency
17 Response Division, by combining Site Cleanup Programs at the
18 Water Resources Control Board, the Department of Toxics, and
19 the Waste Management Board.

20 We will transfer the Accidental Release Program
21 from the Office of Emergency Services and add the Oil Spill
22 Programs now at the Fish and Game, the State Lands
23 Commission, and the Coastal Commission, to the Site Cleanup
24 Commission in Cal-EPA.

25 We will combine waste management functions, at the

1 Toxics Substances Control Department, Department of Health
2 Services, the Waste Management Board, and the Department of
3 Conservation's recycling functions into a Pollution
4 Prevention, Recycling, and Waste Management Division, and we
5 will transfer the function of developing risk assessments,
6 that's at the Office of Environmental Health Hazard
7 Assessments, and we'll transfer that function to a new
8 Office of Public Health within the Department of Health and
9 Human Services.

10 We also, again, recommend the Secretary include an
11 Expert Advisory Panel and an Office of Local Assistance.

12 We also recommend that we refocus resource
13 conservation efforts in a Natural Resources Department that
14 includes a Forestry and Land Management Division. We
15 recommend that we eliminate the Board of Forestry, we
16 transfer the fire fighting function to the Department of
17 Public Safety, we eliminate the State Lands Commission and
18 transfer those functions related to management of sovereign
19 lands to the Resources Agency. In this Division, we include
20 agricultural stewardship, the Ag. Lands Stewardship Program
21 and the Williamson Act functions to this Division.

22 The mining programs and geology programs remain
23 and are transferred to this Division.

24 The energy-related functions, at the State Lands
25 Commission for Oil, Gas, and Geothermal, will move to the

1 Infrastructure Department.

2 We will have a Division of Habitat Preservation
3 and Plant and Wildlife Protection, comprised mostly of
4 Department of Fish and Game biologists, who have oversight
5 for CEQA review and Endangered Species Act.

6 We will transfer the fish and game wardens to the
7 Department of Public Safety. We will include the Wildlife
8 Conservation Board activities for wildlife refuges and
9 coordinate those with other land managers from
10 conservancies, the Coastal Commission, the Bay Conservation
11 Development Corporation, et cetera.

12 We will transfer the Bottle and Can Recycling and
13 Oil Spill Prevention in response to the Department of
14 Environmental Protection.

15 We recommend a Parks History and Cultural
16 Division, comprised of the Department of Parks and
17 Recreation, and we will add the Science Center and the
18 African American Museum from the Department of Consumer
19 Affairs, and transfer the functions of POST-certified, Peace
20 Officer Standards Training, certified rangers, to the
21 Department of Public Safety.

22 We will retain conservancies, although we
23 recommend devolving five conservancies to the local level
24 and retaining the Coastal Conservancy, the Tahoe
25 Conservancy, and the Santa Monica Mountains Conservancy.

1 We retain the Coastal Commission, although we
2 transfer the oil spill functions to the Department of
3 Environmental Protection.

4 We retain the Bay Conservation and Development
5 Corporation. We transfer the Energy Commission to the
6 Infrastructure Department. We transfer the State Water
7 Project to the Infrastructure Department. And we transfer
8 dam safety and levee functions to the Public Safety
9 Department.

10 Finally, we view the Department of Food and
11 Agriculture as the kind of vertically integrated department
12 structure we are seeking to emulate elsewhere. The one
13 thing we do that's significant, I suppose you could say, is
14 we transfer the weights and measures functions from this
15 Department to the Consumer Protection Department.

16 And in separate issue papers, we recommend
17 devolving Commodity Boards into Public Benefit Corporations,
18 and devolving Agricultural Associations, County Fairs, into
19 Public Benefit Corporations, as well.

20 TEAM LEADER BORUCKI: The Governor's Office of
21 Management and Budget, we've asked for the creation of this
22 Office. The goals of this Office would be to identify and
23 implement best practices and fiscal management statewide, to
24 conduct performance reviews and financial audits of State
25 government programs, since many of our recommendations are

1 dependent upon creating a performance management atmosphere
2 in State government, to provide support services and
3 technology, human resources, financial management and
4 procurement, and administer public retirement and benefit
5 systems.

6 Included within the Governor's Office of
7 Management and Budget would be the Technology Division, the
8 Fiscal Affairs Division, the California Performance Review
9 Division, although that one's probably questionable, the
10 Business Services Division, the Personnel Management
11 Division, and Regulatory Affairs and Adjudication Division,
12 and the Retirement Benefits Division.

13 The Director of the Office of Management and
14 Budget should be responsible for the management of the
15 State's fiscal affairs, for personnel management and
16 procurement systems and, in conjunction with the State's
17 Chief Information Officer, should have the responsibility
18 and authority for statewide strategic planning and
19 coordination of technology, including policy and standards
20 development, as well as the business process analysis.

21 In conclusion, the citizens of California know
22 that government plays a vital role in both their lives and
23 in the State's economy. They'd probably prefer that it
24 played a more positive role.

25 They want a government to build roads, to provide

1 public schools, and to apprehend and rehab criminals. They
2 want a government that provides for society's most
3 vulnerable members, our children, our elderly, our disabled,
4 and our economically disadvantaged.

5 By the same token, they don't want a government
6 that is wasteful, inefficient, or a drag on the economy.

7 The framework that we've outlined for you here,
8 today, is an important first step towards establishing a
9 government that serves the people, a government that
10 embraces innovation and that demands accountability.

11 The process of implementing this new framework
12 will not happen overnight, and it's not going to be easy,
13 but it cannot be done incrementally. We have an obligation
14 to the people of California to complete this wholesale
15 transformation of government, its organization, its
16 processes, and its procedures.

17 With one last statement, I'd like to thank
18 Dr. Starr and Susan Hildreth for providing us with the
19 historical organization charts and all the help that they've
20 provided us in the research throughout the CPR.

21 COMMISSION CO-CHAIRPERSON KOZBERG: Thank you.

22 I'd like to call the Commission's attention to the
23 fact that this afternoon we'll be looking at a number of the
24 departments that we haven't looked at previously, Labor and
25 Economic Development, Commerce and Consumer Protection, the

1 Office of Management and Budget, and the California Tax
2 Commission.

3 This is an excellent time to ask the CPR staff
4 general questions.

5 Okay, Jay?

6 COMMISSIONER BENTON: Thank you, Madam Chair. I
7 think I'd like to begin with just a general question and
8 Chon, maybe to you. We have been hearing testimony, now,
9 for a month and a half, and a lot of the points that were
10 discussed this morning have been discussed in separate
11 hearings, about which we've taken testimony. So without
12 being specific, can you share with us the process that will
13 go on? I mean, I could ask you specific questions about
14 this board, or this reorganization, or why you're doing it,
15 but we'd get lost in detail.

16 So the process question is this, what happens
17 next? Without being specific, have the members of the
18 Commission, of the 275 in your team, have they heard things
19 that put a different spin on subjects, provided information
20 probably not thought about when you were doing your original
21 study? And, if so, how do you see that being implemented in
22 the final recommendation?

23 COMMISSION CO-CHAIRPERSON HAUCK: Jay, we've asked
24 Chon and the CPR team to begin the meeting we'll have,
25 probably on the 20th of October, to respond to what they've

1 heard, to tell us whether they, as a result of what they've
2 heard, would modify any of these recommendations.

3 And then, procedurally, we're going to make --
4 we're going to either agree or disagree to make some
5 recommendations to the Governor and then, procedurally, from
6 that point it's up to the Governor's Office to decide how
7 they want to proceed on this entire matter.

8 Legislators certainly will be free to introduce
9 legislation to implement some of the recommendations, and I
10 expect that will happen. But as far as the desires of the
11 Executive, we're going to hear, at least we're going to hear
12 whether the CPR team wants to make some modifications of the
13 recommendations and then we'll have an opportunity to let
14 the Governor know what we think, if we can do that, and then
15 it's up to him, really.

16 EXECUTIVE DIRECTOR GUTIERREZ: Well, let me just
17 add two sentences to that. What we are doing there, the CPR
18 is down to -- you're looking at CPR, plus Bob Martinez in
19 the back. So there are five of us left.

20 What I've done is I've cut up all of the
21 organization charts, just like you saw it presented today,
22 amongst us five, and we are going through all the testimony
23 that we heard. I've been at all of the hearings, and so I'm
24 guiding them a little bit, because they didn't attend all of
25 them, and we are considering that very issue.

1 And we're looking at it, one, areas where we may
2 have made a mistake in understanding the information, and so
3 we'll be looking at that.

4 Other areas where there is a fine line, for
5 example, the area of public safety, it's come up almost at
6 every hearing, where do you draw the line, and it came up
7 today, again. Do you include fish and game? Do you include
8 forestry? Or do you include only CHP and firefighters? So
9 we'll be looking at that.

10 Those are more judgmental in nature, and we're all
11 going to sit around with guidance, well, if the Chairs want
12 to give us guidance, we're all going to sit around and try
13 to determine whether we reconsider that line that we drew
14 without benefit of the testimony that we've heard in the
15 last hearings. So we'll be prepared to do as the Chairman
16 said.

17 COMMISSION CO-CHAIRPERSON KOZBERG: Could you
18 briefly comment on how you approached independent agencies?

19 EXECUTIVE DIRECTOR GUTIERREZ: Can you give me an
20 example of an independent --

21 COMMISSION CO-CHAIRPERSON KOZBERG: How did you
22 find a home for them, because independent agencies seemed to
23 have been swept into the department structures?

24 EXECUTIVE DIRECTOR GUTIERREZ: What we tried
25 to -- we did identify functional responsibility in each one

1 of those areas that we identified. We tried to sort every
2 single governmental function and tried to find a suitable
3 place for them.

4 There were some where, quite frankly, we just used
5 our judgment. For example, the gambling and lottery. In
6 the current organization they report independently, directly
7 to the Governor. But at the end of the day, we decided that
8 those two Commissions regulated the industry for the benefit
9 of the consumer, and so we put them in there.

10 We struggled a little bit with the library,
11 primarily because there was some judgment that they had some
12 Constitutional -- or we had some Constitutional limitations
13 on the placement of the library.

14 But generally, that's how we did it, we tried to
15 look at their function and put it as close to related
16 functions as we could.

17 COMMISSION CO-CHAIRPERSON KOZBERG: Assemblywoman
18 Bates and then J.J.

19 COMMISSIONER BATES: Thank you. Just a quick
20 question. I haven't seen, in any of the material provided
21 yet, how the consolidation eliminates staff level positions
22 through the consolidation. Do we have any summary of that?

23 And I ask that question as a member of the Budget
24 Subcommittee's annual request for additional personnel to
25 run a department or an agency, and it's very important, I

1 think, for us to know, going into a reorg. and a
2 consolidation, if we're actually eliminating staff.

3 We know what we're eliminating in terms of boards
4 and commissions, appointees, and I'm sure staff to those.
5 But in terms of this new model, how are we streamlining in
6 terms of the number of people required to do a particular
7 function, and if we don't have that, may we have that?

8 EXECUTIVE DIRECTOR GUTIERREZ: Thank you for the
9 question. The document that we've presented to the Governor
10 does not contain recommendations in the area that you
11 identified, beyond the boards and commissions.

12 The analysis that we did, we looked at certain --
13 for example, we looked at the Business, Transportation, and
14 Housing Agency, as it exists today, and we tried to identify
15 how many lawyers it had, how many public relations officers
16 it had, and so forth, and so forth.

17 Without going into a lot of detail, the numbers
18 are pretty staggering, and the first thought is that by
19 consolidating, I think, for example, in the area of public
20 relations are close to 60 employees that do that function in
21 the Business, Transportation, and Housing Agency.

22 In a consolidated atmosphere, we looked at some
23 research in shared functions, consolidation opportunities,
24 and you'll see a lot of literature that says, under certain
25 circumstances, you can save as much as 40 percent, but that

1 generally involves relocating to low cost areas, and
2 bringing together functions throughout the country into one
3 location. It has more to do with the corporate structure.
4 Other areas show savings of 20 and 25 percent.

5 We chose not to anticipate the savings there.
6 Instead, what we did is created a legal framework that
7 consolidates all that activity under one Agency Secretary,
8 and then he or she can structure their organization
9 appropriately.

10 If you're bringing ten departments into one
11 department, do you need ten budget officers? Do you need
12 ten HR people? Well, probably not, but that's a judgment
13 that we thought was more appropriate for your Committee, for
14 the Governor, and for the people that have to implement the
15 program to address. So we counted no savings for those
16 types of things.

17 In other areas you have ten -- let's just say that
18 you have ten departments in one agency, every department has
19 a department director, a chief deputy director, a scheduler,
20 an executive assistant, somebody that answers the phone, and
21 so forth.

22 Again, that could add up to over a hundred people,
23 and we made no effort to identify them, either, we figured
24 that was a judgment that you would exercise.

25 COMMISSIONER BATES: Just a comment, then, cost

1 certainly is the core issue here, but the public's
2 credibility in terms of us taking the steps to get there, us
3 Legislators, in particular, is critical.

4 And I think, without some template on how we've
5 retained the public's role in our government, numbers
6 dictating that, and if there's more bureaucrats than there
7 are public points of access, we don't make a lot of
8 progress.

9 So I think it is critical to this entire process
10 that we understand that what you're proposing retains that
11 balance. And I think we've talked a lot about it here, in
12 transparency and access, that it's truly critical that in
13 consolidation you have not consolidated power in the
14 government, but with the people.

15 So having that addressed, as we finalize our
16 recommendations, I feel, is critical to the credibility of
17 my role on the Commission. So thank you.

18 COMMISSION CO-CHAIRPERSON KOZBERG: I have J.J.,
19 Irene, and Beverly. Have I missed anyone?

20 Okay, J.J.

21 COMMISSIONER JELINCIC: I'll actually take some
22 guidance from the Chair on this one. I had a question
23 about, particularly on Public Safety, and what they had
24 heard and what thoughts they have on how they would change
25 it at this point. If you would prefer that we wait until

1 the next one, I will be happy to do that.

2 COMMISSION CO-CHAIRPERSON KOZBERG: Yeah, I think
3 it's more appropriate to the next meeting.

4 COMMISSIONER JELINCIC: Okay. And the other one
5 is I have some questions about the Workforce Development
6 Plan that they talked about, in terms of the capital. I can
7 either do that now, or I can wait until we're discussing the
8 Office of Budget and Management, whichever you'd prefer.

9 COMMISSION CO-CHAIRPERSON KOZBERG: Why don't you
10 hold on that question, as well.

11 COMMISSIONER JELINCIC: Okay.

12 COMMISSION CO-CHAIRPERSON KOZBERG: Thank you.

13 All right, Irene?

14 COMMISSIONER IBARRA: This may be a process
15 question that isn't for Chon directly, but I would like to
16 know if you've had the opportunity to present these
17 recommendations to the Cabinet Secretaries, and if this
18 Commission is going to have the opportunity to hear the
19 Cabinet Secretaries' evaluation, their input, and if we will
20 consider that as part of our deliberation?

21 COMMISSION CO-CHAIRPERSON KOZBERG: I think maybe
22 we could answer that. I think the ideal was to get the most
23 amount of input, and so that they have kept the Cabinet
24 Secretaries, who are doing their own analysis, separate from
25 the public input, so that we could get the maximum amount,

1 and it will come together, then, to the Governor's Office.

2 COMMISSIONER IBARRA: Thank you.

3 COMMISSION CO-CHAIRPERSON KOZBERG: Beverly
4 O'Neill.

5 COMMISSIONER O'NEILL: Chon, I appreciated you
6 saying that after hearing all the hearings that we've had,
7 and the testimony that we've had, that you're still going to
8 go back and relook at this in some of the areas, Health
9 Services, and the Public Safety area.

10 And most of the boards that have been recommended
11 for elimination have been advisory or oversight, or
12 monitoring boards. There are a few that have significant
13 procedural and philosophical changes, however, and I think
14 there needs to be another look at some of those.

15 And the one I would -- of course you probably know
16 that I'm going to speak to specifically, is that the policy
17 shift that's not even visible anymore on the Governor's
18 proposed government structure, and that is the consolidating
19 of the State Higher Education Agencies. I think that needs
20 to be relooked at, with the elimination of the Chancellors,
21 and the Board of Governors of the community colleges.

22 This affects 108 community colleges. Thirty
23 percent of the graduates of UC are from community colleges,
24 65 percent are from community colleges for the CSU system,
25 and it puts another level of bureaucracy on already a

1 heavily regulated system.

2 And I just fear that this strong board of 108
3 community colleges in the State, that are known nationally
4 as the strongest community college system in the United
5 States, really belongs with the other levels of higher
6 education.

7 And if you look at the objectives that you have
8 written for higher education, I think there are five or six,
9 all but one have to do with transfer, have to do with
10 coordination with community colleges. And I hope you would
11 add that to your list to review.

12 EXECUTIVE DIRECTOR GUTIERREZ: It's already on my
13 list, thank you.

14 COMMISSIONER O'NEILL: Thank you.

15 COMMISSION CO-CHAIRPERSON KOZBERG: J.J.?

16 COMMISSIONER JELINCIC: Actually, this question is
17 for the Chair and it goes back to Irene's question. The
18 input from the Cabinet Secretaries will be given to the
19 Governor, independent of this Commission; is that what I
20 understood you to say?

21 COMMISSION CO-CHAIRPERSON KOZBERG: Correct.

22 COMMISSIONER JELINCIC: Thank you.

23 COMMISSION CO-CHAIRPERSON KOZBERG: Thank you very
24 much.

25 We're now going to move on to, again, another very

1 distinguished panel. And as you come up here, we're going
2 to ask all of you to come up at once. And it's a shame, but
3 we are limiting you to five minutes, so you will see someone
4 with a card out when you have one minute left.

5 All of these people have contributed so much to
6 governance in the State of California over the years. And I
7 think we're going to start out with Michael Cohen, in the
8 Legislative Analyst's Office.

9 And we're asking you, in particular, what you
10 agree with, what you disagree with, and what you would do
11 differently?

12 And if you could also make self-introductions, and
13 we're starting with Michael Cohen, then Ted Gaebler, Jean
14 Ross, Fred Silva, Richard Terzian, and Allen Zaremborg, in
15 that order. And again, self-introductions.

16 PANEL MEMBER COHEN: Thank you, Madam
17 Commissioner. Michael Cohen, with the Legislative Analyst's
18 office.

19 For those of you who aren't familiar with our
20 Office, we were established in 1941 as a nonpartisan fiscal
21 and policy advisor to the Legislature, and that's the role
22 that we took over the last couple months in reviewing the
23 CPR report.

24 A month ago, we issued our initial assessment of
25 the CPR, which we've submitted as written testimony.

1 Hopefully, you've had a chance to see that. It's also on
2 our website, at lao.ca.gov.

3 So I'm going to be basing my comments, today, on
4 that report, particularly as it relates to the
5 reorganization. Obviously, in a short amount of time, you
6 have to keep your comments at a very high level, so I'm
7 going to try to run through some of those basic principles
8 and criteria we think are important to look at when you're
9 looking at a reorganization.

10 Before I go into some of those principles, I
11 thought a little bit of historical perspective, again, might
12 be instructive. As we were doing our review, we started
13 looking back to the 1970s, when in 1970 then Governor Reagan
14 proposed creating a consolidated Department of Health, and
15 in his message about why this Department of Health was
16 important, he cited many of the same issues that are present
17 today, fragmentation, the lack of coordination between
18 programs and departments.

19 In 1973 that Department of Health was created but
20 yet, by 1978, by most accounts, the department was a failure
21 and it was actually disbanded. At that point the problems
22 cited were a lack of accountability and a lack of policy
23 direction.

24 So I bring that to your attention, not to dismiss
25 any efforts to pursue consolidation, certainly not, we have

1 long believed that there's opportunities for consolidation.
2 But instead, I offer it as a cautionary note that even when
3 you have a clearly defined problem, there's going to be
4 unintended consequences and you need to be extremely
5 cautious about pursuing consolidation.

6 So with that, I'd just like to quickly highlight
7 six criteria that we think are important in reviewing a
8 reorganization proposal. The first is effectiveness.
9 Basically, do you think the reorganization is going to
10 provide government services better than is done currently?

11 The second, accountability. Basically, you need
12 to compare in the current and the future structure who's
13 going to be responsible for a program's outcomes, are those
14 clearly defined and are you able to hold an entity
15 accountable for the outcomes of those policy choices that
16 the Legislature and the Governor make?

17 Third is oversight. Again, basically, can the
18 Executive Branch, the Legislative Branch, and the public
19 oversee an entity's activities and make sure that they're on
20 course with what's desired?

21 Fourth, efficiency. Clearly, particularly in
22 today's environment, there are limited resources in order to
23 do government services, so you need to consider whether or
24 not the new proposal, the new structure is going to make
25 better use of those limited resources.

1 Fifth is are there other options. Once you've
2 clearly defined a problem, consolidating is not necessarily
3 going to be your only solution. If you've got two similar,
4 but distinct programs, one option would be to consolidate
5 them but, yet, you're going to be faced with a lot of other
6 possible options that may be more simple. For instance,
7 simply ensuring greater coordination between those two
8 programs, perhaps a policy change by the Legislature would
9 achieve the objective. Better leadership from the Executive
10 Branch, whether it's at the Governor's level or at a lower
11 level of management, providing better leadership.

12 So just because you've identified a problem in
13 coordination, that may not be your best solution.

14 And sixth, and finally, a more practical
15 consideration, basically implementation. Any reorganization
16 is going to cause a disruption of services. Basically, you
17 have to weigh that, those implementation barriers, to the
18 long-term benefits that you're expecting.

19 So those are six principles of the reorganization.
20 As you know, if you've had a chance to look at our report,
21 we feel that, and the advice that we gave to the
22 Legislature, is that to not focus on the mass
23 reorganization, this reshuffling of all of State government
24 that the CPR has proposed and, instead, look for more
25 specific opportunities where there's a key problem within

1 several departments. We think, for instance, the public
2 health arena is one area where the CPR did a good job on
3 identifying problems. Focus more specifically on smaller
4 areas, we think you'll get, in essence, a better bang for
5 your buck in those regards, pursuing more refined
6 reorganization proposals.

7 COMMISSION CO-CHAIRPERSON KOZBERG: Ted Gaebler.

8 PANEL MEMBER GAEBLER: Thank you, Madam Chair.
9 Congratulations on this effort to help California change its
10 government.

11 I am Ted Gaebler, I am the City Manager of Rancho
12 Cordova, here in the Sacramento Metropolitan area. But
13 perhaps I've been asked to be on this Panel because 12 years
14 ago I co-authored "Reinventing Government," which became an
15 international bestseller, figuring out how governments can
16 go about the peaceful process of changing things from the
17 inside.

18 I also want to congratulate the Performance Review
19 for using the brains and expertise, and frustrations of the
20 existing State employees, remembering that the only people
21 who want government to change more than everybody on the
22 outside, are the frustrated employees on the inside.

23 Reorganization is a necessary component of change,
24 but it is not sufficient to cause change or, in fact, to
25 sustain it. Remember, of course, that two-thirds of all

1 change efforts, both in the private sector and the public
2 sector, fail. So we need to figure out how to do that so
3 that this work has greater legs than perhaps some of the
4 work that has gone before it.

5 Remember that for the last 10,000 years we human
6 beings have been creating institutions to do things for us.
7 We created first, of course, the family and the clan, and
8 then perhaps religious institutions, and probably not too
9 far after that business, and mercantile, and trade, and then
10 labor unions, and then education, and the media and oh, yes,
11 somewhere along the way we created governments.

12 But they are not the first institution that we
13 created, nor necessarily the best funded throughout history.
14 All institutions were created to do things for us and they
15 are all measured by whether or not a particular institution
16 adds value to the quality of our lives. That's how we judge
17 the media, that's how we judge our families, that's how we
18 judge our churches and that's how, of course, we judge our
19 governments, and we make sure that they add value to our
20 lives.

21 It stands to reason that in time, and certainly
22 over 10,000 years, governments, and churches, and business
23 and, indeed, families, need to periodically change. Hence,
24 we get down to kind of the reorganization of California
25 government. It's been done before, it will be done again.

1 It's been done in businesses, it's been done in churches.
2 This is a natural, normal thing for this institution to be
3 going through.

4 I specifically wanted to endorse and support the
5 page 9 of the report, which talks about implementing the new
6 framework, and specifically the recommendations for number 3
7 and 4. And that is to establish a project office to support
8 the implementation of reorganization and policy
9 recommendations for the Performance Review, and to require
10 departments to establish a small core team of project change
11 agents to manage the implementation.

12 I would suggest that maybe the last one doesn't
13 need to be required, because this ought to be fun and upbeat
14 and, therefore, let the people that want to do it, do it.
15 There will be more than enough work for those folks there.

16 The change efforts need a champion. They can't
17 happen without a champion, they cannot happen without
18 continued tying in with the Governor's Office, they cannot
19 happen without resources and staff, who are skilled in
20 change management. And all successful change efforts have
21 had some kind of office that gave them support in training
22 change agents, you know, that allowed them to exchange
23 ideas, allowed them to seek refuge when they get beat up by
24 some of the people that are involved in the change effort.

25 Remember that the reinventing of government is

1 four things, and that's what this effort is all about. It
2 is replacing bureaucratic systems with entrepreneurial
3 systems. Long-established bureaucracies need to change to
4 meet the culture that we live in today.

5 It's about creating public organizations that
6 habitually innovate, not just periodically innovate, when
7 there's a major study. So we're trying to inculcate
8 constant change as part of this effort.

9 It's also about creating a public sector that has
10 built-in drive to improve, and it's about having governments
11 that become self-renewing systems.

12 And to do that, you need to set up an agency that
13 helps the nine characteristics of change agents. That is,
14 they rebuild organizations around customers; they focus on
15 outcomes, not inputs; they encourage waivers and exceptions
16 in all phases of reorganization; they translate vision into
17 action; they initiate stuff because, remember, there's
18 always people who are willing to stop it, so if you throw a
19 thousand balls in the air, a few of them will actually land
20 and mature.

21 We need to generate excitement and passion, and
22 that's what the office can do. You need to change
23 incentives to drive the behavior of public employees. You
24 need to create an environment for outside-the-box thinking,
25 and you always have to have a changing of the rules as one

1 of the primary focuses.

2 I actually wish you good luck on this venture. I
3 hope that we, and all of you, have fun with it. The future
4 of our California society depends on our continually
5 evolving our State and other governments.

6 COMMISSION CO-CHAIRPERSON KOZBERG: Jean Ross.

7 PANEL MEMBER ROSS: Thank you, Madam Chair and
8 Commissioners.

9 By way of introduction, the California Budget
10 Project is a nonprofit, nonpartisan organization,
11 established in 1994 to look at the impact of State tax and
12 budget issues on low and middle income Californians.

13 You have an extremely daunting task ahead of you.
14 While we generally support the goals of functional
15 integration and administrative consolidation, like
16 everything in public policy, unfortunately, the devil is in
17 the details.

18 While there are both positives and negatives with
19 respect to restructuring State government, on the one hand
20 it can break down silos and encourage collaboration. On the
21 other hand, creation of large, mega departments can also
22 result in the loss of focus and mission, particularly when
23 relatively small functions are subsumed within larger
24 organizations.

25 And we're concerned that the CPR report, at this

1 time, lacks sufficient detail to permit real evaluation and
2 informed comment.

3 First, I'd encourage you not to underestimate the
4 upheaval and cost associated with organizational change.
5 Change costs time and money and disrupts the delivery of
6 services. And I think this particularly an important
7 concern, in light of the recent budget reductions, which
8 have taken a toll on staffing and leadership in many State
9 agencies and departments.

10 Second, bigger is not always better. Larger
11 agencies can lose clarity of mission and focus, result in
12 diminished accessibility of key decision-making staff, and
13 small functions getting lost within a broader agency.

14 And I would say specifically I know, within the
15 field of affordable housing, a number of lenders,
16 developers, and others are concerned that they'll be lost
17 within a very large infrastructure agency.

18 Second, I'd also point you to, I think, some of
19 the really innovative departments and agencies within State
20 government, that are often singled out for the work they do.
21 The new Department of Child Support Services, the Managed
22 Risk Medical Insurance Board, which are small, I think
23 nimble, and have been innovative, and I wouldn't want the
24 State to lose some of what's best in government as a result
25 of consolidation.

1 I think there are alternatives to the proposed
2 reorganization in front of you. First, I think you should
3 explore, and the Administration should explore, alternatives
4 for achieving functional integration.

5 Interagency and interdepartmental workgroups, for
6 example, can be a less massive way of achieving some of the
7 same goals, it can also open avenues of communication and
8 ensure collaboration.

9 Again, I would say don't lose some of what's best
10 in State government. I think, as you've heard before and
11 will hear later today, a number of the boards and
12 commissions provide very valuable insight, expertise that's
13 not available within State government, also provides for
14 diversity of political opinions, and also the accountability
15 and openness of decision making, and I think that's truly
16 one of the things that's best about government in
17 California.

18 Third, I'd encourage you not to mix restructuring
19 and policy change, and I think they're two very distinct
20 things. I think the process should move forward where you
21 have policy changes separate from the structure of
22 government. And I'd say I'm particularly concerned that the
23 ability to make some of the really positive changes in the
24 Commission's report could be hindered if you merge that with
25 some very controversial policy changes, changes that

1 oftentimes have been rejected by the Legislature for good
2 reason.

3 As a corollary or a follow-on to that, I'd
4 encourage you to break down the process of reorganization
5 into manageable pieces that can thoroughly and thoughtfully
6 be considered by the lawmakers and the public. And I think
7 the tremendous interest that you've seen at these hearings
8 from the public, the fact that you've had more witnesses
9 than have had the ability to testify at, I believe, all of
10 your hearings, points to how much Californians care about
11 the issues that are before you.

12 And I think, again, your ability to move forward,
13 to implement what's best in the Performance Review could be
14 hindered if it moves forward in too large of pieces. And I
15 think that's particularly true with respect to
16 reorganization, which has to be voted on, up or down, by the
17 Legislature, without the ability to make change that I think
18 could result in a better product.

19 Again, I look forward to working with you as you
20 go forward. I would encourage you to look to establishing
21 and holding more public hearings. Again, I think there is
22 tremendous interest. I know a number of organizations we
23 work closely with have wished to have an opportunity to
24 testify before you. And I think, again, that's what's good
25 about California is you have an informed and active

1 citizenry, and I think we all look forward to helping you as
2 you move forward. Thank you.

3 COMMISSION CO-CHAIRPERSON KOZBERG: Fred Silva.

4 PANEL MEMBER SILVA: Good morning to the Chairs
5 and Members of the Commission. My name is Fred Silva, I'm a
6 Senior Advisor at the Public Policy Institute of California,
7 and I was asked to answer, actually, Commissioner
8 Davenport's question, about how to proceed here.

9 So I thought I'd give a little bit of free advice
10 on the question of how to handle this question of dealing
11 with 117 boards and commissions, how do you make choices?

12 Certainly, the criteria that the staff has
13 provided, although well meaning, is a bit broad in its
14 application. Because, certainly, everyone wants to increase
15 accountability and everyone wants to increase efficiency.

16 So what I'm going to suggest to do is to take this
17 117 boards and commissions that are proposed for
18 elimination, and put them into three categories. As you
19 think about it and make your recommendations to the
20 Governor, look at it from a little different angle.

21 And that is this, first take the stakeholder
22 advisory commissions, those commissions that have been
23 formed for the purposes of advising State decision making,
24 most of them are by statute, some of them are done by
25 Executive Order, but take a look at those and decide what

1 you want to advise the Governor about how to get both
2 stakeholder advice and public opinion.

3 Certainly, testimony you heard earlier, about
4 expanding the views of stakeholder boards to include public
5 membership has been on a pretty steady course over the last
6 20 or 25 years, so think about both stakeholder
7 participation and public participation, and then make your
8 choices.

9 The second category, which is probably the largest
10 category of boards and commissions, are those that are
11 policy making and administrative in duties. You have a
12 number of boards and commissions that actually do something.
13 They don't simply provide advice, they do something, they
14 administer a program.

15 And so there are cases where you might decide that
16 a commission to administer a particular program isn't as
17 efficient, or effective, or as accountable, for that matter,
18 as one that is maintained within the executive structure.

19 And when I think about accountability, as a
20 Commissioner raised earlier about who's accountable, what's
21 the standard, it isn't just accountable to an elected
22 office, it's also accountable to a statute. Because there's
23 a point at which a statutory commission was created by a
24 statute, given powers and duties, actually, maybe, the
25 Legislature wrote something in there about what it ought to

1 do, and what the outcome of its work ought to be, which is
2 something the Legislative Analyst is constantly reminding
3 people to do.

4 And so where's the accountability? Well, the
5 accountability is to a public law that passed, again, passed
6 by the Legislature and signed by a Governor.

7 So when you review the commissions that have
8 policymaking and administrative duties, look and see to
9 whom -- I'm sorry, where the accountability is supposed to
10 land, whether it's strictly with the Governor or whether
11 it's by statute.

12 The third category is probably one of your
13 toughest categories because it's both a policymaking
14 commission, it also is a commission that has quasi-
15 legislative duties and quasi-judicial duties. That's the
16 bigger problem.

17 Now, the report suggests, for example, that the
18 State Water Resources Control Board be eliminated. That's a
19 body of law, created back in the fifties, early sixties,
20 with the Port of Cologne Act. It was given quasi-
21 legislative duties, quasi-judicial duties in a variety of
22 policy functions.

23 Accountability for that activity is actually in
24 statute. Governors appoint members. Those members are done
25 from a professional basis, actually, as opposed to a

1 stakeholder basis. Earlier commissioners were formed, as
2 Kevin Starr pointed out, from a professional set of
3 professions. We're now in a different era in our government
4 and we like to do stakeholder memberships.

5 So you have to weigh that. I'd submit to you that
6 looking at these commissions in those three categories will
7 help you figure out how to proceed and what choices to make.

8 Again, the standards you've been given, though
9 well meaning, are a bit broad for the application of the
10 analysis of what you want to keep and what you want to
11 eliminate.

12 Thank you.

13 COMMISSION CO-CHAIRPERSON KOZBERG: Richard
14 Terzian.

15 PANEL MEMBER TERZIAN: Good morning, Madam Chair,
16 Members of the Commission. My name is Richard Terzian. I'm
17 a lawyer from Los Angeles, where I've been practicing for
18 over 40 years. For 17 of those years I was a volunteer,
19 citizen volunteer in State government. From 1986 to 2003 I
20 had the honor, and sometimes the pleasure, of serving on the
21 Milton Marks Commission on California State Government
22 Organization and Economy, commonly known as the Little
23 Hoover Commission.

24 For seven of those years, from 1994 to 2001, I
25 served as its Chairman.

1 The Little Hoover Commission has a unique role in
2 reorganizations. By statute, the Governor must submit any
3 reorganization plan to the Commission. They have about 60
4 days within which to review it, and during that time they
5 will conduct one or more hearings, take testimony from
6 witnesses, sometimes get written comments and, ultimately,
7 write a report, a recommendation to the Legislature. They
8 have about 60 days to do all this.

9 Their role, of course, is advisory only. The plan
10 goes into effect after it's sent to the Legislature, unless
11 the Legislature takes the affirmative step of rejecting it.

12 The Little Hoover Commission has reviewed 29
13 reorganization plans between 1968 and the most recent plan,
14 submitted in 2002. During my service on the Commission, I
15 participated in six reorganization plans. Five were
16 approved by the Commission and one was rejected.

17 Two of them were comparatively small. One, the
18 California State Police was merged with the California
19 Highway Patrol, taking a small, statewide law enforcement
20 agency and becoming part of a larger statewide law
21 enforcement agency.

22 Another was the merger of the State Fire Marshall
23 with the Department of Forestry and Fire Protection, again
24 unifying agencies with similar functions.

25 Other plans, with significantly more scope, were a

1 split. One of them, creation of the State Environmental
2 Protection Agency, combined a number of related boards and
3 departments and it was recommended by the Commission, and it
4 went into effect.

5 Two other plans were ultimately rejected by the
6 Legislature. One would have reorganized the Energy
7 Commission and related governmental functions to eliminate
8 overlapping and duplicative functions.

9 The other proposed to dissolve the Department of
10 Corporations, transferring its healthcare supervisory
11 functions to the Transportation and Housing Agency, and its
12 financial role to the Department of Financial Institutions.

13 The Little Hoover Commission rejected this
14 particular reorganization plan on a closely split vote, and
15 the Legislature also rejected it, and to my knowledge that
16 was the only time in its history that the Little Hoover
17 Commission ever rejected, expressly rejected a
18 reorganization plan.

19 The last reorganization plan, and submitted by
20 Governor Davis in 2002, combined various labor agencies to
21 form a single Labor and Workforce Development Agency. The
22 Commission recommended this plan and it went into effect.

23 Now, the lesson, on my view, to be drawn from this
24 history, is that the larger and more ambitious a proposal,
25 the more agencies and interests affected, the more likely

1 there's going to be opposition and rejection. There's more
2 toes to be stepped on.

3 That, of course, is no reason for you to limit
4 yourself to small, easily accomplished rearrangements and
5 combinations. On the contrary, I suggest that this
6 Commission should take a bold and large step in proposing a
7 far-ranging reorganization of State government.

8 As to the goals that your staff has indicated to
9 me, improving access to service and delivery, improving
10 efficiency, saving taxpayer funds, I believe they can be
11 implemented in the following ways.

12 Number one, I'll tell you the same thing most
13 others are going to tell you, reduce the number of State
14 agencies, whether they're full time or part time, whether
15 they're called boards, commissions, offices, or any other
16 designation. There are too many functions carried on by
17 government, too many offices performing bits and pieces of
18 them.

19 To eliminate the incentives for multiplication of
20 agencies. The main such incentive is the source of funding.
21 An example of funding, as I point out in my written
22 material, of agencies that continue existing just because
23 there's funding, are hospital districts that exist
24 throughout the State, where there are no hospitals, where
25 they've been closed down.

1 Third, don't move the boxes around on the
2 organization charts. If the agencies are abolished, don't
3 rearrange them and send the employees somewhere else.
4 Surplus employees have to be eliminated, rather than having
5 the same number of employees reassigned to different places.

6 And fourth, and probably most important, the
7 threshold issue is, is this function necessary? And before
8 implementing any plan, recommending any function change, the
9 question is should the State of California be doing this
10 thing, whatever that thing happens to be.

11 I salute you for the enormous task you've taken
12 on. I think it's a task that has to be accomplished. And I
13 think, if it is done, it will have the same ultimate impact
14 as the 1911 changes to the Constitution, and the 1966
15 reorganization of the Legislature.

16 COMMISSION CO-CHAIRPERSON KOZBERG: Allen
17 Zaremborg.

18 PANEL MEMBER ZAREMBERG: Good afternoon,
19 everybody.

20 COMMISSION CO-CHAIRPERSON KOZBERG: Turn on your
21 mike.

22 PANEL MEMBER ZAREMBERG: Great. Good afternoon,
23 everybody, I'm Allen Zaremborg. I've been 12 years with the
24 California Chamber of Commerce, bring some management
25 experience there, 120 employees.

1 But prior to that, and that's mostly dealing with
2 State government, but prior to that I had 11 years in State
3 government, two years in the Attorney General's Office, and
4 9 years in the Governor's Office, under two different
5 administrations.

6 And I think it's important, when I bring to you a
7 couple anecdotes, that you understand it depends on which
8 perspective you look at, and also what your missions, and
9 your goals, and your objectives are, as we heard today,
10 which I think is important for you to define.

11 Is it saving money? Is it delivering better
12 services? Is it more efficiency? Is it accountability? Or
13 is it accessibility?

14 Let me give you an anecdote about boards and
15 commissions, because I think it points out the dilemma that
16 you face, the dilemma I face today.

17 When I went to the Governor's Office, following my
18 stint at the Attorney General's Office, we looked at certain
19 boards and commissions, as Fred Silva described, say the
20 Water Board, that had term appointees. And the previous
21 Governor chose not to run, and the people elected a new
22 administration. However, in fact, you couldn't change
23 certain people on the Water Board because they had term
24 positions, term appointments.

25 You had a new administration, but an old

1 philosophy. Is that consistent? Is that accountability?

2 In my new position, however, or not necessarily
3 new, but in a position today, I hear from my members from a
4 different perspective, and that perspective is
5 accessibility. If I don't have a board or a commission,
6 such as the Water Board, my accessibility to government is
7 limited.

8 I think Fred talked about it in terms of
9 accountability, I think it's a different word, because
10 accountability relates to the administration, to the
11 appointing authority, and that appointing authority is no
12 longer there. But people don't feel like they have access,
13 without some of the existing boards and commissions, when
14 you consolidate power. There is no clear goal that solves
15 all the problems here.

16 I'd also ask you to look at the problems that
17 you're trying to correct, when you're trying to deal with
18 these. And I'll give you another example that I think is
19 important to look at, and that's the OMB and the Department
20 of Finance, and points up a point about reorganization, in
21 and of itself, doesn't always solve your managerial
22 problems.

23 Talented people, to me, they solve your problems,
24 they create the innovation.

25 When there was a fiscal crisis at one time, there

1 was a discussion about whether or not the Department of
2 Finance should set the example and reduce their expenditures
3 first, and reduce their staffing, first.

4 On the other hand, the other side of the
5 discussion is the Department of Finance, as an OMB might be,
6 is the only check and balance you have to know what the
7 departments do, how they spend the monies, whether or not
8 they're efficient. Maybe more resources in the Department
9 of Finance would have been better.

10 Reorganization doesn't necessarily take care of
11 that. A philosophy, innovation, people can solve that
12 problem better than just how the boxes are. Boxes are
13 important, I think, in the discussion, Chon mentioned human
14 resources, legal, but people.

15 And I point out an article, recently, in the San
16 Francisco Chronicle, that pointed out a position in San
17 Francisco, similar to that of CalTrans, paid a similar
18 position about 75 percent more money than a similar position
19 as a CalTrans director. Talent, people, innovation. Does a
20 reorganization solve your innovation problems? What holds
21 up technology that you may do at your company? Do unions,
22 who want to protect jobs, stand in the way of innovation?

23 Even at the local level, you have a lot of
24 suggestions in the Health and Welfare Department aspect of
25 this, about reducing local government employees, using the

1 internet more.

2 There's a lot of innovation and technology that
3 can be accomplished, but what is the problem with that? Is
4 it just reorganization, or is it people, is it union
5 contracts? Look at the problem and isolate it.

6 And before I close, I think when I address this,
7 one final thing on school governance, because I think it's
8 important. The school governance situation, for the most
9 part, except for the Secretary of Education, was set up pre
10 Prop. 13, pre Prop. 98. Financing is leveraged in the local
11 government area. Is your school governance keeping pace
12 with the changes in the law?

13 And that applies to a lot of things I think it's
14 important to look at, has your governance kept pace with the
15 changes in the law, as you look at these issues.

16 Decision making is local, make sure you have the
17 talent to make those decisions. Thank you.

18 COMMISSION CO-CHAIRPERSON KOZBERG: Thank you.

19 Questions? Dale Bonner, then Joel Fox.

20 COMMISSIONER BONNER: Thank you. This is a
21 question for Mr. Terzian. Some years ago I appeared before
22 you, I was the Commissioner of Corporations at the time, at
23 least I think you kindly pointed out that ours was the only
24 reorganization plan that was rejected by both your
25 Commission and the Legislature, so I hold that dubious

1 distinction.

2 PANEL MEMBER TERZIAN: Yes.

3 COMMISSIONER BONNER: One of the things I wanted
4 to ask you, just because you were on the Little Hoover
5 Commission for some period of time, we've heard some
6 criticism of this process, some of it expressed and some
7 implicit, that there's something inherently suspect or
8 problematic with the way in which this reorganization
9 proposal is being presented, somewhat suggesting that the
10 process would have been better if there had been a much more
11 public participation than just the preparation of the
12 proposal, itself.

13 And I wanted you to comment just on what you've
14 seen in terms of the Little Hoover Commission process, and
15 isn't it true that most of the reorganization proposals that
16 have been presented to your Commission have been prepared
17 internally by the Administration, and then presented to the
18 Little Hoover Commission and the Legislature for public
19 discourse and evaluation, or are you aware of any other
20 process or situation where the proposal, itself, was the
21 product of a public participation and review?

22 PANEL MEMBER TERZIAN: In my experience, every
23 single one of the reorganization plans that were presented
24 to the Little Hoover Commission, when I was a member, came
25 from the Governor's Office, and as a finished product, as it

1 were.

2 We had hearings, we invited everyone that had any
3 kind of interest in the subject to appear, that was the
4 public participation. And ultimately we made
5 recommendations, and sometimes our recommendations were
6 modifications of what had been presented to us by the
7 Governor.

8 But prior to the time it came to the Little Hoover
9 Commission, there was no public input, as far as I know.

10 COMMISSION CO-CHAIRPERSON KOZBERG: Joel Fox?

11 COMMISSIONER FOX: Thank you. I have more of a
12 statement than a question, but since it spins off of
13 Michael Cohen's testimony, let me address it in that
14 direction, and actually Jean mentioned this a little bit,
15 too. And that was the discussion of limiting the focus of
16 your recommendation from the LAO to the Legislature, to look
17 more at the narrow issues for success.

18 And building on an earlier discussion, I believe
19 this Commission is not just an up and down vote on what the
20 CPR has presented, but that we should report back to the
21 Governor what we've heard and offer some recommendations of
22 our own, if we so choose.

23 And I have said, in earlier Commission meetings,
24 that I believe we should have, I guess Mr. Terzian put it
25 well, bolder recommendations.

1 And the LAO in the past, of course, has looked at
2 larger issues, such as State and local government
3 relationships, which is one I'll just mention here. If, in
4 fact, this Commission recommended to the Governor that he
5 does look at larger issues, broader issues, bolder issues, I
6 assume that the LAO would have an interest in taking a look
7 at those broader views, since the LAO has commented on those
8 kind of issues over the last decade or so, because I believe
9 that's a role this Commission can play, to open up to those
10 broader views.

11 So that's my statement, but please comment on it,
12 if you would?

13 PANEL MEMBER COHEN: Sure, I'd be happy to
14 comment. Absolutely, our office, for those who have
15 followed us, know that we've often pushed for more
16 fundamental reform. And, in fact, that was one of our
17 critiques of the CPR is that they really didn't, in our
18 view, throw the net broad enough, and because of that there
19 aren't the details there to sort of do a broad-based
20 approach, and that's why we said do a more focused approach.

21 But we definitely feel that the opportunity is
22 there for fundamental change.

23 One of the things that, in our view, the CPR
24 failed to do was think of Constitutional changes. Once
25 you're going to be pursuing such a massive reorganization of

1 State government, it doesn't make any sense to say, well,
2 the Constitution has these entities already set up, so they
3 have to stay.

4 We would say that, you know, put everything on the
5 table.

6 In addition, we felt that the CPR didn't often ask
7 the more fundamental question of should a service continue
8 to be provided, that it was basically moving the service
9 provision from one place to another, but often failed to ask
10 does the State need to be providing that service?

11 And that can take two forms. One is, is the
12 service needed at all. And to get to your point, if that
13 service is needed, does it have to take place at the State
14 level?

15 As you know, we've often recommended a
16 restructuring of the State/local government relationship,
17 and in a lot of cases we have overlap between what services
18 the State's providing and the services the local governments
19 are providing and, absolutely, there's a fundamental
20 opportunity to pursue that. We just didn't feel that, given
21 the level of detail that the report provides the
22 Legislature, that if it was going to be reacting to the
23 report, itself, there was enough information there to sort
24 of go the broad level, but we've often recommended to the
25 Legislature that, on their own, that they pursue those more

1 fundamental changes.

2 COMMISSION CO-CHAIRPERSON KOZBERG: I have
3 Russ Gould, Bill Hauck, Jay Benton. Anyone else?

4 Okay, go ahead.

5 COMMISSIONER GOULD: I'd like to thank Joel for
6 raising the question I was going to ask, because I think the
7 Legislative Analyst did a very credible job in looking at
8 this report and raising the question of should we think more
9 broadly about things?

10 I guess, turning to that, I'd like to ask
11 Fred Silva a question, because I know you were integral to
12 some of the work of the Constitution Revision Commission.
13 And the issue of this Tax Commission, and how it's being
14 proposed here, and I know it was an item that was discussed
15 at some length, and I wonder if you could contract the point
16 of view of the Commission, versus what's being suggested
17 here, and any reaction to that?

18 PANEL MEMBER SILVA: Sure. The Constitution
19 Revision Commission, as several of you who are members
20 recall, that the Commission looked at this question both of
21 executive accountability, about policymaking, and thought
22 that, from a Constitutional point of view, that the
23 policymaking ought to be focused in the Office of the
24 Governor.

25 And as you looked in this case, a tax

1 administration, we've had this history since, really, the
2 turn of the 19th century -- I'm sorry, turn into the 20th
3 century, of having a divided system for tax administration.

4 The Commission came to two conclusions. One of
5 them was that it ought to be -- that that work ought to be
6 focused in one department, that is, in effect, the
7 Department of Revenue, or whatever you want to call it, and
8 that the Board of Equalization should be eliminated and,
9 instead, some form of an appeals process be set up.

10 Rather than an elected body, an appointed body,
11 the notion was that two things are needed. One is effective
12 administration and the other is a system for appeals.

13 And I think the Commission looked at both issues,
14 both the question of having an elected appeals body, versus
15 an appointment appeals body, and came to the conclusion that
16 it would be more effective and efficient to have an
17 appointed appeals body, than an elected one.

18 Remember, also, that that was -- that decision was
19 made in the context of wanting to eliminate so many sort of
20 functional, elected positions that had come out of a hundred
21 and then forty some years of the State's existence.

22 Since the fundamental question here was what
23 authorities to give to the Governor and what to give to
24 independent boards.

25 We start with 12 elected officials in the State.

1 The proposal was to reduce that back to five. And,
2 certainly, the elimination of the Board was to do that.

3 And again, it's a choice between having an elected
4 body as an appeals agent, and then having its consolidated
5 administration structure for tax election, or to have an
6 elected body oversee it. The commission came to the
7 conclusion that you ought not to have an elected body
8 oversee the administration of the tax system, other than
9 appeals.

10 COMMISSION CO-CHAIRPERSON KOZBERG: Bill Hauck?

11 COMMISSION CO-CHAIRPERSON HAUCK: I'm going to
12 start with Allen, but I would like Fred to get into this,
13 too.

14 Allen, say, if you will, based on your experience,
15 what the principle objectives of this reorganization should
16 be, and then whether you believe what's been proposed would
17 accomplish or achieve those objectives?

18 PANEL MEMBER ZAREMBERG: I think any
19 reorganization -- well, first of all, let me look at the
20 Performance Review Report as more than just a
21 reorganization, because I think there are things in here
22 that are issues that are prone to reorganization, prone to
23 being resolved in the budget process, and also prone to
24 being resolved in a legislative package, as probably
25 separate from the budget.

1 So I think, when you look at it, there are a
2 number of vehicles that achieve these goals separately.
3 Certain technology innovations at the local level, on health
4 and welfare applications may be a budget issue, rather than
5 merely a reorganization issue. So I think, when you look at
6 this, you step back and look at it.

7 I think efficiency of government and service to
8 the public is certainly primary and paramount, to make sure
9 that the taxpayers, and the people who are served, get the
10 most value for their services, for the things that the State
11 pays, whether it be education, or health and welfare --
12 delivery of Health services.

13 As I said, I think it's important that these goals
14 are not always consistent, depending on your perspective,
15 and I think it's important. Although I think accountability
16 is very, very important, I think, also, accessibility on
17 behalf of the public is important. And they may conflict,
18 from time to time, as I indicated, on boards and
19 commissions.

20 But I think we owe a duty to the people of
21 California, as I sit here and as you sit here, and I say
22 collectively, we, to make sure that the services are
23 delivered to the public with the most efficiency and the
24 best that we know how to do.

25 Sometimes, that doesn't necessarily mean, as I

1 indicated, in terms of being able to acquire the best
2 talent. It might look on your face where you say well, if
3 we can acquire better talent, can we save more money in the
4 long run? I think you can. People bring innovation, not
5 necessarily boxes. And I think that's important to set that
6 charge, to bring that about, but you also have to look at,
7 when you set your goals, the barriers to those goals.

8 And that's where I talked about innovation.
9 Productivity in the private sector certainly increases as
10 the result of technology. Do we have the same ability in
11 the government of California, in the State, to do the same
12 thing, to improve that? And if we don't, what are the
13 barriers? Take a look at that.

14 And I think, finally, is the governance issue, as
15 I brought up, is it important when you set your goals? You
16 know, the public chose, on a Prop. 13 and Prop. 98 basis,
17 that goal has already been established to change the funding
18 source for local education. Has the governance kept up with
19 that?

20 So when I say that, that's a different goal,
21 because certain goals have already been decided by the
22 public. And when you have a governance, does it match the
23 goal? That's one aspect.

24 But I think, more broadly, the goals of delivering
25 the quality of the value to the taxpayer, to the recipients

1 of the service, that we give them the best value that we can
2 possibly achieve. So if we were a private sector, you would
3 go back and use them of your own free choice and will.

4 COMMISSION CO-CHAIRPERSON HAUCK: Do you want to
5 get into that?

6 PANEL MEMBER SILVA: Yeah, two quick things. One
7 of them is as you're all trying to look at how you want to
8 frame your recommendations to the Governor, remember that
9 the CPR project brings you a relatively narrow question on
10 the Governor's ability and his desire to do executive
11 reorganization, so that immediately narrows the field,
12 unlike the Constitution Revision Commission that had a
13 broader field of view here.

14 So if you want to make it broader, then you'll
15 have to get into some Constitutional structure questions.

16 But for the moment you'll have to deal with what
17 has been brought to you, which is to look at executive
18 reorganization, understanding that there are few statutory
19 changes that are recommended in here, most of it's being
20 done through the executive reorganization authority that the
21 Governor has.

22 So that's the choice you all need to make and say,
23 well, this is fine for what it is, but if you want a broader
24 look at it, then I think that's your task of recommending a
25 broader look.

1 The second thing is on the standards that the
2 project used, I think I'd agree with Allen that
3 accountability may be important, access is also important.
4 But I'd take accountability and say that this project has
5 focused accountability with the Governor. And so it's easy
6 to say that there's this independent board out here and,
7 certainly it has appointees, and it's got term, the
8 appointees are term limited but, nonetheless, it's separate.

9 Now, as I suggested earlier, if you look at these
10 boards and commissions in three categories, you can do the
11 same thing with general State operations. It's also a
12 question of accountability to a statute.

13 So ask the question, not just does this
14 recommendation or proposal increase accountability with the
15 Governor, what does it say about accountability to a statute
16 that was both passed by a Legislature and signed by a
17 Governor as a function of government.

18 Obviously, there's the question of should
19 government do it at all, and the report, in some cases,
20 raises that question.

21 But for you, I'd recommend that you look not only
22 at accessibility as a parallel objective to accountability,
23 but when you look at accountability look at the statute, not
24 simply the question of improving accountability to the
25 Governor.

1 COMMISSION CO-CHAIRPERSON KOZBERG: Jay?

2 COMMISSIONER BENTON: Thank you. Actually, my
3 question was asked and answered, thank you.

4 COMMISSION CO-CHAIRPERSON KOZBERG: Dale. Yes, we
5 have time.

6 COMMISSIONER BONNER: Okay. It's a question, I
7 guess, for Mr. Zaremborg but, obviously, anyone who has a
8 thought, I would welcome the comment.

9 In the hearing that we had a few weeks ago, where
10 we considered a number of the educational proposals, we
11 heard a lot from the educational community and some others,
12 but we didn't hear a lot from the business community
13 speaking to the nexus, if any, between the way that we
14 educate our children here, in California, and prepare them
15 for the kind of workforce that we perceive needing in the
16 future.

17 And you made a couple of comments today about the
18 current structure being kind of a pre Prop. 13 structure.
19 And I just wanted to know if you could comment generally, or
20 specifically, if you like, about the nexus you see between
21 however State government is organized, on the one hand, and
22 the State's ability to produce the type of work or skilled
23 workers and others that we need down the road.

24 PANEL MEMBER ZAREMBERG: From the business
25 community's perspective, let me first say that education is

1 first and foremost. When the economy is good, we hear from
2 our members from the business community it's the number one
3 issue, workforce development education.

4 Our higher education system, you know, is one of
5 the most significant aspects of our ability to attract high
6 paying jobs in California. It's the investment there that
7 really pays dividends, sets California apart from the rest
8 of the country, I believe. Even though it may cost more
9 money to do business here, it's something we cherish.

10 And the State government has a role, and the
11 people that are prepared for that are done through the K-12
12 system, and obviously including community colleges in
13 addition to that.

14 When I bring up governance, I think we saw in the
15 last decade a move towards accountability established at the
16 State level. And the leverage that the accountability had
17 was State funding, because our State funding has changed.
18 It has changed since Prop. 13 and Proposition 98, that
19 focuses a great deal of leverage with government.

20 And the relationship between the State, to set the
21 accountability standards, and that with the local district,
22 who implements that, I think is an important thing to look
23 at, how do you do that?

24 When you have those funding resources, when you
25 have the ability to carry them out, how should that be

1 connected?

2 I'm not saying, Mr. Bonner, I have the answers to
3 that, but I think it's important to look at, I think it's
4 important to examine that governance.

5 If the State, as it has started to do, because
6 they weren't satisfied with the accountability developed and
7 made a stronger statewide statement on it, are those
8 accountability standards being implemented? How can they be
9 implemented best? What is the right structure at the State,
10 in its relationship with the local level, to do that?

11 Education is one of the most important aspects of
12 evaluation to taxpayers, and I think it's -- you know, we
13 want to make sure we deliver the best services and get the
14 most out of our dollars spent. And I don't think there's
15 any better aspect of things on the positive side, that the
16 State can do, for the job creation in California, than to
17 make sure our education system delivers the most value for
18 the taxpayer dollar.

19 And the governance does -- as I talked about
20 people, people, people, I think governance here plays a very
21 significant role in organization, it deals with the decision
22 making process.

23 COMMISSION CO-CHAIRPERSON KOZBERG: Steve Frates?

24 COMMISSIONER FRATES: This is primarily directed
25 to Fred. But Fred, you know from our scar tissue, from the

1 Constitutional Revision Commission, that structural change
2 is indeed a difficult and contentious process.

3 But it occurs to me, once again, that there are
4 some things here that I think you've hinted around at, that
5 might be addressed in terms of process change, how existing
6 entities in the State operate.

7 And that really falls down to two things. One,
8 perhaps, is unified standards that are perceivable to the
9 public, so the perception that they're not getting jerked
10 around by one function or one office, and then treated
11 differently by another. You hear a lot about that from
12 developers and business people, certainly, but also from
13 people who are being regulated or are interested in
14 education.

15 And the second thing is better communication,
16 internally within the structure as it exists right now. In
17 other words, so there's some uniform set of policies or
18 procedures that address the various aspects.

19 In your experience in dealing with this over the
20 years, how much of this situation, or how much of the
21 difficulty that we're facing in State government might be
22 addressed, by perhaps great legislative clarity, as to
23 intent as to what is wanted to be done legislatively, number
24 one.

25 And then number two, by improving internal

1 communication and unifying standards within the State
2 government structure, itself.

3 PANEL MEMBER SILVA: Okay, on two points. One of
4 them is with respect to the unity of standards and whatnot,
5 I think the CPR project has done a noble job of looking at
6 that, and no doubt about it, because that's their principal
7 task.

8 The other, more difficult question is this one of
9 how things get communicated. And as I mentioned earlier,
10 the statutory accountability is a tough one. I'm sorry that
11 you raised the question because that forces me to say, well,
12 there's a pitfall in how you look at statutory
13 accountability, because the Legislature isn't always as
14 aggressive, as it might be, in describing what the output of
15 the given function ought to be, and the legislative process
16 will produce that.

17 Certainly, Assembly Member Bates is aware of the
18 difficulty of getting a legislative enactment through that
19 might have specific standards in it, and then as it walks
20 through the legislative process, and the executive process,
21 those standards maybe are made a little bit more vague. The
22 notion is that administrative powers will bring more
23 refinement to them.

24 So I would offer, both in my experience and
25 thinking about this, is that the more that the Legislature

1 can do in a statutory framework that is specific, then the
2 easier it is for the administrative agency to implement the
3 statute.

4 So you might think of a, and I'm going to use the
5 Port of Cologne Act maybe as an example here, where a given
6 body is delegated the task of setting some standards and,
7 over time, that act has been made more specific, and I think
8 it's to the credit of the Legislature and the Executive
9 Branch to try to bring more specificity to their regulatory
10 function. Bringing more specificity means there's more
11 disclosure, because you know what it is.

12 So I think in conclusion on the second question,
13 both the Executive Branch and the Legislative Branch have
14 got to think about what it is they want the product to be,
15 and it may mean that the Legislature is vague and it hands
16 it to a public body, a body that meets publicly, that will
17 write specific standards. And maybe it is not a good idea
18 to have the Legislature write those standards.

19 So that's a balancing act that both has to be done
20 by the Legislature and the Governor.

21 COMMISSION CO-CHAIRPERSON KOZBERG: I want to
22 thank an outstanding panel. I am sure, as we deliberate,
23 your thoughts, recommendations, and insights will echo.
24 Thank you.

25 We are now going to lunch, and we will be back at

1 1:15.

2 (Thereupon, the luncheon
3 recess was held off the
4 record.)

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1 P R O C E E D I N G S

2 COMMISSION CO-CHAIRPERSON HAUCK: We're going to
3 begin this afternoon with a Panel, as was indicated this
4 morning, on Labor, Economic Development, and Commerce and
5 Consumer Protection.

6 Before we do that, I want to announce that the
7 next meeting of the Commission will be on October 20th, at
8 the University of California, at Irvine. Timing will be
9 approximately what it has been at our previous meetings.
10 The purpose of that meeting will be for the Commission
11 predominantly, and for the Commission to hear from the CPR
12 folks, Chon and his team, in terms of their response to the
13 public testimony that we have taken in the seven public
14 hearings that have been conducted today, as the seventh of
15 those hearings, and to let us know whether they wish to
16 modify or in any manner withdraw, modify, or change in any
17 way any of the recommendations that are in the report.

18 The Commission will then spend most of the rest of
19 the time pursuing the question of whether we can reach
20 consensus on some recommendations to deliver to the
21 Governor. And we will allow a limited amount of public
22 testimony that day, probably restricted to about 30 minutes.

23 The meeting will be open, as all of our meetings
24 have been and are required to be. It will be a public
25 meeting, but predominantly for the two purposes that I

1 indicated.

2 So with that, we are ready to begin. I don't know
3 if we have all our panelists here, but if those that are on
4 the Labor/Economic Development and the Commerce/Consumer
5 Protection Panel would come forward, we'd appreciate it.

6 So let's start with Virginia. Why don't you
7 introduce yourself, if you would? Art's right here.
8 Thanks. And we'll just go down the table from you, to Art,
9 and then to Willie.

10 PANEL MEMBER HAMILTON: Thank you. Good
11 afternoon. My name is Virginia Hamilton, I'm the Executive
12 Director of the California Workforce Association. We're a
13 nonprofit organization that looks at public policy related
14 to workforce development, and we have as our members
15 workforce investment boards, one-stop career centers, local
16 governments and nonprofits that deal with job training,
17 economic development, and workforce development issues.

18 By way of full disclosure, I'm a former State
19 employee, I worked for 17 years for the Employment
20 Development Department, and my last job I worked for Tom
21 Nagle, under the Wilson Administration, running the Job
22 Training Programs for the State of California.

23 I was also interviewed by the California
24 Performance Review staff and virtually none of my
25 recommendations made it into the report, for what that's

1 worth.

2 I'm going to focus my remarks mostly on the
3 workforce development and economic development programs,
4 rather than the tax issues and issues around benefit
5 payments, although I do understand those are important
6 issues and perhaps my colleagues will address those. I can
7 certainly answer any questions.

8 I want to talk, first about the public policy
9 context that we're dealing with here, that economic
10 development and workforce development are not single issues.
11 The economic development professionals deal with access to
12 capital, fiscalization of land use, availability of skilled
13 workers, prevailing wages, electricity costs,
14 infrastructure, worker's comp., other costs of doing
15 business.

16 Economic development is a very complex set of
17 policy issues that spans a broad range of domains.
18 Similarly, workforce development.

19 When I talk to workforce development professionals
20 locally, they tell me that it's really not just an issue of
21 job training, it's also housing, transportation, childcare,
22 healthcare, whether or not high schools are graduating
23 people who can read and write, adults getting access to
24 continuing education, people who are already in the
25 workforce, businesses upgrading the skills of their workers.

1 Both economic development and workforce
2 development are really focused on building communities that
3 have a competitive advantage.

4 Now, the new organization chart that's proposed by
5 CPR deals with these issues across five or six different
6 departments. You really can't put all of these issues,
7 obviously, in one department, so how do you create a State
8 agency that can address these issues.

9 Two years ago I testified in front of the Little
10 Hoover Commission, in their attempt to move EDD, the
11 Employment Development Department, out of the Health and
12 Human Services Agency and into what is now the Agency for
13 Workforce Development and Labor, and we felt that was a good
14 step, symbolically and intrinsically moving workforce
15 programs out of a social service context and into a context
16 that focused more on labor and workforce development. And
17 we think that the recommendation to create an agency that
18 combines workforce development and economic development is
19 one step further in the right direction.

20 It's intrinsically important. These linkages need
21 to take place throughout government. The linkages are
22 happening locally, all over the State of California, where
23 workforce development and economic development agencies are
24 working together.

25 Many other states have gone much further than

1 what's being recommended here, in California. We've been
2 looking at these issues for many, many years here, in
3 California, about how we can respond better.

4 The Business Roundtable did a report, ten years
5 ago I think, that looked at workforce development and how it
6 could be better organized.

7 So apart from the symbolic step, it's important to
8 acknowledge that the change in the department doesn't result
9 in savings of the General Fund, it doesn't reduce staff, it
10 doesn't provide better services to customers, necessarily,
11 in part because workforce development and economic
12 development are local programs.

13 The funding doesn't come from the State,
14 primarily, it comes from the federal government or from the
15 federal government. The services, for the most part, are
16 delivered locally. Even the State agencies, who deliver
17 services, do so in the context of collaboration with other
18 local agencies, local nonprofits, local governments,
19 schools, community colleges.

20 This is not the kind of a department in which
21 someone at the head of the department tells their employees
22 what to do, it's not a single function department.

23 And so for us, what's more important than the
24 organization of the new department is really what its role
25 is.

1 And I would suggest to you that, for us, the role
2 of this department could be likened, in an ideal way, of how
3 FTD or VISA runs. When you look at the VISA Corporation, or
4 FTD, the floral system around the United States, the
5 governing structure in the center doesn't deliver services,
6 and it doesn't tell locals what to do. It provides a way to
7 take care of the system, it provides marketing and branding,
8 accountability, adherence to standards, management
9 information, it supports innovation, research and
10 development, develops new products and services that will
11 benefit the whole system, it removes barriers for locals to
12 compete. Sometimes they're competing with each other.

13 Using that as a model, we really think that when
14 you look at the specific recommendations in the
15 establishment of the new department, that there are some
16 steps that need to be taken.

17 And as the Panel talked about this morning, what
18 we're really suggesting is that some of the recommendations
19 in this report -- I mean, you need to do more than just a
20 thumbs up, thumbs down, it's really about amending, looking
21 at nuance and creating some specific recommendations within
22 this.

23 First, we think that the Economic Strategy Panel
24 and the California Workforce Investment Board should be
25 given a very strong role to play. We think the Economic

1 Strategy Panel should be looking at the continuing study of
2 California's economy in the regions around the State, and
3 giving good advice and recommendations to various different
4 other agencies that are involved in the support of workforce
5 development and economic development. And that the State
6 Workforce Investment Board should create a strong policy
7 framework from which both State programs and local programs
8 can run.

9 Second, we believe that the Employment Training
10 Panel should not be eliminated, but that it should be more
11 closely tied to and linked with other workforce programs in
12 California.

13 We also believe that the recommendation that's in
14 the purview of the Education Department should not be
15 implemented, the recommendation that creates an Education
16 and Workforce Panel, we think that's duplicative. It
17 doesn't make sense to have Cabinet Secretaries in the
18 education world, getting together to talk about workforce
19 preparation, when there are two other boards that are housed
20 in this agency, that are charged to do the same thing.

21 All of the members of the Education and Workforce
22 Council, that's being proposed, sit on the California
23 Workforce Investment Board.

24 We think that the economy should drive
25 conversations about workforce development, and economic

1 development, and workforce preparation, not the education
2 system.

3 We also believe that other recommendations that
4 are in this report should not be implemented. One that
5 requires the Department to reduce administrative overhead
6 costs for local workforce boards, getting back to the VISA
7 model, we don't think that should be the business of the
8 State Department, that the local governments know better how
9 to respond to the needs of the businesses in their
10 community.

11 That committees that are recommended for
12 elimination, the Committee for the Employment of People with
13 Disabilities and the California Career Resources Network
14 could become very useful advisory bodies for the State
15 Workforce Investment Board.

16 And that finally, really, the State Workforce
17 Investment Board should take what you're doing one step
18 further. As I said, in many other states workforce
19 development and economic development reform have taken on a
20 much broader, grander set of reorganization principles.

21 What's being recommended here, for example, is the
22 Department of Rehabilitation be brought into this Department
23 of Labor and Workforce and Economic Development. There are
24 many other workforce development programs in the State of
25 California that are still embodied in other departments,

1 that should be considered for integration into this
2 Department, as well.

3 Finally, we've been working, through the gracious
4 funding of the James Irvine Foundation, on creating a new
5 framework for looking at workforce development and economic
6 development in California, which I've attached to my
7 testimony, and I really think that we need this, or some
8 other kind of policy framework, from this new Department in
9 which to really work to make not only our communities, but
10 California, more competitive.

11 Thank you.

12 COMMISSION CO-CHAIRPERSON HAUCK: Before I go to
13 Art, let me ask you one question. Can you give us an
14 assessment, overall, of the workforce preparation efforts
15 that the State of California is currently involved in?

16 PANEL MEMBER HAMILTON: Which ones?

17 COMMISSION CO-CHAIRPERSON HAUCK: Across the
18 board? I mean, collectively. What I'm trying to get out
19 here is forget the process, I don't care about the process,
20 or the structure, or the organization, or any of that.
21 What's the outcome of the State's current effort?

22 PANEL MEMBER HAMILTON: If you were to ask the
23 business community whether or not they had access to skilled
24 workers, and whether or not they had access to the kinds of
25 services they would need to retain workers, I'd say the

1 answer would probably be that California's not doing a very
2 good job.

3 If you were to ask workers, do they have access to
4 the training that they need, either whether it's kids coming
5 out of high school, only 25 percent of the kids in high
6 school go on to college, whether it's workers who are
7 currently employed, who need to continually upgrade their
8 skills in order to stay in the workforce, I'd say probably
9 their answer would be we're not doing a very good job,
10 either.

11 Then the next question is, so what do we do about
12 it? You know, it suggests that many of these programs are
13 federally funded and that California can't just go in and
14 say, okay, we're going to consolidate these, we're going to
15 rearrange these, we're going to reorganize them, we're going
16 to get rid of some of them, because they've got all these
17 federal dollars and federal strings attached to them. So
18 it's really a question of how to figure out how to create
19 mechanisms among these programs to work better together,
20 both at the State level and local level, than just
21 reorganize and get rid of them.

22 COMMISSION CO-CHAIRPERSON HAUCK: Do you think
23 that's doable?

24 PANEL MEMBER HAMILTON: Well, I do, but that's the
25 only reason I can get up and go to work every day is that

1 I'm optimistic about it.

2 COMMISSION CO-CHAIRPERSON HAUCK: All right.

3 Well, maybe we'll pursue that a little more later.

4 Art, you're on. You should say who you are, Art,
5 and who you're with.

6 PANEL MEMBER PULASKI: Thank you, Mr. Chairman.

7 Art Pulaski, with the California Labor Federation. I want
8 to thank you very much for your invitation to join you here,
9 today, and we'd like to share a few critiques of this
10 process with you, on behalf of some of our members.

11 The first observation I'd like to make is that I'm
12 here on a Panel, it's called Labor/Economic Development and
13 Commerce/Consumer Protection Panel. Now, I have a concern
14 about that because I know that I'm not qualified to speak on
15 behalf of consumer protection.

16 I believe Virginia would say that she is not, and
17 I believe my friend, Willie Washington, would acknowledge
18 that he would be good at advocating commerce protection, but
19 not necessarily consumer protection.

20 And so I think this is indicative of the kind of
21 problem we have with this process, whereby we're not
22 engaging in quite enough public comment.

23 But my comments, several of them. First, we are
24 very concerned about the CPR recommendations that would
25 fundamentally shift the existing Labor and Workforce

1 Development Agency that, I would note, was just created two
2 years ago, it was begun in 2002. And I should also note
3 that it was reorganized based on review and approval by the
4 Little Hoover Commission, and I heard that mentioned earlier
5 in the day, in a process with the State Legislature.

6 Hearings, many more than this Commission has the
7 opportunity to hold, and a process that I would submit was
8 much more transparent than this process here.

9 So we've got this new Labor and Workforce
10 Development Agency just getting off the ground and we now
11 are proposing that we change it with, what I think is, a
12 less transparent process.

13 A note on that. The new Labor Agency that's being
14 proposed has a statement, which I would like to share with
15 you, which raises part of the concern. First, in terms of
16 the existing Labor and Workforce Development Agency of 2002,
17 in the words of Victoria Bradshaw, who is the Secretary of
18 Labor, as appointed by Governor Schwarzenegger, she says,
19 "this Agency is firmly committed to ensuring that law
20 abiding employers and their workers are not victimized by
21 others, others who would violate the State's labor, health,
22 and safety, and tax laws in order to gain a competitive
23 advantage."

24 In other words, an acknowledgement that the
25 existing Labor and Workforce Agency is committed to

1 enforcing the law, protecting both workers and employers who
2 are obeying the law.

3 The recommendation of the CPR, in terms of the new
4 body, which would encompass the existing body, essentially
5 changes the mission statement and it says, "developing a
6 workforce that meets" -- I beg your pardon.

7 It says, "the priorities will be attracting new
8 business to California, improving the business climate,
9 developing a workforce that meets the needs of employers,
10 increasing the skill set of workers so they can achieve high
11 quality, paying jobs."

12 So I would submit to you that the mission, as
13 established, neglects and avoids the necessary purpose of
14 the Labor Agency, as originally intended by law, by act of
15 Legislature, and that is to protect the interests of
16 workers. And we don't see how there is a plan and intent to
17 protect the enforcement of the interest of workers here.

18 Now, let me also say that we support improving the
19 business climate. And I have offered my services and our
20 services to the Governor, to work with the Administration to
21 enhance the business climate, to attract new business, and
22 to work on partnerships between workers and unions, and
23 their employers.

24 However, this new process, this new proposal is a
25 business oriented mission, and it does not protect the

1 interest of workers. We do not support the shift in the
2 mission of this agency.

3 If we wanted to have a business climate agency,
4 let's have one. Let's also have an agency that protects the
5 interest of workers. If you can somehow combine them,
6 that's fine, but that is not the apparent intent of this.

7 Another issue, we are concerned about the proposed
8 elimination of several independent appeals boards, Worker's
9 Comp Appeals Board, Unemployment Insurance Appeals Board,
10 Cal-OSHA Appeals Board, as well as the Department of Fair
11 Employment and Housing.

12 Under CPR, these functions would be moved to a
13 newly created Office of Appeals, and would act under the
14 Department's Secretary.

15 The current Appeals Boards are independent bodies
16 and, generally speaking, they are comprised of individuals
17 from the employer's side, individuals from the worker's
18 side, and individuals from the community, together, who
19 understand that they need to reach some common balance here.

20 And we submit that the intent of these boards is
21 to provide workers and employers, both, with the opportunity
22 to appeal decisions to such an independent body as that,
23 that is representative of all the interests, and bring some
24 skill and experience to the table, as opposed to the
25 recommendations of the CPR, now.

1 It is important for workers, and I think also for
2 business, and I think neither can afford to lose that
3 balanced process that's established now.

4 Instead, CPR would allow a political appointee to
5 be the final adjudicator for thousands of appeals from
6 workers, and also from employers, workers who have been
7 injured, laid off, work in unsafe working conditions, or are
8 discriminated against. Granting these powers to a political
9 appointee, rather than an independent and balanced board, we
10 submit robs workers of their right to have their disputes
11 resolved in an independent and most objective way.

12 Another concern. Similarly concerned about the
13 proposed elimination of several labor and management
14 commissions, the Employment Training Panel, the ETP, is the
15 State's only training panel for incumbent workers. Since
16 its inception, they've been responsible for training more
17 than 500,000 workers, with supporting over 50,000
18 businesses. And that Board, too, is comprised of a labor
19 and management balance. And that balance is so important to
20 understanding the needs of the workers and also
21 understanding the needs of the employers.

22 It would also abolish CHSWC, the Commission on
23 Health and Safety and Worker's Compensation. That, too, has
24 on it representatives of both labor and business,
25 nonpartisan, bipartisan, and it provides invaluable research

1 for the purpose of Worker's Compensation reform.

2 If we had followed all of their recommendations on
3 Worker's Comp reform in the past couple of years, we would
4 have far fewer problems now in the matter of Worker's
5 Compensation.

6 The State savings resulting from this Commission's
7 recommendations would far outweigh the cost of any
8 expenditures to keep it going. CHWSWC is the only venue
9 that allows labor and management to dialogue together to
10 solve problems, particularly without the intrusion of
11 vendors, who make money off this system, and often create
12 problems for the system.

13 Finally, I'd like to close by mentioning that we
14 are troubled about how the CPR process has functioned.
15 Numerous proposals, contained within CPR, have far-reaching
16 consequences for California's workers.

17 One example, contracting out. Contracting out
18 public services is a thread that we find moving through CPR
19 in many ways. It recommends the privatization of thousands
20 of public sector jobs. I would submit to you there must be
21 some debate and discussion around the value of adding a
22 middleman company, if you will, to come in to provide, for
23 profit, public services that have otherwise been public.

24 And I submit to you that when an entity comes in
25 to provide, for profit, those services, something loses.

1 The CPR also recommends several changes to wage
2 structures and layoff provisions for public sector employees
3 without, it seems, any disregard for the collective
4 bargaining agreements that have been achieved through
5 administration and union worker process. That governs the
6 rights, and benefits, and protections of those workers, and
7 we should continue to respect that process whereby there has
8 been a balanced give and take over the years of the
9 benefits, and the wages, and the jobs for those workers.

10 And I think that we should acknowledge that there
11 may be some places where you need layoffs, but it should be
12 done within the context of the process that we've
13 established and the best in public services.

14 I submit, also, that government should be
15 entrepreneurial in the way it pursues public services, and
16 I'm not sure we've seen enough of that, and I think there's
17 a lot of leeway to do that.

18 So given the far-reaching implication that CPR has
19 for the workers of California, we are troubled, frankly, and
20 honestly, by the dominance of corporate interests in
21 developing these CPR recommendations.

22 After the role of business interest in advising,
23 it's not surprise that recommendations favor business
24 interests. We believe that these interests have dominated
25 this process at the exclusion of other voices. And we hope

1 that more debate will be allowed and that any reform
2 process, of such massive scale, establishes an open process,
3 utilizes an open process with great public comment, and
4 great consumer comment, which I think we are sadly
5 neglecting today.

6 And so, since I have a stop sign up before me,
7 I'll end my comments and be prepared to speak later, if you
8 have any time. Thank you very much.

9 COMMISSION CO-CHAIRPERSON HAUCK: Okay, Art, thank
10 you.

11 Willie.

12 PANEL MEMBER WASHINGTON: Good afternoon,
13 Mr. Chairman, and Commissioners. My name is
14 Willie Washington, and I'm here on behalf of Jack Stewart,
15 President of California Manufacturers and Technology
16 Association, who's unable to be here today, because he is in
17 Washington D.C. with some prearranged meetings that he had
18 back there.

19 So I'm particularly pleased to have been asked by
20 him to come and appear before you, and make some comments on
21 behalf of the California Manufacturers.

22 First of all I'd like to say that in reading the
23 majority of the California Performance Report, I come away
24 with the idea that this is something, in all, that has great
25 potential but, indeed, it has great potential.

1 I think that these hearings, along with some of
2 the other hearings that you've gone forth with, you're
3 beginning to learn that maybe some of the items have not
4 been fully developed and that there's some additional
5 thought that is needed to be put into this.

6 First of all, while we don't have any specific
7 opposition to the fact that you want to reorganize this
8 Agency, contrary to Mr. Pulaski, we are concerned, though,
9 about how it is done once you start down that path.

10 One of the things that is almost contrary to what
11 was indicated early on is that we see the fact that you are
12 putting in that Agency, that for economic responsibility and
13 the development of that, as a major, major step that would
14 want to have a great deal of say as to how it's going to be
15 focused to help manufacturers do, indeed, what you say this
16 Commission is about, and that is to help generate business
17 and get it back going again in California.

18 The Report stressed the fact that so far we do not
19 seem to have had a program that was specifically tailored to
20 try to get the economy up and running, to try to do the
21 things that would bring jobs and economic growth back to
22 California.

23 We applaud that. We think that this is something
24 that California has been remiss in and we are pleased to see
25 the Commission putting that on the front burner.

1 Some of the key findings that you had in your
2 report, relative to things like the economic development not
3 being coordinated, training programs are not coordinated,
4 multiple entities responsible for resolving workplace
5 disputes, et cetera, are all irrefutable. There's no one
6 here, I believe, who is familiar with California, who could
7 disagree with those findings.

8 We also are pleased with some of the
9 recommendations of how you're going about doing those, even
10 though we still have some problems because the report
11 doesn't have enough specificity in it to make us comfortable
12 with where and how things will be developed, and so I will
13 have some comments on those, however brief, because of the
14 limited amount of time.

15 One of the things that I do like is the fact that
16 the Report is asking that all of these programs, for a
17 change, start having some relevance to each other, that you
18 start linking these things together so that there will be
19 some steady flow for workforce development and things of
20 that nature.

21 We think that linking education and training with
22 the best information available, and putting it in a system
23 and all, is a good idea. For example, we support this,
24 because if you put all of the resources of education and
25 training, workforce and future economic trends under a

1 single umbrella, where the worker will have a seamless
2 system, so to speak, that would identify what skills are
3 needed by employers, and some way of channeling those
4 workers in the right direction, we believe that would be a
5 much more efficient system than what we're currently using
6 and a better use of the funds that we have.

7 I want to get down to the bottom part, where you
8 talk about the recommendations for integrating a lot of
9 these systems into these divisions, and so I'd like to jump
10 to that part and kind of talk about those, and talk about
11 them as the new divisions that were recommended.

12 You recommended that you develop a new Economic
13 Development Division, Workforce Development, Workplace
14 Protection, Benefits, and then an Office of Appeals.

15 As far as the Economic Development Division is
16 concerned, we think this is extremely important because
17 you're putting a Division, that used to exist as an agency,
18 the Department of Commerce Agency that no longer exists, or
19 at least it no longer operates in California, we view that
20 as taking on many of those jobs, many of those tasks that
21 that entity used to do.

22 And that was exactly the entity that Mr. Pulaski
23 referred to, is that if you're going to create one to help
24 business, let's do so.

25 And our concern here is that when this is put

1 together in an agency who are normally concerned with things
2 such as the labor, employment, UI, and things of this
3 nature, that's a brand-new item for them to do, it's not
4 what they're accustomed with doing. So we are very much
5 concerned how that is developed and how it goes forward
6 because we think that it ought to fill that function that
7 Mr. Pulaski referred to, for business, and that's economic
8 development.

9 And in so doing, we are hoping that that will be
10 developed in such a way that it will recruit and encourage
11 the businesses to come in and work in those positions
12 because we think that they have a leg up in making those
13 types of plans for the State of California.

14 I want to talk a little different about one of the
15 other items. For example, I want to talk about workforce
16 development and I want to use it in a broad text, because
17 I'm using the Employment Training Panel that would be
18 transferred to that particular Division.

19 Now, the Employment Training Panel is a little
20 program that has functioned here since 1982, and as was
21 indicated earlier, some 500,000 workers have gone through
22 there. What is ironic about this program is that it is, by
23 far, the most successful training program that we've had in
24 California, and it's been copied across the nation. We've
25 had New York, and many other states visit us here just to

1 take a look at that program.

2 So here we have a program, now, that is being
3 considered to be moved into another agency, and I don't know
4 that you have anything here that says that you're going to
5 totally disband this and make the Panel go away and
6 disappear, but we do have concern that that's what could
7 happen.

8 We are concerned because here you have an
9 opportunity where you do have labor and management, who are
10 both sitting down and looking at an entity, that is the
11 training funds and how could those funds be best used to
12 keep employers and their employees working in California.

13 We think that these are two-party interests, and
14 the decision that they make would ordinarily be in their own
15 best interest. And we think this is by far a much better
16 system than having a bureaucrat, who is in government,
17 sitting there making those decisions. So we have a major
18 concern about the transferring of that position.

19 We also have some concern about like
20 organizations. When I say like organizations, I'm talking
21 about those which have both labor and management, where they
22 have an opportunity, on workplace issues, to sit down and
23 talk face to face and make decisions that are in their own
24 best interest. And so all of those organizations that fall
25 within that purview, whether it be the Safety and Health and

1 Worker's Comp Commission, or the Industrial Welfare
2 Commission, all of those, we have a concern about those
3 organizations just being done away with, with not knowing
4 how they're going to be replaced.

5 We, too, would have some concern about just one
6 bureaucrat making those decisions in the future, for
7 California.

8 It also would make some changes and create a
9 Benefits Division. And we have some concern here because,
10 for example, it would put the Worker's Compensation
11 benefits, along with all the others that EDD was accustomed
12 to doing, and that is the Unemployment Insurance, and things
13 of that nature. And here you have something that has so
14 many entities to it that it would take some mind-boggling
15 rearrangement of personnel in order for them to be able to
16 do that.

17 So we're concerned about how this would be done
18 and whether or not there would be an entity there that was
19 responsible for Worker's Compensation.

20 We're also concerned about how those tight
21 deadlines, that are peculiar to Worker's Compensation, would
22 be met by a broad-based organization that would have
23 responsibilities that go way beyond just that particular
24 one.

25 And then we get to the Office of Appeals Division,

1 which provides me some major concern. First of all, you're
2 talking about, now, putting everything into what you would
3 call an Appeals Division. That would be the WACB, the
4 Worker's Compensation Appeals Board, the Safety and Health
5 Appeals Board, UI Appeals Board, the Fair Employment and
6 Housing Commission, and even some of the Berman Hearings
7 that would be within the Labor Commissioner's Office, all of
8 those would then be referred to this particular entity.

9 And my concern is that this is so diverse that I
10 am concerned that you would be able to do this successfully.
11 And it reminds me of my earlier days in California, when
12 such entities, like UI, and all of the others, were referred
13 to a pool of Administrative Law Judges. And now, you put
14 both the employer and the employee at risk, and hope that if
15 your case is a Worker's Compensation, the Judge that you
16 draw knows a little bit about Worker's Compensation.

17 And we don't think that we need to go back there.
18 We've been there, done that, and we knew it didn't work
19 then, and I would have some concern that you could make it
20 work now.

21 My experience, in California, is that you rarely
22 find an attorney who practices in all those areas. And why
23 you think, or why anyone would think, for that matter, that
24 an agency would be able to do that any better, is beyond me.
25 So we have some major concerns about the consolidation of

1 all of these entities.

2 Now, we know that if you consolidate any of these
3 agencies that, indeed, you would have some administrative
4 savings. Businesses are accustomed to that. Whenever you
5 buy an entity, you don't keep two personnel managers,
6 perhaps, and you don't keep two directors of finance. We
7 would applaud that.

8 But to the extent that you delve down deeper into
9 that, we are concerned that you would take these
10 organizations apart and what we might be left with.

11 My comment to you would be that, of all of these
12 items that I refer to, California is by far superior in many
13 of those. Our Safety and Health Programs in California
14 excel above any that I'm familiar with on a federal level.

15 The same thing would be true of these other
16 organizations, if we would give them the same type of
17 attention, and we would ensure that they were properly
18 balanced with the appointments that would be there to
19 enforce these rules, that we would be a lot better off than
20 maybe going through this monstrous reorganization program.

21 With that, I'll stop, and try to answer any
22 questions that you might have. Thank you for your time and
23 your attention.

24 COMMISSION CO-CHAIRPERSON HAUCK: Okay, Willie,
25 thank you.

1 Before we go to questions, Chon, could you come up
2 to the table? Now, we've heard the testimony, at a number
3 of hearings, about the alleged excessive access that
4 business organizations had to the CPR effort. Can you talk
5 to us about what that process was like and what your
6 judgment is here, on that question?

7 EXECUTIVE DIRECTOR GUTIERREZ: Thank you,
8 Mr. Chairman, yes, I'll be happy to.

9 When we created the California Performance Review
10 we created a website, and on that website we went out of our
11 way to let people know that we existed, that we were looking
12 for employees, that we were going to begin our work, and
13 encouraged people to give us input in the form of e-mails,
14 or to contact us.

15 We did build our CPR team from people who did
16 apply to that e-mail. We selected them, they submitted
17 their resumes. When we started the process, the methodology
18 that Billy Hamilton suggested to us is that we consider
19 ourselves a giant funnel, go out and seek recommendations
20 from every place that does that as part of their civic
21 responsibility or be it part of their jobs.

22 The Legislative Analyst, the Little Hoover
23 Commission, Legislators, themselves. I, personally, met
24 with both Caucuses of the Assembly and both Caucuses of the
25 Senate and invited them to give us their recommendations.

1 And, indeed, they responded. We received well over 3,000
2 individual recommendations.

3 And as I said earlier, to J.J., we just didn't
4 have the time to go through all of them, so we went through
5 the process of staffing out those that we did.

6 There was a number of business entities and labor
7 unions that went out of their way to contact us. In
8 addition to that, there was a couple of research
9 organizations that contacted us, and I'm drawing a blank on
10 who the two were. They offered their assistance. In most
11 instances, they shared with us experiences that they had had
12 in other states, with similar kinds of operational changes,
13 operational efficiencies.

14 We got a great deal of interest expressed by a
15 number of business sector companies, that shared with us
16 their successes in the shared service area, for example,
17 where you have consolidation, you have multiple financial
18 officers and HR folks, and talked to us, shared with us
19 reports, that are public reports. Some of them shared with
20 us ideas on a variety of different applications of IT.

21 We accepted everything that they gave us. They
22 were given to the team leaders who then, in turn, shared
23 them with their staff, and they did an analysis. That
24 information that was marketing in nature, being offered by
25 the company as a marketing strategy, it was set aside.

1 That which was technically valuable information,
2 it was considered within the context of all the other
3 research that we were doing.

4 And so we received a lot of input. We asked our
5 staff to listen to everyone, to take information in, but not
6 to pass information out. This was not a two-way venue. We
7 accepted the information, we digested it, and we produced
8 our report.

9 We also recognized that there would be those who
10 would be critical of who we listened to and who had access
11 to us. And for that reason, we went out of our way to
12 publish, in the document, itself, in the form of footnotes
13 and in the form of acknowledgements, everyone we talked to.
14 We talked to over 10,000 people in the form of e-mails, or
15 verbal conversations, or communication of any sort.

16 We were open in terms of, as I said, accepted
17 information, and we reserved sharing the conclusions we
18 reached until we finished our final project.

19 COMMISSION CO-CHAIRPERSON HAUCK: Thank you, Chon.
20 Questions of anybody on the Panel? Dale and then
21 Steve.

22 COMMISSIONER BONNER: This is just a follow up on
23 that same point, and I want to be careful to suggest
24 that -- or not to suggest that I think too much of a
25 discussion about the process is particularly relevant,

1 although one of the things we're going to be discussing is
2 what we all make of this process and where we think it
3 should go.

4 So I did want to ask Mr. Pulaski, I believe you
5 were making the point, I think, you were raising some
6 concern about reforming an agency that had recently been
7 created and I think, if I understood you correctly, that you
8 were suggesting that the process that led to the development
9 of the existing agency was more appropriate than the process
10 that you understand to be followed this time.

11 So I wanted you to comment, if you could, to help
12 us understand, comparing the process that we're following
13 now, to what led to the existing structure, if you could
14 kind of share with us a little information about the number
15 of public hearings, and the nature of public input and
16 participation that occurred leading to the current agency,
17 compared to how we're proceeding now.

18 PANEL MEMBER PULASKI: Yeah, I cannot tell you how
19 many public hearings were held, but I can tell you that this
20 got review and support from the Little Hoover Commission.
21 It had extensive debate and discussion in both Houses of the
22 Legislature. A bill was submitted, with great debate,
23 through Committees of the Legislature.

24 The Administration, at that time, reviewed this
25 and evaluated it over several years. So it was a process

1 that really looked at a very complicated, and complex, and
2 far-reaching set of agencies, from EDD, which is huge and
3 massive in its own right, to the various training programs,
4 and to the various enforcement programs.

5 Those are massive entities within the State, and
6 there was a great deal of thought and discussion that went
7 into how each of them would interconnect, how they would be
8 most appropriate under a particular agency.

9 And there was some amount of consensus that was
10 reached, both with the Administration, and with both Houses
11 of the Legislature, and with all of the parties that came in
12 to deal with that, from the business side to the union side,
13 and that took quite a long period of time.

14 And that was just for the incorporation of one new
15 agency, called the Labor Agency.

16 COMMISSIONER BONNER: Just a quick follow up. It
17 seems to me that the process that we're following is setting
18 the stage for a process that may be more inclusive and more
19 thorough than what you just described. In other words, you
20 were attaching some significance, some great significance,
21 to the legislative input and the review by the Little Hoover
22 Commission.

23 Each of those processes are processes that we
24 would anticipate unfolding after we're completing our work.
25 So in other words, we've set the stage where we've been

1 around the State, we've taken in substantial testimony, and
2 all of this precedes the various steps that you've been
3 describing. In other words, the Little Hoover Commission
4 will review what we're suggesting, as will the Legislature.

5 So again, as we just contemplate where we're going
6 from here, it just seems -- and I don't want to over-
7 emphasize the point, but it just seems to me that many of
8 the concerns you're raising, there's still plenty of
9 opportunity to have those concerns addressed at the
10 appropriate time.

11 PANEL MEMBER PULASKI: Chair, if I may, two
12 comments. The first is a question, and a question back, and
13 that is are you saying, then, that CPR envisions that all of
14 these proposed changes by the Administration will in fact be
15 reviewed by the Legislature for the purposes of creation of
16 law and statute, or will some of them be independent actions
17 on the part of the Administration? I think that's an
18 important piece to that.

19 COMMISSION CO-CHAIRPERSON HAUCK: I think, Art,
20 you know the answer to that is that with any policy change,
21 you know, that is a matter of statute, or in statute today,
22 would have to be submitted to the Legislature. Any
23 reorganization proposal would have to be developed by the
24 Administration, submitted to the Little Hoover Commission,
25 and then go to the Legislature.

1 Those recommendations that don't require action by
2 the Legislature or by the Governor, are at the discretion of
3 the Governor to either implement or not implement.

4 PANEL MEMBER PULASKI: And so in part, to answer
5 that question then, I would say that I'm not sure what of
6 this would go through the rigors of the legislative process,
7 as you suggested, some of it may not. But it did, in terms
8 of the last reorganization.

9 So I would submit then, in response, finally to
10 that, that I think it's good to reinvent, I think it's good
11 to make change, and to upgrade and to change with the times.
12 Change, for the sake of change, though, is one thing, and
13 that I think it should be acknowledged, is the process that
14 we went through to get to where this Labor and Workforce
15 Development Agency is.

16 And I must say that we asked, before this
17 Commission, for an expanded set of hearings, so that we
18 could review this in detail, so you could make a very
19 complex and comprehensive recommendation back to the
20 Governor.

21 Instead, and I'm honored, I was given five minutes
22 on behalf of all of the workers of the State of California.
23 Though honored, I must claim that I am inadequate in that
24 five minutes to represent all of those needs, and I think
25 it's a dialogue that's necessary. I think it's a give and

1 take that's necessary between the private sector interests,
2 the business side, consumer side, and workers' side, and
3 then within government, as well. And I submit that that's a
4 very intense process that I'm not sure this can adequately
5 address in terms of the process that's been set up.

6 COMMISSIONER OLSEN: I have a question for both
7 Mr. Washington and Mr. Pulaski. Both of you had expressed
8 some reservations or concerns about changes to the various
9 appeals bodies, and slightly different themes.

10 Willie, as I recall, you had expressed some
11 concern that individuals that might work in an organization,
12 like the Office of Administrative Hearings, for example,
13 might not have the specialized expertise necessary to deal
14 with a Worker's Comp claim.

15 And I think Art's was a little different, I think
16 you focused on the nature of political appointees having say
17 regarding the decisions.

18 I'm a little puzzled, though, as these concerns
19 pertain to the Unemployment Insurance Appeals Board which,
20 as I understand, entirely consists of political appointees
21 and, also, given the current makeup, I've had the
22 opportunity to look at the incumbents, and I believe of the
23 members, there is one who may have expertise in labor law,
24 and I don't know whether it's in the area of unemployment
25 insurance. But certainly, there's nothing in the

1 backgrounds of any of the other members that suggests that
2 they could have expertise in that area.

3 I'm puzzled. Based on the principal concerns that
4 you expressed, it seems to me that an organization, like the
5 Unemployment Insurance Appeals Board, doesn't really measure
6 up in terms of its current composition. Do you have any
7 comments on that?

8 PANEL MEMBER WASHINGTON: Yes. The Unemployment
9 Insurance Appeals Board is, as you indicated, very
10 specifically tends to be political appointments. They all
11 are, but in this particular case, in many instances they're
12 nothing more than a holding position for some political
13 person who is either out of office, or for whatever reason
14 is there for a short period of time. It probably has the
15 highest turnover of any of the boards or commissions that I
16 referred to.

17 And one of the other aspects about that Board,
18 though, that I was speaking to in my comments, in the broad
19 context, is that even over there it's the makeup of the
20 Board, and the intent of it, when it was put together, that
21 we're concerned with, and the fact that the Legislature, or
22 if even the Governor, Administration ignores that, then it
23 renders those commissions not as effective as they could and
24 should be, if they're balanced and if they're appointed with
25 people who have the skills.

1 For example, that would be the best example of
2 people who are holding those appointments, and they are part
3 of a pool, for that person who is there, as an
4 Administrative Judge, to get a Worker's Compensation case,
5 or even one of the safety cases, where someone in the field
6 has a major safety violation, a violation that could put
7 them into real serious harm's way, the employer that is,
8 because of the criminal liability that we have in
9 California.

10 Those are exposures to the employer that we would
11 oppose having, you know, on the roll of the dice of who
12 you're going to get. That's our concern, is that the
13 employer in California would be at great risk to have people
14 being appointed, where they're purely political, with no
15 expertise, and now you're having to count on the luck of the
16 draw that you might get one who has some real experience in
17 that particular area.

18 COMMISSION CO-CHAIRPERSON HAUCK: Okay. Art?

19 PANEL MEMBER PULASKI: I would only add that I
20 think in general, historically, the appointments have tended
21 to honor both sides of the equation there. I'm not sure
22 that that's necessarily so at this moment in time, given the
23 transitions of administrations. But I think, generally,
24 there's been an honoring of the balance of that.

25 COMMISSIONER OLSEN: Yeah, but I can understand

1 why, for an organization like the Employment Training Panel,
2 why a balancing of interests would be a compelling reason to
3 have that particular structure.

4 But we're not funding employment programs here,
5 we're talking about the benefit rights of individuals, and
6 it seems to me that that's a very different set of
7 circumstances and that one would want individuals, who are
8 hearing appeals cases, who are fair, and are knowledgeable
9 about the law, not because they happen to have a particular
10 viewpoint representing either business or labor.

11 PANEL MEMBER PULASKI: Well, if you look at the
12 commissions in general, the Cal-OSHA Appeals Board, the
13 Worker's Comp Appeals Board, include those, the fact is that
14 there is a balance there.

15 And it's like a settlement, if there's a
16 collective bargaining agreement. We have a process in
17 labor/management relations, which I'm sure you're aware of,
18 that's called an arbitration process, and a Board of
19 Arbitration, whereby both sides come together to review
20 this, realizing that their decisions often create precedents
21 for future decisions. And to have that balance between
22 labor and management, and be able to struggle through those,
23 affects not just that employee, but potential future
24 decisions, as well.

25 And we have found that the balance, that the

1 dialogue created by both sides being present in this and, by
2 the way, a confidence in a system that works, not by
3 political appointment of a Democrat or a Republican of a
4 particular partisan nature, which is what appointments
5 typically are, but that there's some satisfaction that there
6 is a balance here to these appeals, I think saves us a lot,
7 including much more expensive legal processes for both the
8 worker and the employer.

9 And the alternative to these appeals processes is
10 going to court, and I don't think either the worker or the
11 employer wants the expense and cost of that.

12 COMMISSIONER OLSEN: Okay, thanks.

13 COMMISSIONER IBARRA: My question is for
14 Ms. Hamilton. In your testimony you indicated that this
15 recommendation for reorganization neither saves the State
16 money, reduces the State workforce, or improves customer
17 service.

18 And one of the reasons that we're looking at
19 California's performance of its State agencies is improving
20 customer service.

21 The customers of the employment and training
22 programs, are those, in large part identified by the federal
23 funding agencies, individuals, youth, people who have
24 barriers to employment and who need education and training?
25 What would you and your Association recommend to improve the

1 performance of the State Agency and are there any boxes that
2 you would move to improve this performance?

3 PANEL MEMBER HAMILTON: First, I would add one set
4 of customers, because I think that, historically, the
5 funding for these programs started out by -- was poverty
6 program funding, that really focused on workers who were
7 disenfranchised, who needed additional services.

8 I think, over the course of the last ten years,
9 what we've seen at the federal level and at the State level
10 is that the funding for these programs has really shifted to
11 include, also, businesses as customers. As the economy's
12 changed, particularly when we're in a boom, there are many
13 businesses, as Mr. Zaremborg said this morning, who said
14 that their primary concern was getting skilled workers and
15 keeping skilled workers.

16 And so I think it's important, when we talk about
17 these programs, that we talk not only about those who have
18 barriers to employment, but also the business community that
19 needs workers, and I think that's why we've all testified
20 that the Employment Training Panel funding is so important,
21 because it is the only funding dedicated to funding for
22 existing workers.

23 So when you ask the question how can we improve
24 services to customers, I'd like to include the business
25 community, and I'd say there are a few things.

1 One is we're never going to get rid of all of the
2 different agencies, nor should we, that prepare workers for
3 jobs, schools, community colleges, higher education, job
4 training programs, community organizations all prepare
5 workers for jobs.

6 They're all held accountable for a different set
7 of standards. So if I'm a community college and I'm
8 training a worker for a job, I'm being rewarded based on how
9 many of my students are sitting in their seats on the third
10 Thursday of the second month of the fiscal year, or whatever
11 it is, it's a seat-based funding mechanism. Community
12 colleges get funded for how many people are sitting in their
13 classes.

14 The welfare programs in California, who are
15 focused on bringing welfare clients into the workforce, are
16 rewarded for keeping their welfare participants in
17 activities, they're judged based on participation rates in
18 programs.

19 The job training programs, that are funded under
20 the Workforce Investment Act, reward their programs for how
21 many people they get into jobs and what their wages and
22 retention rates are.

23 Imagine running a business like that. You know,
24 you've got one set of incentive, saying to one business
25 unit, I don't care about cost, I don't care about time, just

1 give me quality.

2 And another business unit is being told, you know,
3 do this the cheapest you can. And a third business unit is
4 being told get this product to market as fast as possible.

5 So, you know, back to Mr. Hauck's question, I
6 think one of the things we can do in California is to create
7 a policy framework in which we all understand what we're
8 doing, and then set a set of measurements that apply across
9 the board, so that we're all being accountable for the same
10 kinds of things. That's one thing.

11 The other is some unified planning. When the
12 welfare reform, CALWORKS program, came in several years ago,
13 it added something like nine additional plans that schools,
14 colleges, community organizations were required to complete
15 every year around how they were going to serve their workers
16 and their businesses. You add on top of that all the
17 federal requirements there are probably, in each community,
18 20 different plans focused on how to meet the needs of
19 workers and businesses in their community. That's
20 ridiculous.

21 We should be doing one plan at the State level, we
22 should be doing one plan locally, in communities. The City
23 of Long Beach should be doing one plan for how they're going
24 to meet the needs of businesses and their workers, not 25.

25 And last I would say that what we've seen working

1 well in California, in the last few years, is to really
2 focus on sectors, is to start looking at a regional basis
3 around which business sectors have good jobs, in which they
4 need workers, and really focusing on trying to solve the
5 needs of those sectors.

6 The healthcare sector in California, we all know,
7 is in desperate need of workers. There are all sorts of
8 different policy issues and practical issues around how to
9 get CNAs trained, how to turn those into LVNs, how to turn
10 those into registered nurses.

11 If we can start to organize our work and look at
12 how we can create pipelines for workers to move through and
13 get good jobs, in which they can sustain their families, we
14 can start to see some, I think, improved customer service
15 because we're actually training for jobs that are there and
16 helping to move people through career ladders.

17 COMMISSIONER IBARRA: Thank you.

18 COMMISSION CO-CHAIRPERSON KOZBERG: I have a
19 question for Chon. At best, in equilibrium, these two
20 interests, labor and economic development, sit on a very
21 delicate scale. What was your thinking, as you approached
22 this, to ensure that you don't tilt in one direction or the
23 other by putting them in a single agency?

24 EXECUTIVE DIRECTOR GUTIERREZ: Well, you're
25 absolutely right, we spent a great deal of time on that

1 issue. It was our thinking that we optimize the
2 opportunities for labor to find good jobs, if we have a
3 strong and vibrant economy.

4 And really, we felt that the appointment of the
5 Secretary was the single most important decision that the
6 new Administration would have to make, the person that was
7 going to make all of this happen.

8 Secondly, we looked at the Advisory Board as a way
9 to bring, as Art is suggesting, that balance. We think it's
10 critical that there be a Board there, and a Board to hear
11 appeals, and a Board to help set policy and to provide input
12 to the Secretary, and we thought that was critical. And Art
13 is right again, it's absolutely the appointment process
14 that's the critical way of bringing that balance.

15 COMMISSION CO-CHAIRPERSON KOZBERG: Did you look
16 at putting the economic development function anyplace else?

17 EXECUTIVE DIRECTOR GUTIERREZ: I'm sorry, would
18 you please repeat that, I was confirming that we did specify
19 a particular board with a particular makeup.

20 COMMISSION CO-CHAIRPERSON KOZBERG: Did you look
21 at the economic development piece and putting it into any of
22 the other departments, proposed departments?

23 EXECUTIVE DIRECTOR GUTIERREZ: We did not. We did
24 recognize that it was absent, that clearly the
25 organizational structure that we were looking at, with the

1 exception of maybe some Food and Ag. programs, and some
2 vestiges of the Trade and Commerce Agency, that there really
3 wasn't a strong emphasis on economic development.

4 We spent a lot of time talking about labor and
5 jobs, because that is a very important public policy issue,
6 it gets to the heart of the quality of life in California.

7 And at the end of the day, we saw it as a
8 partnership between labor and the business community to
9 create that environment, and we thought it was a natural fit
10 for the two of them to be together.

11 COMMISSIONER BATES: A question for Ms. Hamilton,
12 and you actually answered most of my question previously.
13 But the Workforce Investment Board seemed to be the action
14 arm for a lot of or a variety of things, it seems to me
15 their charge is way broad. But are these Boards that are
16 mandated by part of the Workforce Investment Act? I'm not
17 quite sure I understand the genesis of them which would,
18 perhaps, then confuse what their mission really ought to be?

19 PANEL MEMBER HAMILTON: Yes, the Work Force
20 Investment Act is a federal act, that created a State
21 Workforce Investment Board, that's required by law, with a
22 private sector majority.

23 Similar to comments about ETP, we think that
24 having the private sector, labor, public sector all
25 together, making decisions, is a good model.

1 And the same locally. There are 50 Workforce
2 Investment Boards in California. It's hard to talk about
3 the system in one sense because they're organized very
4 differently. Some are based in counties, some in cities,
5 some in consortia of cities or counties, some are
6 nonprofits, all of whom have the responsibility to look at
7 workforce needs throughout their community, try to
8 understand the needs of business, try to understand their
9 demographics and make sense of all of the different
10 workforce programs that are in a local community.

11 And then actually have funding to support job
12 training, some economic development efforts, and also just
13 the simple act of having a one-stop career center in each
14 community that allows people to go in, and even if they
15 don't need job training, sometimes people who are in the
16 labor force, need good labor market information, they need
17 access to jobs, and just a labor exchange function.

18 COMMISSIONER BATES: If we are required by federal
19 mandate to continue this structure, that could make some of
20 the things we would want to do difficult. Would you
21 recommend that we need to, then, attack this structure
22 federally, through our federal representatives, in terms of
23 the role of the Boards?

24 I'm just thinking that if they had a more single
25 purpose, that had some accountability, so they had to set

1 goals and objectives and measure those at some point in the
2 process, that might get us closer to where we want to be.

3 But if we can't do that at a State level, if that
4 has to be at a federal level, there's probably another
5 entity that needs to be involved with legislation, statute,
6 and all of that.

7 PANEL MEMBER HAMILTON: Well, two answers. One is
8 that I'm not sure there's anything wrong with the structure.
9 What we don't have in California is any State legislation
10 that focuses on the Workforce Investment System, broadly
11 speaking. We tried to get a package of bills through when
12 the Workforce Investment Act was enacted federally, about
13 four years ago, and the Governor said he was going to veto
14 the bills, so they never went through.

15 So we have no State legislation. In many states,
16 there's an acting legislation that further refines what can
17 be done from the federal statute.

18 The second thing is that I'm not sure that
19 they're -- I think that the Workforce Investment System,
20 again by federal law, has many accountability standards.
21 They're held accountable for performance. If they don't
22 meet their performance for two years, they get reorganized.
23 They get money if they exceed performance.

24 But the issue is what kind of performance are they
25 held accountable for? The federal government holds

1 Workforce Boards accountable for 17 different performance
2 measures, which I would suggest as if there were 170.

3 California could, through State statute, or
4 through Administration action, say, yeah, we get these
5 federal standards, but we're not going to pay attention to
6 them, we really care about these four things, and then
7 require the State Boards, the local boards in California to
8 perform to those four measures.

9 We have some latitude locally, I don't think we'd
10 want to mess with the structure that the federal government
11 has given us, because a lot of money comes attached to that
12 particular structure.

13 COMMISSIONER FRATES: Two questions. One, first,
14 to you, Art. What's the biggest single impediment, in your
15 view, to economic growth in California and how best to train
16 workers to encourage economic growth? Is there any one
17 thing, in the multiplicity of areas that you've looked at,
18 that you think warrants attention?

19 And then I have a question for you, Virginia,
20 along those same lines.

21 PANEL MEMBER PULASKI: Boy, that's a pretty tough
22 question. You know, I think that we need to do better
23 throughout, from public education to the training programs
24 that we have through ETP, and through the Workforce
25 Investment Board.

1 And also, you know, we've got apprentice programs
2 that I think are the best training programs that exist in
3 America, maybe in the world, who knows, are the apprentice
4 programs. And those are management and labor combined
5 programs, that see exactly what the industry needs and
6 exactly how to train the workers, and there's a real
7 commitment to it.

8 And so I think we have a good model that works, in
9 terms of workforce preparation.

10 I think the issues around attracting business to
11 the State are vast and I think that we need to hold a
12 commitment together to making California the best it can be
13 to attract business. And in many ways it is.

14 And first, I think we need to highlight the
15 attractiveness to the State. So many CEOs want to move here
16 because of the quality of life. I think that we need to be
17 sure that we enhance the system of infrastructure, so that
18 we can move commerce for industry, and so that we can move
19 workers to work.

20 I think that we need to find affordable housing,
21 so that we attract workers, and that employers know that if
22 they build in California, if they start in California, their
23 workers can get to work and they can live happily.

24 I think that we need to look at the reregulation
25 of energy prices, because once energy prices got deregulated

1 and it went through the roof, and the out-of-town Texan, and
2 no offense to the Texans in the room, but the ENRONs, et
3 cetera, that raped this State for their own proceeds, as a
4 result of deregulation, really hurt business interest.
5 Businesses went bankrupt, families went bankrupt, and the
6 State went bankrupt as the result of the deregulation of
7 energy prices. Energy prices are very expensive here, in
8 California.

9 So there is my primer to how I think we might
10 start working together to improve and enhance the business
11 climate in the State.

12 COMMISSIONER FRATES: Thank you, that's an
13 excellent answer.

14 And somewhat along the same lines, Virginia, you
15 mentioned the multiplicity of programs and approaches. Is
16 there any one that stands out, in your mind, that works
17 particularly well, either a structural approach that's done
18 locally in one area, or a programmatic approach, or any one
19 program that works particularly well? Is there something
20 there that works real well, anywhere?

21 PANEL MEMBER HAMILTON: There are a lot of
22 programs that work real well. I think part of the issue is
23 that there's no systematic sort of going to scale with
24 anything. You know, programs get started, there's a
25 demonstration program, it works really well, and the funding

1 runs out.

2 A foundation funds something, and a charismatic
3 leader, who's doing a great job in the community, and then
4 the funding goes away, and then that program dies.

5 There's no infrastructure that allows us to
6 understand which programs work and then figure out how to
7 bring them to scale in the whole State.

8 I would also say that, like Art suggested it's a
9 complicated issue. When you talk to employers about what
10 their big workforce issues are, it's not always job
11 training. Sometimes it is affordable housing. Sometimes
12 it's, you know, workers who need healthcare.

13 It's a very complicated, complex set of issues
14 that one program can't solve.

15 COMMISSIONER FRATES: I'm not suggesting any one
16 program would solve all problems, I was just curious if
17 there's one that works well?

18 PANEL MEMBER HAMILTON: I would go back to -- I
19 mean, what we're seeing now, that's working very well, both
20 in terms of meeting the needs of business and in providing
21 access to low income people to good jobs, as I suggested, is
22 focusing on a particular industry sector.

23 Now, that doesn't mean that the program models
24 aren't different. I mean, the approach in the Bay Area, for
25 example, to healthcare, involves labor unions, it involves

1 nonprofits, it involves community organizations, and so on,
2 and hospitals, and long-term healthcare facilities. But
3 they're all collectively working together to solve a set of
4 problems, using good data, understanding what the industry
5 really needs, and setting about to create solutions.

6 Now, some of those solutions are work arounds to
7 bad public policy, and there needs to be better mechanisms
8 for connecting practice to policy.

9 For example, every school in California has a
10 different set of prerequisites if you want to go and be a
11 nurse. Well, that doesn't make any sense.

12 We don't have discrete labor markets, where if you
13 live here, and you work here, and you go to this community
14 college -- we need to get rid of those kinds of policy
15 issues that are standing in our way, through the
16 Legislature, through Administrative action.

17 There need to be better connections between people
18 on the ground and people in Sacramento, in terms of
19 understanding those.

20 But there are some very good programs that are out
21 there, operating right now. The question is building an
22 infrastructure in a different way than we've done in the
23 past.

24 COMMISSIONER FRATES: I think, Willie, you wanted
25 to say something there, I'm sensing.

1 PANEL MEMBER WASHINGTON: And you are correct.
2 The two programs that you've heard referred to the most, the
3 Employment Training Panel, and to the Apprenticeship
4 Program, both of those would be considered, I believe, by
5 most people to be the two more successful programs in
6 California, and they have one thing in common, they all are
7 tied to a job.

8 I come out of the heavy steel fabrication and
9 construction. As a part of our contract, we paid a certain
10 amount of money, in addition to the wages, for training
11 purposes. When a new apprentice is coming on board, we
12 would get requests from whomever, whether it was the union,
13 itself, the individual, or a parent to allow this person to
14 work as indentured, is a term that was used, and they get
15 their experience working for us. And they started at a
16 lower wage in that scheme, and they'd move up until they
17 become apprentices, finish the apprenticeship program,
18 rather, and they go and become journeymen.

19 But in the meantime, they have been working
20 consistently, so the use of those funds and all have been
21 used effectively.

22 I have a concern that we have a huge amount of
23 money that comes into the State of California that is used
24 for training, but doesn't result, in the end, of a person
25 being employed, and that too often many of the institutions

1 are in the business of training, but not in the business of
2 making sure that that person ends up with a job.

3 So for all intents and purposes, in my view, a
4 good portion of this money is being squandered and is not
5 being directed properly to get the kind of results that we
6 need here, in California, to get our economy up and running
7 again. So that would be my take on that.

8 PANEL MEMBER PULASKI: May I just add one piece to
9 that, and I'll be quick, and that is that I agree with part
10 of what Willie said, and that is how do we create the jobs?
11 And when we create the jobs, I think we need to look
12 together. And I would love to see a Commission, of such
13 esteemed body as this, to say, okay, what kind of jobs are
14 we going to create in the State, to make sure they're not
15 hamburger-flipper jobs, in the vernacular.

16 But for example, to look at the new energy needs
17 that are happening in California, the country, and the
18 world, and to say let's make a commitment to this State for
19 California to be the center for the development of renewable
20 energy resources, like the latest solar technology, and to
21 create the manufacturing around that.

22 Because manufacturing jobs, as Willie I'm sure
23 would attest, representing the Manufacturers Association,
24 are really the good paying jobs. And we're losing them in
25 California, and we're losing them in the country because we

1 don't have the commitment to making them happen.

2 I submit that California, if we put our heads
3 together, can say we're going to make this kind of
4 manufacturing work in California, we're going to lead the
5 world, we're going to create, we're going to manufacture,
6 and we're going to export. And that provides for good jobs,
7 for long-term jobs.

8 And then we say to all the training programs, now
9 this is what you have to train for.

10 And so it takes leadership from the top down to be
11 able to look at that kind of vision for the future. We're
12 ready to work with you.

13 COMMISSION CO-CHAIRPERSON HAUCK: All right. Joel
14 and then J.J., and then we're moving on, folks. Surprise to
15 all of you, we're behind schedule.

16 COMMISSIONER FOX: Thank you, Mr. Chairman.

17 Mr. Pulaski, this question's to you. You raised
18 the concern of the theme of contracting out in your
19 testimony, and you recognized the public employees, and my
20 question would be why not give an opportunity to private
21 employees, some of whom I assume you represent in your
22 Federation, to compete for work that they could do well,
23 efficiently, and at the benefit of the taxpayer?

24 PANEL MEMBER PULASKI: I'll go back to my previous
25 comment. I think that what we should do for the private

1 sector employees is create a vision for California's future
2 that are highly paid jobs, that put California in
3 competition with the rest of the world, so that we can beat
4 the pants off of any country, anywhere, that this is
5 California's productivity in terms of product that we can
6 export.

7 And I think that we ought to make the most of the
8 private sector in terms of enhancing the work to do to make
9 California a great economy again, and that should be our
10 focus, rather than take jobs.

11 In terms of the public sector, public
12 services-- I'd love to argue with somebody about this, but
13 public services, and putting a private sector company as a
14 middle person, as I said earlier, in competition for public
15 jobs, it means that we're now saying that we want to pay
16 somebody a profit to provide public services. And I submit
17 that we ought to make sure that we have government services
18 to be as efficient as they can be, as high quality as they
19 can be, as innovative as they can be, and as entrepreneurial
20 as they can be so that we provide the best damn public
21 services to our public, with the taxpayer dollars, we
22 possibly can, without bringing in a middleman, so that
23 somebody can make money off of that. That's not, I think,
24 the role of -- the best use of the public tax dollar.

25 COMMISSIONER JELINCIC: In light of the time, I'm

1 not going to ask my questions. But I do want to thank
2 Mr. Washington for acknowledging the expertise of the
3 Administrative Law Judges, who are very good State
4 employees, even if they're not represented by my union.

5 COMMISSION CO-CHAIRPERSON HAUCK: All right. And
6 on that note, we want to thank you, all three of you, for a
7 real good discussion. Appreciate your being here today.

8 Joanne?

9 COMMISSION CO-CHAIRPERSON KOZBERG: Yeah, I just
10 wanted to point out to the audience and the Commissioners
11 that out of respect for Bob Fellmeth's schedule, he was due
12 to speak on this particular panel, and we took him in the
13 morning, regarding the consumer affairs issues. Okay.

14 COMMISSION CO-CHAIRPERSON HAUCK: The next subject
15 is the proposal to create an Office of Management and
16 Budget, as well as the California Tax Commission.

17 We'd ask the folks that are participating on that
18 Panel to come forward.

19 And just for the Commission's information, we've
20 also asked Russ Gould to offer a few observations here, or
21 comments, given his experience as the Director of Finance
22 for the State of California. We tried to entice Tom Hayes
23 into the process, but he's too busy worrying about the Bay
24 Bridge.

25 Okay, everybody, I think you probably all have

1 observed how we are doing business here. I would ask that
2 you each introduce yourselves. We're going to start with
3 Assembly Member Lois Wolk, who I would appreciate your
4 introducing yourself and telling us where you're from. And
5 then we'll just move right on down the table to
6 Mr. Tirapelle.

7 PANEL MEMBER WOLK: Good afternoon, Mr. Chair and
8 Madam Chair. I'm Lois Wolk. Welcome to my District,
9 welcome to the 8th District, I live in the City of Davis and
10 represent Yolo and Solano Counties.

11 PANEL MEMBER TIRAPELLE: Good afternoon, I'm
12 David Tirapelle, Retired Annuitant from the State of
13 California.

14 COMMISSION CO-CHAIRPERSON HAUCK: Do this as your
15 speaking time comes. So we'll go back to Assembly Member
16 Wolk.

17 PANEL MEMBER WOLK: Thank you, Mr. Chair, Madam
18 Chair, and Commission Members. I want to thank you for the
19 opportunity to testify here, today.

20 The issue of tax administration and tax appeals is
21 one I spent a good deal of time on in this past legislative
22 session.

23 There's a lot of history to this issue, as you
24 know, and my legislative effort to establish a tax court has
25 added reams to that history, including many thoughtful

1 articles, letters, and editorials in favor of the idea.

2 I have already supplied you with some of the
3 materials.

4 As for the CPR's recommendation, let me begin by
5 saying that I agree with the CPR's three findings about the
6 current tax system being duplicative, inefficient, and
7 confusing for taxpayers. Consolidating the various tax
8 administrative functions will indeed achieve greater
9 efficiency and simplification.

10 But the proposal is seriously flawed, in my view,
11 from an equally important viewpoint, namely tax fairness.
12 The problem is with how the CPR proposal handles the Board
13 of Equalization.

14 Under the proposal, the members of the Board of
15 Equalization would be ex officio members, yet the CPR
16 suggests no change in the BOE's current jurisdiction over
17 tax appeals. Thus, the Board members would be directly
18 administering both current FTB and BOE tax collection
19 functions, and then put on another hat, a quasi-judicial
20 hat, acting as an independent appeals body, which I believe
21 is a serious conflict of interest and a violation of the
22 principle of separation of powers.

23 Consolidation of tax collection makes sense, so
24 long as appeals are kept separate. One could keep the BOE
25 as solely an appeals body, and remove all administrative

1 functions, but the track record of the BOE in hearing
2 appeals has not been good.

3 The members of the Board are politicians, as I am,
4 who campaign for election every four years. They need to
5 raise millions of dollars in campaign contributions.
6 Unfortunately, significant campaign contributions have come
7 from entities who appear before the Board, such as an
8 accounting firm like PriceWaterhouse Coopers, who circumvent
9 the conflict of interest rules, the COP Act, by making
10 contributions, not individually, but through PACs.

11 Alas, no rules prevent the private lobbying of
12 Board members concerning pending cases. Frankly, it's
13 disgusting and an insult to honest taxpayers that have to
14 carry more than their fair share because others are better
15 connected or because decisions were made based on politics
16 and not tax law.

17 The unfairness of California's tax appeals process
18 is known nationwide. A 2004 national survey of chief
19 financial officers, by cfo.com, asked the question, "how
20 would you rate the independence of the State Administrative
21 Appeals Process, Tax Board, Administrative Law Judge, or Tax
22 Court, from it's Audit Department?"

23 California ranked as the third worst in the
24 nation.

25 The solution is to create a State Tax Court,

1 modeled after the U.S. Tax Court, to hear appeals from
2 actions by the new Tax Commission. This has been
3 recommended many times in the past because it has proven to
4 work and it is good policy.

5 My legislative proposal to set up a Tax Court
6 passed the Assembly Judiciary Committee. Companion
7 legislation to restrict PAC contributions to BOE members
8 passed the Senate with bipartisan support, despite heavy
9 lobbying by BOE members and staff. But it failed,
10 unfortunately, on return to the Assembly.

11 Reform in Sacramento is never easy.

12 Establishing an independently appointed State Tax
13 Court, with real Judges, who know the law, base decisions on
14 legal precedence, using standard rules of evidence, and
15 publish their decisions, would result in a far more fair
16 system for California businesses and taxpayers.

17 I believe this Commission must address the problem
18 squarely, for any proposal to reform California's tax system
19 to be taken seriously.

20 Fortunately, you have a proven model that works,
21 and one that has been recommended by at least two prior
22 bipartisan commissions, similar to yourselves.

23 Listen to what Governor Pete Wilson's Bipartisan
24 Constitutional Revision Commission, Chaired by your very own
25 Co-Chair, Mr. Hauck, said about the issue in 1996.

1 "The Commission recommends abolishing
2 the Board of Equalization and the
3 Franchise Tax Board and combining their
4 regulatory and executive functions, and
5 those of other major revenue agencies
6 into a new Department of Revenue. In
7 addition, a State Tax Appeals body
8 should be established, appointed by the
9 Governor, and subject to Senate
10 confirmation."

11 This was also suggested by the most recent
12 Commission on Tax Policy for the New Economy. Professor
13 Simmons, who is in our audience today, who is an expert in
14 this area, and at our UC Davis Law School, has also
15 recommended the same and that was incorporated into the
16 Commission on New Tax Policy's report.

17 I urge you to take advantage of his expertise on
18 this issue.

19 Let me conclude by saying this issue's been well
20 studied for decades, there is consensus on the policy
21 solution. The only thing lacking has been the political
22 will. And I hope this Governor, and the Commission, can
23 muster that political will to make these long-awaited
24 changes. Thank you.

25 COMMISSION CO-CHAIRPERSON KOZBERG: Thank you.

1 Dave?

2 PANEL MEMBER TIRAPELLE: Good afternoon. I'm
3 David Tirapelle, I'm retired from State service after some
4 35 years in public sector personnel management and labor
5 relations.

6 I'm here, this afternoon, to not talk about the
7 tax reforms, but the Office of Management and Budget and,
8 more specifically, the CPR proposal to consolidate the State
9 Personnel Board and the Department of Personnel
10 Administration.

11 This is not a new issue. It's been an issue since
12 the State bifurcated its personnel management system in
13 1981, when they created this now Department of Personnel
14 Administration to collectively bargain with the unions,
15 under the new law at that time, now the Ralph C. Dills Act.

16 The issue has been festering for some whatever
17 number of years, and in 1995 the Little Hoover Commission,
18 in an independent report, released a study calling "Too Many
19 Agencies, Too Many Rules, Reforming California's Civil
20 Service Commission," and essentially made the same
21 recommendation then, that the CPR recommendation is today.

22 The issues that existed then exist today. There's
23 overlap between the two systems, things like classification
24 changes. If a State department wants to make a change in a
25 classification, they first have to get approval from the

1 staff of the Department of Personnel Administration, then
2 they have to go to the State Personnel Board, to get the
3 approval of the State Personnel Board staff. If they get
4 those two approvals, then they have to have a public hearing
5 before the five-member State Personnel Board to get a class
6 change adopted.

7 The consequence of error on a classification
8 change certainly does not warrant that amount of oversight.

9 The overlap, duplication, redundancy not only
10 delays action, it's costly to the taxpayers.

11 There's an inherent conflict in the roles of the
12 State Personnel Board and the Department of Personnel
13 Administration. The Department of Personnel Administration
14 is commissioned to negotiate with labor unions to reach
15 labor relation agreements.

16 If the State Personnel Board deems that these
17 labor agreements violate their turf, they then intercede in
18 an attempt to get the union -- or I should say, the labor
19 agreement dissolved or they go to court. And we've had
20 several instances with the State Personnel Board using
21 taxpayer money to sue another State agency. That doesn't
22 make a lot of sense, mainly when both agencies are
23 understaffed and do not have the resources to carry out
24 their legal mandates.

25 By combining the two agencies you would provide

1 some synergism to the staff, you would have the combined
2 staff to identify what the real priorities are, you would
3 eliminate the duplication and overlap that exists and,
4 hopefully, improve not just the timing, but reduce the cost
5 and inefficiency of the system.

6 I think the consolidation can occur within the
7 State Constitution by retaining the State Personnel Board,
8 the five-member State Personnel Board, retaining it as an
9 adjudicatory body that would hold appeals, have
10 Administrative Law Judges, which J.J. said are so wonderful,
11 to carry out these appeals and have final decisions by the
12 State Personnel Board.

13 The remaining operational aspects of the personnel
14 system can be moved into the new Division of Personnel
15 Management, or whatever it's referred to, as an operational
16 division of the new Office of Management and Budget.

17 Thank you very much.

18 PANEL MEMBER GERALD GOLDBERG: Good afternoon. My
19 name is Gerry Goldberg, and I'd like to thank the Commission
20 for once again giving me this opportunity to testify.

21 I have shared the substance of my remarks with the
22 members of the Franchise Tax Board, but they have not
23 approved them.

24 First, I would like to say that, in my view,
25 consolidation of EDD's tax function, the BLF function at the

1 Department of DMV, and the Franchise Tax Board makes, to me,
2 a whole lot of sense.

3 Again, there are many like functions. They
4 include document processing, cashiering, audit collections
5 and, of course, administrative functions.

6 There are possible customer service improvements,
7 insofar as you can create a single point of contact. The
8 three agencies use much of the same data. Unfortunately,
9 currently, they operate out of three distinct data centers.
10 DMV operates out of Teale, EDD operates out of HHSDC's data
11 center and, of course, the Franchise Tax Board has its own
12 data center.

13 So consolidating the three agencies is not going
14 to be without cost. Obviously, to reap any real
15 efficiencies, you're going to want to consolidate,
16 certainly, the IT function over a period of years, and
17 that's obviously going to require an investment.

18 Once you do consolidate these entities, obviously
19 you're then in a position to leverage the best practices.
20 There are certain practices that I can speak to,
21 specifically, at the Franchise Tax Board, that I think would
22 serve the other entities well. Namely, benefitting from our
23 integrated system and from our very sophisticated collection
24 system.

25 And obviously, I would assume that the other

1 agencies would have systems that would benefit the Franchise
2 Tax Board.

3 In terms of savings, the savings aren't going to
4 be immediate, as I said. In order to reap the advantages,
5 you have to be prepared to make an investment, and it's not
6 necessarily going to be a small investment. But over a
7 period of years I believe there would be savings to the
8 State, and I believe there would be other benefits as well,
9 including, as I said, customer service.

10 So with regard to the consolidation of functions,
11 I'm certainly very, very supportive.

12 With regard to the governance structure, I do have
13 some concerns. I mentioned, when last I spoke before you,
14 that I was concerned that the proposal of the CPR
15 Commission, of the CPR staff is to, in effect, to remove the
16 Governor from any role in tax administration. To me, that
17 is not appropriate.

18 Currently, the Governor serves, through his
19 Director of Finance, on the Franchise Tax Board. And while
20 the Director of Finance does not serve on the Board of
21 Equalization, he clearly does have a direct role in EDD's
22 tax functions and in the VLF functions. So I think removing
23 the Governor from a direct role would be most unfortunate,
24 particularly since I think most taxpayers would hold the
25 Governor accountable for tax policy and tax administration.

1 Most people are unaware of who their member of the
2 Board of Equalization is, but they clearly all know who the
3 Governor is.

4 There are also some legal barriers, which the
5 Assemblywoman spoke to a moment ago, with regard to the
6 possible creation of a Tax Commission, and those include the
7 holding of incompatible offices, and also what you can do,
8 in effect, through a reorganization. You cannot directly,
9 of course, impact the Board of Equalization.

10 The Franchise Tax Board has a culture of
11 innovation, and I'm very proud of it, and I think it has
12 certainly been pointed out in the findings of the CPR
13 report, itself, and I would fear that some of that might be
14 lost if we were to put it under a different governance
15 structure.

16 And finally, we do have these other functions that
17 we have been given, in the mode of "no good deed goes
18 unpunished," namely our functions with regard to child
19 support, and those are not small functions, indeed. In
20 fact, we just completed what has to be one of the largest,
21 if not the largest, procurement in the history of state
22 software integration projects and we did so, I'm proud to
23 say, without a protest. But trying to administer that under
24 a new governance structure, under a California Tax
25 Commission, seems to me a very difficult deed, in fact.

1 So I want to once again thank the Commission for
2 this opportunity to testify.

3 PANEL MEMBER MC CARTHY: Members of the
4 Commission, I'm Larry McCarthy, I'm President of the
5 California Taxpayers' Association. The California
6 Taxpayers' Association has been around since 1926, and our
7 twofold mission is to advocate for solid tax policy and to
8 encourage efficiency and economy in the delivery of public
9 services. And in that regard, we commend your work on this
10 very substantial project and the importance that it
11 represents to this State's taxpayers.

12 The two issues before you this afternoon, the
13 Office of Management and Budget and the Tax Commission, are
14 probably the most critical to the State's taxpayers.

15 Let me take the OMB, first. Financial management
16 in California is obviously very damaged, it is the
17 insolvency that we've encountered in recent years. The
18 press reports that are unending about fraud and
19 mismanagement in the delivery of State services are, I
20 think, causing this State's taxpayers to be very alarmed.

21 OMB, from our standpoint, is an opportunity to
22 change that paradigm. It would put, under the control of a
23 Management and Budget Agency, the Cost Centers that need to
24 be controlled within the State budget. Government is a
25 labor intensive, service industry. Labor contracts are

1 critical. And to have that in an outlying State agency, not
2 directly, or as directly as it could be, controlled by an
3 Office of Management and Budget is critical, retirement
4 cost, acquisition of technology, the list goes on and on.

5 OMB is a critically important step to take for the
6 State's tax and also the public spending.

7 With regard to the Tax Commission, this is an
8 opportunity, the California Performance Review has, I think,
9 an opportunity to encourage something which not only
10 provides greater fairness and accountability for taxpayers,
11 in the way taxes are administered, but also to improve
12 California's business climate.

13 Assemblywoman Wolk mentioned the CFO report.
14 Regularly they do this evaluation and continually identify
15 California as having one of the most damaging, most
16 aggressive tax administrations in the country, I think we're
17 second or third to New Jersey and others.

18 We need to not have a reputation as a place which
19 unfairly treats corporate taxpayers, who can invest
20 substantially in our State's economy. Some of the largest
21 multi-national companies in the world have the view that
22 California will treat them unfairly and inequitably because
23 there is not the kind of fair treatment process relating to
24 public policy.

25 The kinds of things that we look for to come out

1 of the Tax Commission would be a more open process. The
2 process at the Board of Equalization provides a committee
3 structure, it provides an opportunity for interested parties
4 not to wait until a matter gets before the Legislature, but
5 to actually work with the staff to help refine and formulate
6 the development of tax policy. We need to do that.

7 The critical kinds of technology changes require
8 that our State's tax structure be current, more nimble, and
9 to do that in an open, interested parties, collaborative
10 process, as is currently done through the Board of
11 Equalization, is critical.

12 Finally, there was a lot of discussion this
13 morning about access and about accountability. We think
14 that the accountability that is achieved through having
15 elected Board of Equalization Board members is critically
16 important. These members stand for election, each election
17 cycle, and are accountable to voters in the State regarding
18 tax policy. They're accessible, they're open, they're
19 available, they respond to and try to adjudicate issues that
20 come before them. That would be a vast improvement in terms
21 of delivery, of the kinds of tax policy changes we need to
22 have in California.

23 Again, I would like to compliment this Commission
24 on your important work. It is long overdue. We need
25 desperately to turn this State's finances around, and the

1 vast report that you received points us in the right
2 direction. Your ability to refine that and formulate that
3 is greatly appreciated by us. Thank you.

4 PANEL MEMBER LEONARD: Mr. Chairman. My name is
5 Bill Leonard, I'm a Member of the State Board of
6 Equalization and really honored that you'd include me on
7 this august panel, to talk about these two issues for which
8 I'm here to appear in strong support.

9 I also served on the Constitutional Revision
10 Commission and, as that process has been described to you
11 earlier, in various forms, and spent 22 of my 24 years in
12 the Legislature serving on fiscal committees, reflecting my
13 concern about the administration and management of State
14 government.

15 I really appreciate the role of this Commission
16 and what you're doing, in public, to delve through each of
17 these issues, and letting you know that there's a lot of
18 people, who are not in this room today, who really think
19 that the job that the CPR staff did, and that your role, is
20 unbelievably bold and ambitious to grab State government, to
21 make it structurally sound and functionally logical in a way
22 that average citizens can deal with. And that is a big
23 challenge, and I'm convinced this Commission's up to it.

24 I also want to take the public opportunity to
25 thank Chon Gutierrez and the 275 State employees.

1 I got some critical e-mail, when this was first
2 appointed, that State employees would be so biased about
3 their own jobs that they just would recommend nothing except
4 growing their own jobs. And that is not only wrong in my
5 mind, but is proven wrong by this report, where our own
6 people have the ideas of what needs to be done, but the
7 environment and structure of State government often does not
8 allow that to bloom forth.

9 And here, thanks to Governor Schwarzenegger, and
10 the work of that staff, Chon, it was able to do so.

11 I want to wholeheartedly endorse the Office of
12 Management and Budget for the reasons previously stated by
13 those that support it, combining those functions together,
14 in one agency that can get a handle on State government.

15 We talk about things that are the key word in this
16 mission, performance, and it begs the question of how we
17 measure performance, and it begs the question of who is
18 doing the measurement and the standards that they're using?
19 One agency directly accountable to the Governor, the
20 combination of these four is crucial to that point.

21 Second, I want to support the California Tax
22 Commission. If for nothing else, it's probably the most
23 honest name in State government we've ever had for taxes.
24 Board of Equalization, my own family won't pass that quiz.

25 Franchise Tax Board, it's come to my attention

1 that they think it's to tax McDonald's franchises, only, and
2 everybody goes to some other agency.

3 Most people know they pay payroll taxes to EDD,
4 but they have no idea how that form or function works, or
5 where the accountability is.

6 And the car tax to DMV I guess makes sense, except
7 when you think about the collection of the revenue, itself,
8 and how they move it to the State Treasury.

9 To have an honestly named Commission, elected and
10 accountable to the people, improves public access, gives
11 people a place to go when they do have questions about their
12 tax policy. And what I think is equally critical and bold,
13 if this Governor follows the CPR recommendation, and it will
14 be unprecedented, is that it's independent of the Governor.

15 The biggest problem with the IRS, and departments
16 of revenues in other states, is they're beholden to the
17 Executive Branch, so when times get rough, they can make
18 orders through their Department of Revenue to squeeze
19 collections.

20 Tax collection policy, the administration of that
21 policy, should be level and evenhanded year after year,
22 without regard to the spending issues off to the other side.

23 Having an independent Tax Commission, as
24 California started to do with its Board of Equalization, is
25 crucial to that. And having the appeals process as part of

1 it shows that you have a public body hearing taxpayers. The
2 focus has been on the wealthy, but I've got to tell you, at
3 our Commission the great volume of people are not wealthy,
4 they're average taxpayers of sales tax, and income tax, and
5 our 40 other taxes and fees that we collect, that come
6 before us on appeal, often without representation, to state
7 their case, bringing their own books and ledgers before a
8 body, in public, to make a difference.

9 The history of these agencies, and I don't know if
10 it will be informative or not, but many of these agencies
11 came into existence in State government because of crass
12 political compromises long ago. You have no obligation to
13 keep that structure in place.

14 To make changes that follow function, and your
15 standards, that you laid out in the testimony, are really
16 key, of putting the people first. The California Tax
17 Commission would do that by having an elected body, improve
18 access to everyone on all their taxes, streamlining
19 operations.

20 You put Gerry Goldberg and me together, to work on
21 streamlining cashiering, reduction of forms, making audits
22 centralized and targeting the wrongdoers and supporting the
23 fair taxpayers, and we will give you a better tax agency
24 within a few years, and will streamline operations, and that
25 will resolve in taxpayer dollar savings.

1 It is a big challenge, but I think that your State
2 employees are up to it, with the proper management and
3 structure to make it work, and that your job is to see that
4 that does happen.

5 And I commend you for that effort. Thank you.

6 COMMISSION CO-CHAIRPERSON HAUCK: Thanks, Bill.

7 Lenny.

8 PANEL MEMBER LENNY GOLDBERG: Lenny Goldberg.

9 Thank you very much, I really appreciate being here. Lenny
10 Goldberg, California Tax Reform Association.

11 Mr. Hauck, you asked earlier about balance. I
12 want to let you know that I spoke twice and consulted twice
13 with members of CPR as this process was going on. However,
14 my name was left out of the book. So for better or for
15 worse, I have been consulted and I appreciate the effort.

16 COMMISSION CO-CHAIRPERSON HAUCK: Actually, that
17 was Chon kept your name out of the book, Lenny, he did it on
18 purpose.

19 PANEL MEMBER LENNY GOLDBERG: You didn't want to
20 look like you were consulting with me. Right, that's right.

21 I have been working with FTB and BOE for a long
22 time and have been very active, in particular, in trying to
23 make sure that they have open meetings, open agendas, are
24 taxpayer friendly with regard to things like online filing,
25 and taxpayer privacy.

1 And I want to speak a little about the current
2 structure, the proposals, and then where I think we should
3 go.

4 The Franchise Tax Board is recognized nationally
5 as one of the exemplary agencies in the country, and it was
6 recognized in your CPR report with regard to its level of
7 technology, which far exceeds any other agency, and the
8 Board of Equalization, and the other tax agencies. It has
9 had a separation of the policy functions with its Board, and
10 independent administration.

11 And I want to speak to that question of
12 independent administration. This is the only agency in the
13 State of California that has had an executive that has
14 lasted five Governors, three Republicans and two Democrats,
15 and four Controllers, and any number of Board of
16 Equalization Chairs.

17 This issue, it's not about Gerry Goldberg. This
18 issue is not about the last 20 years, it's about the next 20
19 years. Can we assure independence of administration, the
20 way we have had it at the Franchise Tax Board, and the way
21 we have not had it in any other agency, particularly the
22 Board of Equalization.

23 The Board of Equalization is a unique agency in
24 the country, in that it has an elected Tax Board, with full
25 time members, who do nothing but oversee the Board of

1 Equalization, whose roles are executive, tax administration,
2 whose roles are legislative, in the sense of regulatory
3 policy, and then whose roles are adjudicatory in terms of
4 being the Board of Appeals.

5 Assemblywoman Wolk has spoken to that, but let me
6 suggest some -- let me speak to the CPR proposal. It's
7 actually a very confusing proposal because on the page of
8 description of detail it has a line from the Governor to the
9 Tax Commission, and I would agree with Mr. Leonard that the
10 Tax Commission is the appropriate name.

11 I try to explain BOE and FTB, and nobody knows
12 what we're talking about.

13 But the Governor is involved in one of the
14 proposals, and then the other chart that we saw this
15 morning, the Tax Commission sits totally independently of
16 the Governor.

17 I submit that the Governor must be involved as the
18 accountable, Chief Executive of the State of California, in
19 tax administration, as they have been through the Franchise
20 Tax Board. Which leaves the question -- I guess, that's one
21 principle.

22 Second principle, there must be independence of
23 tax administration, which we've seen has worked so
24 successfully at the Franchise Tax Board.

25 Third, tax adjudication must be separate. And as

1 I said, Assemblywoman Wolk spoke to that.

2 And fourth, I think you ought to be aware of false
3 economies, because we can move boxes around and not get the
4 savings we want, but have real disruption to our tax
5 collection programs up front.

6 That said, what structure should we be looking
7 for? The consolidation of the Franchise Tax Board, under
8 the Board of Equalization, was in a bill that was vetoed by
9 Governor Wilson. Governor Wilson then had a proposal for a
10 Department of Revenue, entirely under the Governor, and I
11 think a number of people opposed that because it did not
12 incorporate other elected officials.

13 One could imagine a Tax Commission that kept the
14 Governor's involvement, that had the Controller, as they are
15 now, the Board of Equalization members, and then the other
16 Chief Financial Officer of the State of California, the
17 Treasurer, a seven-member Tax Commission, with the proviso
18 that an Executive Officer, whether it's a Department of
19 Revenue, or a Tax Commission in some form, be a term
20 officer, with staggered terms, independent of the political
21 winds that change, and subject to removal for cause by the
22 Senate, approved by the Senate and for removal with cause by
23 the Senate, and you might replicate the very successful
24 circumstances you've had at the FTB for the past 20 years.

25 As I said, I think there are a number of issues

1 with regard to adjudication, they must be separated from
2 administration.

3 And if I may, there is a policy issue raised, and
4 I'm just going to suggest the process by which you deal with
5 this in the CPR, that no one else has spoken to, which is
6 not so much an organizational question, but a policy
7 question, which recommends a new sales tax credit for
8 manufacturing.

9 I want to suggest that you refer that to your Jobs
10 Committee, you refer that to the Council of Economic
11 Advisors, and you have a very broad based look at the tax
12 system in a separate way, separate from CPR, which should be
13 dealing with organization.

14 Thank you very much.

15 COMMISSION CO-CHAIRPERSON HAUCK: Thank you,
16 Lenny.

17 Russ, do you want to --

18 COMMISSIONER GOULD: Thank you, Mr. Hauck, for
19 this unique opportunity to speak to my fellow Commissioners,
20 as well as to the Panel, and to the public.

21 You know, I guess what I'd like to do is to speak
22 about the question of the Office of Management and Budget,
23 and to give a context that I'm reviewing this proposal in
24 and I, unfortunately, have a little bit more time to kind of
25 sort out where I'll ultimately come down on that, but at

1 least I'll give you a context of how I look at it, and I
2 would encourage others to consider it, also.

3 And I'd like to put it first in terms of what's
4 the existing role of the Director of Finance. And I'll
5 share with you kind of candidly how I look at it and how
6 that plays, then, into expanding the role.

7 First of all, it is the Chief Financial Advisor to
8 the Governor, and it goes into a range of areas. First, and
9 most visibly, it is on the budget. That's an annual
10 financial plan, but it is also, probably, the most
11 comprehensive policy statement made by the Governor each
12 year, for people to consider.

13 The Director of Finance is also the top tax
14 advisor within the Administration, whether that's raising or
15 reducing taxes, or having a context of fairness there.

16 And third, the strongest economic advisor within
17 the Administration. Many times there's a Council of
18 Economic Advisors, but within the Administration it plays
19 that role.

20 Within the family of government it is also an
21 independent advisor and assessment of what the agencies are
22 suggesting. While it sits on equal footing with the other
23 Agency Secretaries, it has the role of independently
24 commenting on whether an idea is good, bad, or should be
25 amended, and makes that recommendation independently to the

1 Governor.

2 One of the main ingredients in that relationship,
3 inside the Administration, is to be candid with the
4 Governor, and to have a relationship where you can have
5 those private, very cherished, one-on-one discussions.

6 I remember many of those. I don't remember
7 winning many of those candid discussions, but I remember
8 they occurred. But making sure that there is that kind of
9 candid exchange within the Administration.

10 Then, you've got the responsibility of negotiating
11 with the Legislature on the annual budget plan. And what's
12 foremost there is not only taking the time to understand the
13 Legislature's perspective, working with them, but making
14 sure that they regard you as an honest broker, that you're
15 presenting facts in a way that they know that you are
16 letting the policy question ride up or down based on the
17 ultimate determination of the Legislature and the Governor,
18 but they're relying on the Department of Finance for a fair
19 reflection of the facts of the situation.

20 And then, finally, the role is in many cases to
21 speak for the Administration, and sometimes for the
22 Governor, whether that's to the public, the clients,
23 customers of government, to the Legislature, so that they
24 understand the perspective, but also to interest groups. So
25 there is another voice that's really providing a financial

1 context for the decisions being made.

2 And so when I look at expanding the role of the
3 Director of Finance, I have some mixed emotions. One is,
4 you know, when I look at the collective bargaining and the
5 personnel administration practices, I think Dave Tirapelle
6 described this maze the people have to work through in order
7 to resolve issues, it is cumbersome and it would be nice if
8 that was integrated better.

9 I look at the issue of technology and in the past
10 that's been integrated within the Department of Finance, but
11 there's a problem if you're both the advocate for technology
12 and also the one who has to provide the control, and to
13 assess whether or not there are risks in pursuing a certain
14 kind of avenue.

15 You know, and I look back on this, and as someone
16 was reminding me earlier, there was a period of time when
17 the Department of General Services was really just a
18 Division of the Department of Finance. So this was
19 integrated once before and then, for some reason, and I
20 don't know all the history, it was separated.

21 But fundamentally, a lot of these ideas about
22 centralizing these functions do go to one of my favorite
23 management philosophies, and that is no surprises.

24 To the extent that you do integrate these
25 functions, and I think you can minimize the number of

1 surprises, whether they're on the labor front, whether
2 they're on technology, that you are on top of and taking
3 responsibility for a broader range of issues.

4 And so I guess what I'm wrestling with, and I'll
5 be interested in the public's comment and the Commissioners,
6 is whether or not this is diluting the ability of the
7 Director of Finance to really be the chief financial
8 spokesperson for the State, or whether it's providing
9 essential, additional functions that are going to make a
10 chief operating officer for the State in a position to
11 oversee a lot of essential functions.

12 COMMISSION CO-CHAIRPERSON HAUCK: Okay, great,
13 very good.

14 All right, folks, questions? Joel?

15 COMMISSIONER FOX: I have a couple. Well, I'd
16 like to hear from Larry, and if Bill feels he needs to add
17 any more on the Tax Court, and Larry, on what your
18 Association feels about the Tax Court.

19 And then I have a general question, maybe it's
20 practical, maybe it's political, to the entire Panel, but if
21 we're going to create something called the Tax Commission,
22 and the voters of California continually support their right
23 to vote on taxes by supporting ballot measures over the
24 years for the right to vote on taxes, and we say this Tax
25 Commission will have nonelected officials on it, and in fact

1 we're going to eliminate some elected officials who oversee
2 taxes, my gut feeling is that this type of measure would
3 fail with the voters, and I just would like to hear your
4 political comments on that.

5 So however you want to divvy it up. Maybe, Larry,
6 you want to go first on your Tax Court, and then everyone
7 else can jump in?

8 PANEL MEMBER MC CARTHY: On the Tax Court issue,
9 it has long been debated, and there's certainly a tremendous
10 interest in getting that, and the formulations have been
11 varied in terms of how to achieve that kind of adjudication
12 of tax disputes. I tend to think that's going to continue
13 to go on. The lines are drawn in terms of opposition and
14 support on that.

15 In the context of this issue, however, we view it
16 as a diversion. The issue on the table is consolidation.
17 The Tax Court matter is something that's been out there. We
18 would like to keep the focus on the consolidation matter.

19 Tax Court is going to be with us long beyond this
20 and it is, again, I think you can get very prominent
21 advocates on both sides of that to make the case, and they
22 can point to a federal model that seems to work very well.

23 What needs to happen, from our standpoint, before
24 we get the Tax Court, is fair administration of tax policy.
25 Before you have to go hire attorneys, and get into court,

1 and advocate this thing, we need a fairer treatment of
2 taxpayers in the State, particularly on the business side.
3 They feel like they get the rules changed to produce a
4 revenue result. And it is happening in one agency far more
5 frequently than in another, and I think that that's why the
6 consolidation begins to inject some accountability in terms
7 of avoiding that kind of a problem, as seriously as it has
8 been in the past.

9 So we would like to move the focus away from Tax
10 Court, back onto consolidation. We'd like to have a full
11 airing of that.

12 With regard to the politics of changing the Board
13 of Equalization, I think there would be little chance of
14 getting a measure before California voters to say let's
15 eliminate these elected officials, who are responsible, who
16 have responsibility for tax administration.

17 A measure was on the ballot a few years ago, as it
18 related to county assessors, to ensure that they would be
19 voter approved, they would be elected officials, and it was
20 approved by a 70 percent vote.

21 I think that the public is clear, they would like
22 to vote on those that have ultimate responsibility for tax
23 administration.

24 COMMISSIONER FOX: Lenny, you and I have talked
25 about this over the years.

1 PANEL MEMBER LENNY GOLDBERG: Yeah.

2 COMMISSIONER FOX: Yeah, Bill.

3 PANEL MEMBER LEONARD: Real quick and then give it
4 to Lenny, the two points.

5 COMMISSION CO-CHAIRPERSON HAUCK: Well, before you
6 do that, Bill, I want to give Gerry Goldberg an opportunity
7 to respond to the points that Larry's making, then we'll go
8 to you.

9 PANEL MEMBER GERALD GOLDBERG: With regard to
10 setting up a separate Tax Commission versus other
11 possibilities, you need to keep in mind what the experience
12 has been of other states, as well as the Internal Revenue
13 Service.

14 I think, with regard to other states, roughly 43,
15 44 of those states have Departments of Revenue, headed by a
16 Director, who reports to a Governor, and obviously, at the
17 end of the Governor's term, he or she leaves office.

18 With regard to the Internal Revenue Service, up
19 until roughly the last five years, the Commissioner of the
20 Internal Revenue Service was appointed, in effect, by the
21 Secretary of the Treasury, and served a term coincident with
22 that of the Administration.

23 But as a consequence of the oversight hearings
24 that were held several years ago, with regard to the IRS,
25 they gave the Commissioner a term certain of five years. To

1 me, that has significantly strengthened the Internal Revenue
2 Service, and it is a renewable term. Commissioner Risatti
3 could have been given a second term and he, in fact, was
4 offered a second term, but apparently turned it down.

5 To me, that significantly strengthens both the
6 independence of the Internal Revenue Service and, of course,
7 its administrative capabilities.

8 So I feel very strongly that there are other
9 possibilities out there, not the least of which is a
10 Department of Revenue. If you want to retain a Board of
11 elected officials, I think that consideration might be
12 given, for example, of a Board comprised of the Governor, or
13 his or her appointee, the State Controller, and the State
14 Treasurer, all of whom have an obviously direct interest in
15 the financial status of the State.

16 So I'm just tossing out other possible iterations
17 out there, in addition to what has been proposed by the CPR.

18 PANEL MEMBER LEONARD: Just two quick things on
19 the Tax Court, and my evidence is anecdotal from my two
20 short years on the Board of Equalization. But we're able to
21 switch hats for the benefit of the public. When we have a
22 case before us, where our Department screwed up, in addition
23 to making a finding for or against the taxpayer, on whatever
24 the merits of their case, if the process messed up, we can
25 order right there, our Department, to bring back to us the

1 administrative or regulatory action needed to make sure that
2 does not happen again.

3 That's an advantage you lose if you go to some
4 other tax forum, whereas we hear, now, the cases for
5 Franchise Tax Board, their attorneys come over to appear
6 before us, if they screw up in their Department process of
7 it, other than say it out loud, that's really awful, we have
8 no direct power of management to deal with that. And I
9 think that's crucial for tax administration and the fairness
10 and openness that we're talking about.

11 On the other question, I remember Fred Silva's
12 work on the Constitution Revision Commission, we did some
13 survey about voters' habits on creating and abolishing
14 elective offices, and if I remember it correctly, Fred, no
15 California vote has ever been taken to abolish an elected
16 office in the history of California, in State or local
17 government. People like elected officials because they like
18 choosing them and unchoosing them.

19 PANEL MEMBER LENNY GOLDBERG: Joel, I think that
20 no one is talking about eliminating any elected officials.
21 Now, the question becomes, if you have a Department of
22 Revenue, which was proposed by the Constitutional Revision
23 Commission, the tax system is subject to an elected
24 official, and that is the Governor.

25 I think the Tax Commission -- and then the

1 question becomes what's the continued, ongoing role of the
2 Board of Equalization?

3 I believe that, and you had raised this as
4 potentially a political question, as well, I think a broad-
5 based Tax Commission, if you accept the principle that the
6 Governor must be involved, which I think it's very hard to
7 say the Governor should have nothing to do with tax
8 administration or tax regulatory policy, if you accept that
9 position, then you have four members of the Board of
10 Equalization, a Controller, who is the current Chair of the
11 Franchise Tax Board, and on the BOE. If you add the
12 Governor, and add the Treasurer, you have a Tax Commission
13 with four BOE members, a Tax Commission of seven, which is
14 entirely elected officials.

15 Then the question becomes, how do you assure
16 independence of administration?

17 Well, having a broad diversity of elected
18 officials, you will probably get that independence of
19 administration.

20 In addition, if you have, as the IRS has put in, a
21 term stipulation for the CEO, just so that you don't have
22 turnover, you have the advantage of administrative and
23 legislative. That is to say, regulatory decisions being
24 made by elected officials, with independent tax
25 administration and then, I would argue strongly, for a

1 variety of reasons why you would need, counter to what
2 Mr. McCarthy said, that you need a separate adjudication
3 function so you don't have this consolidation of we run the
4 program, we set up the regulations, that is we interpret the
5 law, and then we just do tax appeals. Separate tax appeals,
6 I think, is a part of a consolidated Tax Commission
7 discussion.

8 COMMISSIONER JELINCIC: I'm not sure the elected
9 BOE members should be hearing the tax appeals, but I would
10 like to say good luck to whoever the fundraiser is who has
11 to raise the funds for that initiative.

12 One of the issues that got raised here was moving
13 PERS and STRS administration into this office. One of the
14 truest things that I've ever heard in this town is that
15 money is the mother's milk of politics. Those are two big
16 pots of money, and I would like to know if anyone would like
17 to comment on the wisdom or lack of wisdom of doing that?

18 COMMISSION CO-CHAIRPERSON HAUCK: Not exactly the
19 proposal, J.J. They're not proposing, as I understand it,
20 to move -- I mean, they're prohibited by law, really, from
21 moving the direct administration of PERS and STRS into OMB.
22 I think this is -- correct me if I'm wrong here, Chon, the
23 proposal here is to try to get them engaged more with the
24 management of the State's total financial resources, it is
25 not a proposal to eliminate an independent STRS and PERS.

1 COMMISSIONER JELINCIC: When I read the proposal,
2 that's what I thought, but when they presented it today,
3 they specifically said it was to move the administration,
4 but they may have misspoke.

5 COMMISSION CO-CHAIRPERSON KOZBERG: Chon, while
6 you get your mike to work, I think this is to coordinate.
7 It's being moved out of State and Consumer Services Agency
8 and over into this entity.

9 COMMISSION CO-CHAIRPERSON HAUCK: Right, right,
10 and he confirms that.

11 COMMISSIONER JELINCIC: He confirms, okay. And
12 then the other question I had had was earlier I had said
13 that I had some questions about the Workforce Development
14 Plan. Looking at the Panel, my guess would have been that
15 Mr. Tirapelle was going to address it and, obviously, he
16 didn't, and so I do have those questions, and I guess I need
17 to ask Chon whenever it's appropriate.

18 EXECUTIVE DIRECTOR GUTIERREZ: First of all, let
19 me respond to the issue of PERS and STRS. The Co-Chair is
20 absolutely correct. Currently, the PERS and STRS reports to
21 the Secretary of State and Consumer Services Agency for
22 coordination and administrative purposes, not for policy
23 setting. The policy setting, obviously, is the role of the
24 Board.

25 As we restructure government, we need to find a

1 home for that entity and we felt that OMB was the more
2 appropriate location. Again, for administrative and
3 operational policy purposes, only, and not for investment
4 policy or management of those two entities.

5 And the second question was?

6 COMMISSIONER JELINCIC: Okay, then I misunderstood
7 Joan and I apologize.

8 You talked briefly about the capital, the human
9 capital crisis we're going to have, and the importance of
10 developing an effective workforce plan that would be based
11 on, you know, our needs going forward. So have we worked on
12 that plan yet, and have we developed it?

13 EXECUTIVE DIRECTOR GUTIERREZ: We are looking at a
14 human capital crisis, where we're looking at some 34 percent
15 of the employees of the State of California at the age of
16 50, and we're projecting that over the next five to seven
17 years or so, we could lose as many as 70,000 State
18 employees, who would go on to retirement.

19 Clearly, we need to address that issue. CPR's
20 approach to that is one to recognize that reality and begin
21 to set up some processes for being able to function
22 effectively, absent some portion of those 70,000 people,
23 because it is a true challenge to try to replace them.

24 The first thing we would want to do is introduce
25 the technology tools that will allow people to be more

1 efficient and to be able to sustain the loss of a number of
2 our critical staff.

3 Secondly, we need to have a very strong training
4 program for new employees.

5 Thirdly, we need to have a succession planning
6 process. We have CEAs. CEAs are the senior management of
7 State government. Some 67 to 68 percent of the CEAs are 50
8 years or older and so there we're likely to lose them
9 sooner. It's only natural that they be the more senior
10 people, they certainly are the more experienced people.

11 But there is a goodly number of CEAs that are in
12 the 60 years of age range, and they will be retiring
13 shortly.

14 So we need to have a capable and competent group
15 of candidates to replace these, and the CPR recognizes all
16 of this and makes a series of recommendations to the
17 Governor, to begin to implement processes and procedures.

18 Gerry Goldberg is one of the leaders in State
19 government on those two points. His organization has
20 aggressively recruited staff, has aggressively implemented
21 information technology, has made his reliance on staff, and
22 balanced with his technology, and has put together an
23 excellent succession program.

24 As Director of the Department of Motor Vehicles, I
25 am following in Gerry's footsteps.

1 As far as any implementation work for the CPR
2 effort, we have not begun that process, but we are awaiting
3 the completion of the Commission's review, and their
4 recommendations to the Governor, and we will do exactly as
5 directed.

6 COMMISSIONER JELINCIC: But given that we are
7 already 49th in terms of State employee per unit of
8 population, isn't it possible that a serious workforce plan
9 would actually argue that we have too few employees, not too
10 many? Isn't that a real possibility or have we shut that
11 possibility out?

12 EXECUTIVE DIRECTOR GUTIERREZ: As far as the CPR
13 work, itself, we did not engage in that kind of analysis. I
14 think over the years we've seen a decline in the number of
15 positions that existed in State government. We've had
16 freezes in place, now, for -- well, all during the prior
17 administration. We have no freezes in place now.

18 In the back of the Governor's budget there is an
19 excellent chart that establishes a ratio between population
20 and State employees. But over the last 20 years we've seen
21 so much shifting of programs between local government and
22 State government, it's hard to determine whether that which
23 is being compared during the Brown administration, Brown,
24 Senior, versus what is being compared against the Davis
25 administration may not be appropriate, given the mix.

1 I am not in a position to offer an opinion on that
2 subject, and so I apologize for that.

3 COMMISSIONER JELINCIC: Okay.

4 COMMISSION CO-CHAIRPERSON HAUCK: Steve?

5 COMMISSIONER OLSEN: Bill, this is not so much a
6 question for the Panelists, but my reaction to Russ's
7 earlier comments about the OMB.

8 Like Russ, I'm of mixed mind about the
9 recommendation, and I think that the way that he described
10 the role of the Director of Finance is really a key to that.
11 He described it as the Governor's chief financial advisor,
12 and that's a key distinction compared to chief financial
13 officer.

14 And sometimes there are competing claims made, in
15 the State of California, as to exactly who the chief
16 financial officer is. Sometimes the Director of Finance
17 will make that claim, and sometimes the State Controller
18 will make that claim.

19 And the fact is that neither of those officials
20 has the entire portfolio that one normally associates with a
21 corporate style CFO.

22 What is missing from the Director of Finance's
23 portfolio is the control over the financial and purchasing
24 machinery through the payroll system, through warrants,
25 through the control of the financial system and the

1 purchasing systems, themselves. And there may be good
2 reasons to have an independent, Constitutional officer
3 exercise control over the control functions, themselves, as
4 is the case right now.

5 But on the other hand, what is missing from the
6 current arrangement is really strong, effective business and
7 administrative leadership.

8 And I think I can say this, having worked in both
9 the Department of Finance and the Department of General
10 Services, and I have great affection for my colleagues in
11 the Department of Finance, but I don't think that the
12 culture there is really, currently, oriented toward creating
13 innovative administrative practices and really driving
14 forward and finding ways to implement new financial tools,
15 new administrative tools, purchasing systems, and so forth.

16 So I think if the Commission shies away from a
17 full-fledged OMB type of recommendation, in favor of a more
18 constrained role for the Department of Finance, it behooves
19 it to come up with a substitute that will provide for
20 effective administrative leadership through some other
21 forum.

22 That is not happening right now. The CPR
23 recommendations, there are dozens of recommendations in this
24 area, many of which I think are right on point. And I think
25 that the Commission really ought to find some mechanism to

1 ensure that effective leadership is brought to bear on that.
2 If not under the Director of Finance's aegis, then some
3 other official's.

4 COMMISSION CO-CHAIRPERSON HAUCK: Okay, good
5 observation, Steve.

6 Dale?

7 COMMISSIONER BONNER: This is a question or a
8 couple questions for my colleague, Mr. Gould. I'm just
9 asking, really, for some understanding and clarification,
10 and I'm looking at the chart for the proposed Office of
11 Management and Budget. And historically, I'm looking right
12 now at the lower tier of boxes, and what I historically
13 think of as the Director of Finance and the Department of
14 Finance is in, I think, the third box from the right, under
15 the Fiscal Affairs Division.

16 So as you understand the list of proposals, and
17 Steve you may want to comment on this as well, but are we
18 expanding and morphing the role? I don't want to say the
19 role of the Director of Finance because, really, what we're
20 doing is creating an Office of Management and Budget, so
21 it's not necessarily built around the Director of Finance,
22 but in some ways it is.

23 So are you really expanding that role or is all of
24 this laid out here a way of enhancing the ability to perform
25 the function in that box, you know, that's third in from the

1 right, or is it something else?

2 COMMISSIONER GOULD: Well, I'll respond. And Chon
3 may be the best person to respond to this, because I think
4 he could give a context to it.

5 I guess, in some ways, I looked at this proposal
6 much like the other changes within the proposed
7 reorganization, where under an Agency Secretary you
8 coalesced a number of like functions, where they thought
9 there would be better efficiency and service to the people
10 through that kind of integration.

11 And I looked at the OMB proposal as the same
12 attempt. And so it was taking the financial advisor role,
13 that the Director of Finance currently plays, and adding to
14 it a range of other complimentary areas that they thought
15 would enhance the role on oversight of key financial issues
16 in government.

17 So that's how I interpret it. And Chon, I don't
18 know if that's a fair understanding?

19 EXECUTIVE DIRECTOR GUTIERREZ: Well, first of all,
20 I think all three points that are made are really excellent.
21 Russ, you sat there, you did about six years of this
22 business. And traditionally, the way Governors have built
23 budgets, is they rely on the Director of the Department of
24 Finance, and the budget process as the way of establishing
25 their strategic goals for the next year. And of late, we've

1 been focusing on multiple years.

2 In my opinion, and in the recommendation of the
3 CPR, that is far too narrow a perspective to take as we
4 manage a government that is the fifth largest economy in the
5 world.

6 And so our recommendation is to recognize the
7 critical role of the Department of Finance, but to recognize
8 that we also need to be thinking in terms of broad public
9 policy, broad fiscal direction, and someone needs to advise
10 the Governor on those very broad strategic objections. That
11 once he sets his strategic goals and he lays out his
12 strategic plans, then we need to implement them.

13 And we have found time and time again that there
14 are control agencies within government that are at odds with
15 one another. David talked about the State Personnel Board
16 and the Department of Personnel Administration. But Russ
17 will remember, when Governor Wilson asked one of his Cabinet
18 members why he hadn't accomplished something, and the answer
19 was, well, because we didn't get an FSR done, and Russ said,
20 let's move on, Governor.

21 So here we had a technical problem, a technical
22 dispute between two Bureaus, in effect, within the context
23 of two very large entities stopping the progress. We felt
24 that at that point, or given that reality, that there was
25 value in bringing together that decision making, that

1 accountability to one place, a Chief Operating Officer,
2 someone that had HR responsibility, somebody that had
3 collective bargaining responsibility within that context,
4 someone who had fiscal advice. Building of the budget, the
5 technical building of the budget, that's a critical part of
6 this process because you need to know what your revenues and
7 expenditures are, and the actual execution, once the plan is
8 adopted.

9 So we were thinking in a very broad sense. I
10 think Steve was capturing the essence of what we were
11 thinking, and those were our thoughts. I hope they were
12 helpful.

13 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you
14 all, gentlemen and lady, for an excellent discussion, and
15 I'll ask Joanne to preside over the next Panel.

16 Also, Joanne and I, at least, will stay today
17 beyond five o'clock, probably to 5:30, or 5:45, if
18 necessary. Members of the Commission, who have airplanes
19 and other things they've got to catch, are free to go at
20 five o'clock, because that was the notice time.

21 But as is always the case at these sessions, why,
22 we are always behind schedule. So we'll stand by and you
23 guys can do whatever it is you need to do with respect to
24 your own schedules.

25 COMMISSION CO-CHAIRPERSON KOZBERG: We will now be

1 taking public testimony on boards and commissions, and we
2 are looking first to those boards and commissions where we
3 have not yet had public input around the State.

4 So I'm going to read off the following names, and
5 I'll probably read some of them twice. If you could come
6 forward to the front rows, and if the first six people could
7 fill the seats, we'll just go right through, so that we can
8 have the maximum amount of public input. And again, these
9 are for boards and commissions, then we'll go back to input
10 on general government.

11 So the first names, if they could come forward, is
12 Tom Adams, Loraine Binion, Diane Boyer-Vine, Bob Cornell,
13 Norman Hui and Jan Liu, John Kehoe, Marsha Kwalwasser,
14 Stacie Olivares, Paul Thayer, Donald Parker, Tom Rankin,
15 John Wilson, Marcia Raggio, Bob Raymer, and Peter Welch.

16 And again, if the first six, and I hope I haven't
17 lost some people, but if I have, I'm going to ask you to say
18 your name first, and then as the seats get emptied out, as
19 you've given your testimony, if the others could fill in,
20 again stating your name first, and who you represent. And
21 we will be taking three minutes of testimony from each
22 individual.

23 If you are speaking on the same item, we'd
24 appreciate it, if you felt you could, to pool your comments.

25 We're going to start with Tom Adams.

1 MR. ADAMS: Thank you. I'm Tom Adams, I'm the
2 Board President of the California League of
3 Conservation --

4 COMMISSION CO-CHAIRPERSON KOZBERG: Could you
5 speak into the mike, please?

6 MR. ADAMS: I'm Tom Adams, I'm the Board President
7 of the California League of Conservation Voters. One of the
8 central goals of CPR, as articulated by the Governor, is to
9 put people first, yet the recommendations to eliminate
10 boards and commissions, reduce public participation, reduce
11 public oversight, and reduce transparency in government.
12 These recommendations consistently strike at the central
13 role of the public to keep an eye on its government and to
14 participate in its decision making.

15 The public struggled for these rights and they are
16 crucial for the effective functioning of our government.

17 When decisions are made by executive officers,
18 access to those officers is usually limited to the powerful
19 and the connected.

20 In contrast, any citizen can appear before a board
21 or commission, directly address the decision maker, and
22 watch the decisions being made.

23 The decisions of boards and commissions are
24 subject to open meeting laws that prevent secret
25 deliberations. The decisions are made in the presence of

1 the press, and the role of the press, in reporting on these
2 decisions, is central to effective public oversight.

3 According to the CPR, crucial decisions about the
4 protection of the public health and the environment would be
5 removed from open public processes.

6 Decisions of the Air Resources Board, the
7 California Energy Commission, the State Water Board, the
8 Regional Water Quality Control Boards, the State Lands
9 Commission, the Integrated Waste Management Board, and the
10 Board of Forestry would be made by executives, out of public
11 view.

12 The report lists the criteria used to evaluate
13 boards and commissions. Incredibly, public participation
14 and public oversight were not even listed as criteria. Not
15 even on the list. This is a gross omission. It is
16 particularly astonishing since it is completely inconsistent
17 with the Governor's injunction to put people first.

18 Furthermore, the stated rationale for the
19 elimination of many of these bodies is dismissive of their
20 achievements. Take the California Air Resources Board, as
21 an example. It is probably the preeminent air regulatory
22 board in the United States, if not the world, yet this is
23 what the CPR says in its recommendation:

24 "Eliminate the Board because it is not
25 needed to oversee air quality regulatory

1 functions. The operation should be
2 performed within the Division of Air
3 Quality and the new Department of
4 Environmental Protection. The Secretary
5 of the Department of Environmental
6 Protection can appoint an Ad Hoc
7 Advisory Committee, should the need
8 arise."

9 Where is the Performance Review? There is no
10 analysis of the leadership role the Board has played in
11 vastly improving the State's air quality. There is no
12 analysis showing that an alternative structure would come
13 close to its achievements.

14 To summarily recommend, what is probably the
15 preeminent air regulator in the United States, that it just
16 be eliminated is irresponsible.

17 For people seeking maximum efficiency in
18 government, there is little doubt that boards and
19 commissions seem cumbersome.

20 I would like to close by reminding the Commission
21 of a famous quotation from our own Revolutionary War period.

22 "A monarchy is like a merchant man, you
23 get on board and ride the winds and tide
24 in safety and elation, but by and by you
25 strike a reef and go down. Democracy is

1 like a raft, you never sink but, dammit,
2 your feet are always in the water."

3 Thank you very much.

4 COMMISSION CO-CHAIRPERSON KOZBERG: Could you
5 state your name, please?

6 MS. BINION: Okay, thank you.

7 COMMISSION CO-CHAIRPERSON KOZBERG: Just continue
8 going down.

9 MS. BINION: Keep it going, all right. Good
10 afternoon, my name is Loraine Binion, and I am the Chief
11 Financial Officer of the Women's Foundation of California,
12 and I'm here to respond to the proposal, in the California
13 Performance Review, to abolish the California Commission on
14 the Status of Women.

15 The Women's Foundation of California, along with
16 68 other organizations, who have signed onto the testimony
17 provided to the Committee, are opposed to the
18 recommendations to eliminate the State Commission on the
19 Status of Women.

20 The California Commission on the Status of Women
21 has the largest constituency of any organization, agency, or
22 department in State government, representing over 50 percent
23 of California's population.

24 It is the only agency specifically dedicated to
25 protecting the interests of California's women and girls,

1 ensuring that women have equal rights and opportunity.

2 Among the Commission's priorities, in particular,
3 are concern for the needs of the under-served, those with
4 limited English ability, women in correctional facilities,
5 and the working poor.

6 This Commission is an independent State agency and
7 does not -- repeat -- does not duplicate the work of any
8 other agency or organization in either the private or public
9 sectors.

10 We believe that the Commission should continue as
11 an independent body. Now, this Commission was established
12 in 1965, as an advisory commission, under Governor Pat
13 Brown, and was signed as a permanent independent commission
14 by Governor Ronald Reagan. Now, those Governors both
15 recognized what is still, unfortunately, true today, that
16 while California women have fared somewhat better, we are
17 not faring the same as men.

18 While we recognize progress has been made, there
19 are many discrepancies such as, we know, women represent the
20 greatest number of those living in poverty. We have less
21 insurance. We care for the elders and children. We have
22 the majority of domestic violence and sexual assault
23 victims, and we are paid less than men.

24 The need for an independent voice for women and
25 girls within the State is clear. The Commission's original

1 purpose was to study, recommend, and advise the Governor and
2 Legislature on equities in practices and laws, and that was
3 40 years ago, but it was just as significant then, as it is
4 today.

5 In meeting its mandate, the Commission has
6 partnered with numerous groups throughout California, thus
7 making State government both accessible to those groups, and
8 benefitting State government by bringing these voices to
9 California.

10 They are partnered, for example, with projects
11 that support pay equity, highlighting the needs of Latinas,
12 young women, working families, older women, and documenting
13 the economic status of women in California.

14 An independent State Commission on the Status of
15 Women not only demonstrates California's commitment to
16 women, but it enables the State to provide national
17 leadership on issues impacting women and their families.

18 In conclusion, we believe that eliminating this
19 important Commission will silence many communities in
20 California and jeopardize California's position as a
21 national role model. The people, as well as the government,
22 need the State Commission on the Status of Women. We
23 respectfully ask that you retain it as a resource for the
24 State and the nation. Thank you.

25 COMMISSION CO-CHAIRPERSON KOZBERG: Thank you. If

1 you could turn off your mike and share your seat with
2 someone else, thank you.

3 MR. KEHOE: Madam Chair, Mr. Chair, Members of the
4 Commission, I'm John Kehoe, and I come to you as the
5 Chairman of the Policy Planning Council of the California
6 Senior Action Network. We're here, today, to applaud the
7 CPR recommendation to eliminate the Commission on Aging, and
8 I say this after having served five years as Executive
9 Director of the Commission, so I feel I know something of
10 what I speak about.

11 First of all, we need, in California, a powerful
12 senior voice, and I would recommend that all of the Older
13 American Act and Older Californian Act programs be bundled
14 together into one single department. Right now it's
15 dispersed through 15 departments, and there's no telling how
16 you can access, as a member of the public, any of the
17 activities to give advice and counsel to them.

18 With a single agency, the management would have
19 the ability to convene panels. Panels from very vital
20 organizations, like AARP, Cal-SAN, the organization I
21 represent today, the California Older Women's League, and I
22 could go on and on with great volunteer organizations that
23 could have people appointed to panels to advise on current
24 issues.

25 The situation we have today, with the Commission

1 on Aging, leads political types to be advising a Governor.
2 Now, let me tell you this, it takes probably years for the
3 political types to make it through the system.

4 You have, for example, members of the current
5 Commissioner who were appointed by Governor Pete Wilson,
6 they certainly don't represent Governor Schwarzenegger.

7 As a matter of fact, the Commission website had a
8 disclaimer that the activities of that Commission do not
9 represent Governor Arnold Schwarzenegger.

10 So, therefore, the political process takes quite
11 some time to appoint members to the Commission.

12 I say that you need the activism of a customer
13 now, on issues that are contemporary and current at the
14 time, and the management should have the flexibility to take
15 care of those panels on a current and contemporary basis.

16 To show you how we're failing at the present time,
17 there is a decennial conference scheduled next year, called
18 the White House Conference on Aging. This is probably the
19 most seminal activity, on behalf of seniors, that takes
20 place in a decade. There's only one person from California
21 that is represented on the advisory group to this panel, and
22 he happens to be a Congressman, a great Congressman from
23 Santa Clarita, Bud McKeon, but he has never, ever
24 participated in aging policy issues in the State. Those who
25 have are not represented with advising this White House

1 Conference, and that shows, it underscores the failed nature
2 of the system that exists now, and I believe that the
3 recommendations that I'm making, with respect to having a
4 more contemporary, more vital representation to a single
5 administration on adult and aging services would be much
6 more helpful to the people of California.

7 Thank you very much.

8 MR. TING: Good afternoon, Commissioners, my name
9 is Phil Ting, I'm Executive Director of the Asian Law
10 Caucus, and I'm here to represent Dr. Norman Hui, who's the
11 esteemed Chair of the Commission on Asian/Pacific Islander
12 American Affairs, of which I am a Commissioner, as well.

13 The Commission on Asian/Pacific Islander American
14 Affairs was appointed just two years ago. For the first
15 time, in the long history of Asian/Pacific Islanders in
16 California, it marked the State acknowledging this
17 population and group of people with a State body.

18 It was a completely voluntary body, with no
19 funding, no staffing, and funded currently, completely out
20 of private, nonprofit funds.

21 My fellow Commissioners come from diverse
22 backgrounds, we're small business people, healthcare
23 providers, nurses, government officials, as well as people
24 in the local community.

25 The elimination of this Commission will serve no

1 fiscal savings for the State of California and, in fact, it
2 will eliminate a voice, a vital community voice, which is
3 just seeing the beginnings of representations up here, in
4 Sacramento.

5 In the early 1990s, for those people who are
6 familiar with the local State Legislature, there were no
7 Asian/Pacific Islanders elected in the State Legislature,
8 there was a complete void in the type of community voice up
9 here.

10 This Commission represents, as well as the now
11 seven elected members of the Legislature, a burgeoning
12 community voice. We're currently, approximately 12 percent
13 of the State population, and we're currently in the process
14 of finding various community issues and identifying critical
15 community issues, which are absolutely important to us.

16 As far as our mandate, we're identifying and
17 looking at issues of hate crimes, language access, as well
18 as the current, the pending issue of the Hmong resettlement.

19 Currently, 39 percent of APIs in California speak
20 English less than well. While there are numerous laws on
21 the books in terms of language access and provisions that
22 the State must provide services in different languages,
23 those regulations have gone unheeded and unheard.

24 I'm going to pass the microphone to my colleague,
25 Jan Liu, who's going to finish the testimony.

1 MR. LIU: My name is Jan Liu, I'm with the Asian
2 and Pacific Islander American Health Forum, and I'd just
3 like to add a couple of comments to Mr. Ting's comments.

4 And that is just to refer to three criteria, the
5 three primary criteria by which these Commissions are being
6 judged. The first is cost, of which there is none for this
7 Commission. This cost is provided through volunteer time by
8 the Commissioners, and would actually cost the State
9 thousands of dollars, if it were not so.

10 The second has to do with whether or not there are
11 any other entities involved that could perform the functions
12 of this, and the answer to that is no. There are no other
13 entities, that were created by legislation, like this, that
14 are meant to advise the Governor, the Legislators, and the
15 State Agencies on issues of concern for Asian Americans and
16 Pacific Islanders.

17 Number three, whether or not this needs to be an
18 autonomous body? I would say that absolutely it does need
19 to be. This Commission is bipartisan, it is appointed by
20 both members of the Legislature, and the Governor.

21 And finally, my final point is that the
22 elimination of a no-cost Commission, that arose out of
23 community need, that is supported by organizations
24 throughout California, sends the wrong message about the
25 Governor's commitment to being inclusive, being inclusive of

1 all communities of color, being inclusive of all
2 Californians. Thank you very much for this opportunity.

3 MR. CORNELL: Bob Cornell, with the Uniform Law
4 Commission. Diane Boyer-Vine and I are going to share our
5 time. I want to thank you, also, for the opportunity to
6 address you.

7 I was appointed to the Commission in 1969, by
8 Governor Ronald Reagan. I feel the Commission is important
9 to California and should be retained, because it's the major
10 organization that preserves State control over private law,
11 rather than leaving it to the federal government in
12 Washington.

13 Because of the Uniform Act's contribution to the
14 prosperity of California, which greatly benefits the
15 citizens of this State, and because it is extremely cost
16 effective.

17 Partly because of the success of the Uniform Law
18 Conference, we tend to forget that American Law, that
19 governs most of our business transactions, and personal
20 relationships, are made up of laws of 50 different states,
21 passed by 50 different legislatures, and interpreted by 50
22 state court systems.

23 Under the Tenth Amendment of the Constitution,
24 most of the private law in the United States was left to the
25 legislature and courts of the states. The diversity worked

1 fine at first, but as the country expanded industry and
2 transportation grew, it became apparent that we needed a
3 common, predictable, nationwide legal system.

4 We could have elected, a hundred and some years
5 ago, to turn the job over to the federal government.
6 However, the states chose not to have decisions made for us
7 from Washington. Instead, they created a forum by which
8 they could voluntarily agree to develop and then separately
9 adopt uniform legislation on important subjects of common
10 concern.

11 The Forum was and is the National Conference of
12 Commissions on Uniform State Laws. For over a hundred
13 years, the Commission's work has kept private law at the
14 state level.

15 Most of the commercial law in the United States is
16 based on uniform laws, which have expedited interstate
17 commerce and have greatly benefitted the citizens of this
18 State. The best known of such laws is the Commercial Code,
19 which was adopted in the 1950s, changes in technology and
20 business practice led to the revision of the Code, and it
21 turned out to be a 12-year project.

22 Bill Burke, a California Commissioner, was a major
23 contributor to this effort, working closely with the
24 California Bar, to ensure that the Code was sensitive to
25 California law.

1 In addition to the Commercial Code, Uniform Acts
2 established American law in partnerships, limited
3 partnerships, which have been essential to California's real
4 estate and small business interests, and have had major
5 input from the business law section of our State Bar.

6 The Uniform Trade Secret Act has greatly
7 benefitted our high tech and bioresearch industries.

8 Other Uniform Acts ensure child custody decrees in
9 our courts will be respected in other states, the family
10 support orders will be efficiently pursued, even when the
11 defaulting party leaves California, the California judgments
12 can be effectively and economically enforced in other
13 states.

14 Do I also have Diane's time, can you add that to
15 it?

16 COMMISSION CO-CHAIRPERSON KOZBERG: If you could
17 wrap it up in two minutes?

18 MR. CORNELL: I'll try. The important thing I
19 wanted to point out is that the Uniform Acts are promulgated
20 by the national conference, but votes on provisions of the
21 Acts, and votes on whether or not to adopt them at the
22 conference level can only be exercised through
23 Commissioners, who are members of state commissions.

24 It is not in the interest of our State, or its
25 citizens, that Uniform Acts be promulgated without

1 California having input or a vote at the table.

2 It's not in the interest of our State or citizens
3 to abandon the National Conference and, thereby, encourage
4 the imposition of law in our State by Washington
5 bureaucracy.

6 It's cost effective. There are over 250
7 Commissioners, who are lawyers, judges, legislators, and law
8 professors, that is throughout the country, who contribute
9 their time without compensation. They work at drafts at
10 weekend meetings and, annually, at an eight-day-long
11 meeting.

12 U.S. Supreme Court Chief Justice William Renquist
13 who was, himself, a Commissioner from Arizona, said of the
14 annual meetings, "I have seen many deliberative bodies
15 before and since, but in none were the discussions of the
16 same high quality."

17 The value of the Commission's work is attested by
18 our Legislative members, Bryon Sher and Tom Harmon.

19 COMMISSION CO-CHAIRPERSON KOZBERG: We're going to
20 have to wrap it up.

21 MR. CORNELL: By our Emeritus Legislative members,
22 Bob Beverly and Elihu Harris, who all urge retention of the
23 Commission.

24 COMMISSION CO-CHAIRPERSON KOZBERG: Thank you.

25 MR. CORNELL: Thank you very much.

1 COMMISSION CO-CHAIRPERSON KOZBERG: Marsha, if you
2 could introduce yourself, please?

3 MS. KWALWASSER: Certainly. Can you hear me?

4 I'm Marsha Kwalwasser. I'm honored to have been
5 Chair and continue to serve as Chair of the Employment
6 Training Panel for the past four years. I serve as a
7 gubernatorial appointee, representing the business community
8 on the Panel.

9 My Employment Training Panel colleague, Tom
10 Rankin, is past President of the California Labor
11 Federation. Thank you for the opportunity to make some
12 remarks.

13 I respectfully disagree with the conclusion of the
14 Commission to eliminate the Panel, and I want to emphasize
15 that this is not about any individual on the Panel. My
16 tenure is just about up, I've served for four years. It's
17 about the Panel, as an entity.

18 We have seven members, representing the business
19 and labor communities. We approve and, very importantly, we
20 disapprove of contracts that fund, or in other cases do not
21 fund, training for front line workers in California. Our
22 job is to improve their job skills, which will in turn help
23 business, and in turn help the California economy.

24 We allocate, in a good year, approximately a
25 hundred million dollars, and money from businesses in the

1 tax structure pays for this program.

2 If I may, I'd like to read from the Employment
3 Training Panel report, because I think the Commission has
4 misstated what the Panel does.

5 The recommendation is "to eliminate the Panel
6 because it is not needed to perform job forecasting,
7 training and advisory responsibilities. Many of its
8 programs are duplicative of programs in other State
9 agencies." And then it goes on that we do analysis of the
10 labor markets.

11 We are a consumer of that information, we are not
12 a producer of that information. So I'm arguing with-- I
13 don't know if I'm arguing with the Panel, as stated here, or
14 the Panel in terms of the work we do.

15 I have not heard anybody talk about the fact that
16 we have a wonderful staff, the staff is extraordinary. This
17 is not about how good the staff is, but it's rather about
18 what the Panel does.

19 And what we do is each month we have 300 to 400
20 stakeholders, who are in the audience, and we hear their
21 testimony, we make a decision in terms of trying to get the
22 biggest bang for the buck in terms of dollars.

23 We have outside sources, the University of
24 California, at Northridge, State University, does reports
25 for us on a periodic basis to see if specific programs are

1 accomplishing what they mean to accomplish and, secondly,
2 are we doing our job in a macro sense, as we are supposed to
3 do for the economy.

4 All our decision making is public, it is
5 transparent. We set priorities, we do an annual strategic
6 plan, we do all of that in a public setting.

7 If I may, just one point. We also serve as a
8 buffer between outside consultants and the staff, which is
9 an extremely important role.

10 Term limits, they say that people who do this for
11 a living will have more impact on the system.

12 I was going to list some of the policies and
13 programs that we have instituted in this Panel. My time is
14 up, but I would --

15 COMMISSION CO-CHAIRPERSON KOZBERG: We'd be
16 delighted to take your testimony, any written testimony that
17 you have.

18 MS. KWALWASSER: Okay, thank you. Our goal is to
19 ask questions and receive answers. Some of our
20 accomplishments is we have required employee contributions.
21 Today, we leverage our funds because often there's a one-to-
22 one employer contribution for every dollar of tax money.

23 We require that training be supplemental, that it
24 be supplemental to an apprenticeship or already employer
25 training.

1 We do outreach to small business, we felt that
2 small business was not being served. And we don't fund
3 generic training, we fund training where there is a job at
4 the end of it, and we try to fund training in high
5 unemployment areas of California.

6 And just as summary, I believe the Panel adds
7 value, which is one of the criteria that was mentioned
8 earlier.

9 MR. RANKIN: Tom Rankin, formerly President of the
10 California Labor Federation and member of the Panel. Just
11 to add a couple of things, quickly. Marsha pointed out the
12 CPR didn't really review our performance of the Employment
13 Training Panel, because they didn't even understand what we
14 did.

15 This is a Panel that was co-sponsored legislation,
16 it was co-sponsored by labor and management in 1982. It's
17 worked for over 20 years. I think you heard earlier, both
18 sides agree it should be preserved.

19 It's been a model for these programs that have
20 spread across the country. And I might point out that in
21 Texas, where they adopted this program, without adopting the
22 model -- without adopting the Panel, the Labor Management
23 Panel, that program has been disbanded because, according to
24 the Auditor General of the State of Texas, there was gross
25 mismanagement.

1 That's never happened here, it will never happen
2 as long as there's a Panel. The Labor Management Panel is
3 vital for the functioning of these training programs, and if
4 you don't keep it, you're going to have a situation where
5 political contributions to the Administration dictate who
6 gets the training money, and neither labor nor management
7 want that.

8 COMMISSION CO-CHAIRPERSON KOZBERG: Thank you.
9 Bob.

10 MR. RAYMER: Thank you, Madam Chair and
11 Commissioners. I'm Bob Raymer, Technical Director and Staff
12 Engineer for the California Building Industry Association.

13 Today, I'd like to speak to the CPR Infrastructure
14 item number 26, as it relates to the development and
15 adoption of building standards in the State of California.

16 In particular, with regards to the 11-member
17 Commission, itself, the Building Standards Commission, the
18 CPR report correctly identifies the fact that in recent
19 years the Commission has become a highly politicized and
20 ineffective body.

21 This extreme level of political imbalance led to
22 the July 2003 BSU recommendation for the State Agencies to
23 use the NFPA 5000 Building Code as the national basis for
24 the next edition of our California Building Code.

25 As reported, as pointed out in the CPR report, the

1 NFPA 5000 was opposed by over 400 public and private sector
2 entities and, in addition, four out of five State agencies,
3 providing input, indicated their strong desire, along with
4 the 400 entities, to go with the International Building
5 Code, the Code that's being used throughout the rest of the
6 nation.

7 With regards to our position on the elimination of
8 the Building Standards Commission, I would have to say that
9 CBIA strongly agrees with the CPR report's assessment of the
10 problem plaguing both the BSC and its staff, identified
11 earlier. They need the technical expertise to do a good
12 job.

13 However, without knowing more specific information
14 about how this new Office of Building Standards would be set
15 up and operate under the new Infrastructure Department,
16 right now we can't really support or oppose such a proposal
17 at this time.

18 The political polarization that existed on the BSE
19 during 2002 and 2003 resulted in the appointment of
20 Commissioners who were clearly, I would have to tactfully
21 say, single issue focused, as opposed to the Commissioners
22 that had been appointed over the previous 20 years, that had
23 a very broad interest in Building Codes, in general.

24 Eliminating the Building Standards Commission and
25 placing its authority under one or two appointed individuals

1 won't necessarily fix this problem, and it could even
2 exacerbate it.

3 Industry strongly supported the creation of the
4 BSE through its sponsorship of SB 331, in 1979, and for two
5 decades the appointments to the Commission created a
6 balanced and fair body.

7 I've got to tell you that prior to 1980, all the
8 State agencies had to do, the individual State agencies had
9 to come and basically convince themselves that their Code
10 change proposals had merit. That's why so few Code changes
11 ever got rejected prior to 1980.

12 I'd also like to say that, as pointed out in the
13 CPR report, we definitely need to maintain, whether or not
14 the Commission is abolished and a new office is created, we
15 need to maintain the Code Advisory Committees. These are
16 the private and public sector Code experts, in various
17 fields, who serve to advise the Commission, or its new
18 predecessor, on various Code change proposals that come out
19 of the State agencies.

20 It basically has been picking up the slack, for
21 many years, on the lack of the technical expertise that the
22 BSE staff has had.

23 And we've submitted our written comments, thank
24 you for the time.

25 COMMISSION CO-CHAIRPERSON KOZBERG: Mr. Rankin, I

1 have you down speaking on another Commission, as well.

2 MR. RANKIN: Right.

3 COMMISSION CO-CHAIRPERSON KOZBERG: Okay, if you'd
4 like to start.

5 MR. WILSON: Our plan was that I would start this.

6 COMMISSION CO-CHAIRPERSON KOZBERG: That's great,
7 go ahead.

8 MR. WILSON: Okay. Good afternoon, I'm John
9 Wilson, member of the Commission on Health Safety and
10 Worker's Compensation. I was appointed by Governor Wilson
11 to represent public sector employers.

12 I commend your Commission's efforts to streamline
13 California's government. However, I'm here to urge you to
14 reconsider your proposed recommendation that our Commission
15 be discontinued.

16 I firmly believe that our Commission has proven
17 its worth in its relatively short period of existence. Most
18 of the significant cost savings, conservatively, \$4.5
19 billion, enacted recently in the Worker's Comp reform, came
20 directly from Commission research reports and
21 recommendations.

22 I've been involved in the Worker's Compensation
23 industry for 43 years, started it very young, and can relate
24 to many actions and costly mistakes that were made before,
25 because we didn't have the benefit of this type of research,

1 not only in California, but in other states.

2 Labor management oversight is important. Worker's
3 Compensation began in 1913 as a bargain between management
4 and labor in California. They are the two parties most
5 concerned with its success.

6 Governor Wilson agreed to the creation of the
7 Commission in 1993 reforms, and in my view, it was one of
8 the more constructive ideas in that legislation.

9 Worker's Compensation and Labor Management
10 Advisory Commissions exist in over 30 states. They serve as
11 a forum for discussion and oversight of the system, and the
12 many complex issues it entails. They provide credible,
13 policy relevant research.

14 Prior to the Commission we did have research done
15 by industry and labor organizations, but they always were
16 assumed to have the bias of their organizations and were not
17 well received for that reason.

18 Commission reports have pointed the way to
19 reducing costs and targeting benefits appropriately to the
20 injured workers.

21 Continued monitoring by an independent body is
22 critical to determining the effectiveness of system reforms
23 after they've been enacted. Many have not worked in the
24 past.

25 No other organization in State government can

1 perform this service as well, because it's the key
2 stakeholders who are involved and they have a vested
3 interest in ensuring that the process is credible.

4 I'm going to move on to the conclusion. The
5 Commission is important and vital to the continued and
6 effective monitoring, evaluation and reform of the
7 California system.

8 The Commission provides credible research and
9 findings supported by the community, on which improvements
10 to the system can be based.

11 The focus is appropriately on the primary, and
12 that's the workers and employers, not the secondary
13 stakeholders.

14 The Commission has developed ten years of
15 institutional knowledge that is important in providing long-
16 term, ongoing information and perspective.

17 We urge you to support the continuation of the
18 Commission to carry on its valuable, cost-effective work,
19 and service to all Californians.

20 Thank you for the opportunity to speak to you.

21 MR. RANKIN: Tom Rankin, again. I've been a
22 member of the Commission since its inception under the
23 Wilson Administration, and I'd just like to point out a
24 couple of other things that John didn't talk about.

25 First of all, the Commission's goal is to try to

1 come up with empirically-based policy recommendations to
2 change the Worker's Comp system, which we all know has had
3 its share of problems in California. And it's a big system,
4 it's probably about \$20 billion now, it's been more than
5 that in the past.

6 So this is an important system for workers and
7 it's an important system for employers.

8 And by setting up this Commission, which is
9 appointed both by the Legislature and the Governor, it's
10 half labor and half management, the Legislature and the
11 Governor -- the purpose of it was to come up with a
12 Commission that would be independent of the other parties in
13 the system, and would provide the Legislature and the
14 Governor with reliable data and policy recommendations.

15 The Commission has done that over the years, it's
16 nationally recognized. If it had been around in 1993, the
17 Legislature and the Governor wouldn't have made two drastic
18 mistakes that led to cost increases of billions of dollars.
19 One, the adoption of something called the "Treating
20 Physician Presumption," which was eliminated recently, and
21 people figured out it was costing a billion dollars a year,
22 instead of saving any money.

23 If their decisions, in '93, would have been based
24 on some research, that never would have happened. The same
25 with the way the industry was deregulated by the

1 Legislature, not that it necessarily couldn't have been
2 deregulated in some ways, but the way it was done, it didn't
3 work, and that cost the system billions of dollars.

4 So this is an essential Commission. Again, it's
5 supported by both labor and management, and its work could
6 not be done by an administration, because an administration
7 would be subject to influences, which this Commission,
8 because of its structure and nature, is not subject to.

9 Worker's Comp is big money, and there are a lot of
10 vendors. There are lawyers, there are insurance companies,
11 there are rehab people, there are pharmacies and
12 pharmaceutical companies, there are doctors. They all have
13 their fingers in this pie.

14 And an administration, and I've seen this through
15 personal experience, is simply unable to resist some of the
16 lobbying efforts. You would never have gotten the reports
17 and you never would have gotten the reforms that were done,
18 in the last few years, without this independent Commission,
19 I can guarantee you that.

20 Thank you. And by the way, it costs a total of, I
21 think, \$12,000 a year for Commission meetings, which in
22 terms of savings of \$5 billion a year is pretty small
23 potatoes.

24 MR. THAYER: Good afternoon. I'm Paul Thayer, the
25 Executive Officer with the State Lands Commission. I wanted

1 to say thank you for the opportunity to speak to you this
2 afternoon.

3 With respect, the Commission must disagree with
4 the proposals in the CPR report with respect to the State
5 Lands Commission.

6 If implemented, the recommendations would lead to
7 less efficient and less accountable programs, when compared
8 with the current administration of these programs.

9 Currently, the existing Commission programs are
10 related to the specialized management of California's tide
11 and submerged lands. The law treats these lands differently
12 from other kinds of lands. For example, they can only be
13 used for water-related purposes, they can't be bought and
14 sold. Further, the boundaries, unlike any other kind of
15 property, can be moved because they're based on the location
16 of the shoreline.

17 In management of these lands, the Commission
18 administers 4,000 leases for piers, docks, terminals,
19 hotels, oil. To ensure appropriate uses and that fair rent
20 is paid for use of the public's land, the Commission employs
21 staff with specialized expertise, including appraisers,
22 surveyors, negotiators, accountants and attorneys.

23 Allied resources at the Commission include a title
24 plan and historical maps and documents.

25 The CPR report proposes to distribute our oil and

1 gas leasing, and the rest of our leasing to different
2 departments. This will require duplication of these common
3 resources and the staff expertise, so that the new
4 departments would have them available for their use.

5 Further, the CPR report proposes to combine our
6 Oil Spill Prevention Program with Fish and Game's Response
7 Program, in yet another department.

8 The Prevention Program shares engineering
9 expertise and implementation functions with all of our other
10 programs, and splitting these programs will obstruct these
11 efficiencies.

12 Finally, before the Commission was established,
13 the State managed these lands through administrative staff,
14 much as now is proposed by CPR. In 1938 you saw headlines,
15 like this one here from the Chronicle, I know you can't see
16 it up there, "State Land Chief and Aide Quit to Bar
17 Charges." Corruption had started because these lands were
18 administered. And as a result, the Legislature met in
19 special session and established the State Lands Commission
20 to provide for accountable, publicly made decisions with
21 respect to these lands.

22 The Commission has responsibly administered these
23 lands for the last 66 years, taking in \$7 billion in revenue
24 for the State.

25 The Commissioners, they are the Director of

1 Finance, the Lieutenant Governor and the State Controller
2 make their decisions at public meetings and must answer to
3 the electorate for what they do.

4 In summary, the programs of the Commission are
5 interrelated and use specialized common resources. To split
6 up the programs would be inefficient and costly, and
7 eliminate the Commission's administration of these programs
8 would abandon the successful, accountable, and accessible
9 Commission model of administration, in favor of a system
10 that failed in the past, in 1938.

11 Thanks for the opportunity to speak to you, and
12 we've distributed copies of these comments and other
13 background material to your staff. Thank you.

14 MS. OLIVARES-HOWARD: Good afternoon. My name is
15 Stacie Olivares-Howard, and I'm the Executive Director of
16 the California Commission for Economic Development.

17 I'm here to address the Panel's recommendation to
18 abolish the Commission. The CED was created through SB
19 1407, in 1971, to serve as a bipartisan advisory board on
20 economic development to the Executive and Legislative
21 Branches of the State.

22 The CED has 17 members, by statute, the Chair,
23 which is the State's Lieutenant Governor, Cruz Bustamonte,
24 three State Senators, appointed by the Senate Rules
25 Committee, and three State Assembly Members, appointed by

1 the Assembly Speaker. The remaining ten members are
2 appointed by the Governor, and no more than six of these ten
3 can be from the same political party. Commissioners serve
4 four-year terms and receive no pay.

5 While funding for the CED was allowed to lapse in
6 1994, its contributions to the State's continuing vitality
7 were recognized by the Legislature and the Governor in 2002,
8 when funding for the Commission was reauthorized.

9 In just two short years the CED has grown from a
10 budget line item into a body that has undertaken impressive
11 work and includes 40 of the top minds from diverse sectors
12 of our economy.

13 In recognition of its importance, in April of
14 2004, the Chair of the Federal Reserve Bank, Mr. Alan
15 Greenspan, met with the Chair of the CED to discuss
16 California's economic developments.

17 I'm proud of what the CED has accomplished in the
18 last two years, especially on a very modest budget. This
19 year, alone, the CED has formed a public/private
20 partnership, the California/Taiwan Business Forum. The
21 Forum's office is located in Taipei and will promote trade
22 between California and Taiwanese companies, at no cost to
23 the State.

24 The Chair plans to establish similar forums in
25 Beijing and Hong Kong next month, and then in India and

1 Mexico before the end of the year.

2 In total, the CED has six advisory committees that
3 represent top industries in the State, and are comprised of
4 key executives that provide the Commission with the latest
5 information and guidance on initiatives to improve our
6 economy.

7 Together, this group of talented Advisory
8 Committee members and Commissioners has worked diligently to
9 make the CED an effective bipartisan economic development
10 advisory board.

11 I hope the testimony I've provided demonstrates
12 the tremendous capability of this Commission to further the
13 development of our economy.

14 We look forward to working with the CPR Panel, the
15 Governor, and the Legislature. On behalf of those at the
16 CED, I'd like to thank the members of the Panel for their
17 time.

18 MR. PARKER: Good afternoon. My name's Donald
19 Parker. I've been a firefighter for 38 years, and have
20 served as the Commissioner on the State Seismic Safety
21 Commission for the past three years. I am now, currently,
22 the Commission's Vice Chair.

23 Prior to coming to Vallejo as Fire Chief, I was a
24 member of the Oakland Fire Department for 33 years. In
25 1989, I testified before the Seismic Safety Commission to

1 acquaint the State with the response that Oakland had to the
2 Loma Prieta Earthquake.

3 In 1994, I was a member of Oakland's Urban Search
4 and Rescue Team, that responded to Southern California
5 immediately following the Northridge Earthquake.

6 I strongly urge you to reject the CPR staff's
7 recommendation to eliminate the Seismic Safety Commission
8 for the following reasons.

9 One, the Commission focuses on the long-term,
10 broad view issues, such as the interactions of the
11 scientific, emergency response, insurance, and recovery
12 systems dealing with earthquakes. No other State agency
13 does this, or is equipped to undertake the unique and
14 critical responsibility.

15 Two, the Seismic Safety Commission serves as the
16 only public sounding board and as an objective center of
17 expertise for the State's overall response to earthquakes.

18 The 15 Commissioners are Governor-selected, world
19 class experts in the field of geology, seismology,
20 engineering, and emergency preparedness. By virtue of their
21 presence on the Commission, they effectively donate their
22 technical services, the economic and financial value of
23 which is enormous.

24 The Commission's annual budget is \$884,000, and it
25 is a non-General Fund item. In other words, the savings for

1 elimination of the Board will not save any money.

2 The Commission provides a unique and valuable
3 service and there is no compelling policy base or fiscal
4 justification in the CPR report to support the
5 recommendation for elimination.

6 Earlier, Mr. Reynolds spoke of transparency. The
7 Commission provides local government and the public with an
8 opportunity to comment on and participate in the development
9 of seismic safety policy of the State. This concept fits
10 within the Governor's goal of establishing a more efficient
11 and useful California government.

12 We do not oppose being placed into one of the
13 reorganization boxes, but we recommend, if you please, to
14 consider placing the Seismic Safety Commission into the
15 Homeland Security and Public Safety Group.

16 Once again, I strongly urge you to reject the CPR
17 staff recommendation to eliminate the Seismic Safety
18 Commission, today. Thank you.

19 MS. RAGGIO: Good afternoon. My name is Marcia
20 Raggio, and I'm the Chair of the Speech Language Pathology
21 and Audiology Board, and I would like to thank you for this
22 opportunity to speak.

23 As you know, the CPR Commission has recommended
24 dissolution of the Speech Language Pathology and Audiology
25 Board and movement of its activity to the Department of

1 Commerce and Consumer Protection.

2 This appears to be, we hope, an oversight on the
3 part of the Commission. The Speech Language Pathology and
4 Audiology Board is the only health-related board currently
5 practicing or operating under the Department of Consumer
6 Affairs slated for dissolution, with its activities being
7 redistributed to a department that deals with business-
8 related affairs rather than health-related affairs.

9 The professions of speech language pathology and
10 audiology share the same rigorous academic and practical
11 health-related requirements as those of optometry, physical
12 therapy, occupational therapy, pharmacy, dentistry, and
13 physician's assistants. However, the regulatory boards of
14 those allied health professions are not being dissolved and,
15 in fact, are being placed under a very appropriate agency,
16 Health and Human Services.

17 Currently, all of these Boards operate under the
18 auspices of the Department of Consumer Affairs, which is a
19 helpful situation since they have a great deal of
20 communication in common, since they have to deal with a
21 number of the same cross-cutting regulatory issues.

22 The number of patients of every age, the number of
23 pathologies, the number of ethnicities that speech language
24 pathologists and audiologists work with is growing
25 exponentially across the country, as well as California. In

1 fact, data shows that 42 million Americans now suffer with
2 speech, language, voice, and hearing disorders.

3 That means that the training and education
4 requirements are growing for these two professions.
5 Minimally, audiologists and speech pathologists have to have
6 a master's degree in order to be licensed in the State of
7 California. By 2007, audiologists will have to have a
8 clinical doctorate in order to be certified.

9 Along with these growing diagnostic and
10 therapeutic responsibilities comes an increase in the need
11 for professional oversight by a Speech Language Pathology
12 and Audiology Board to protect California consumers.

13 In fact, we have a physician, we have the rare
14 Board, with the physician on board, so that the risks are
15 minimized.

16 I can give you a few areas of our fields that
17 create potential risks, including newborn hearing
18 screenings, so that children are not misdiagnosed.

19 Flexible and rigid endoscopy, in which speech
20 pathologists are allowed to insert endoscopes into the
21 nasopharynx to evaluate swallowing and feeding problems.

22 Feeding techniques, for people with swallowing
23 problems.

24 Cerumen management, in which audiologists are
25 allowed to put metal instruments into the ear canals of

1 patients, along with suctioning and irrigation, misdiagnoses
2 of laryngeal carcinoma and so on.

3 The Board is currently investigating a large
4 number of consumer complaints, but that number would surely
5 be much larger without the Speech Language Pathology Board
6 in place to provide standards and oversight.

7 This Board serves to protect the public from
8 unskilled and incompetent practitioners by requiring
9 education and training standards, investigating backgrounds,
10 and complaints, and taking disciplinary action.

11 So we hope that you will reconsider this plan to
12 dissolve this Board.

13 COMMISSION CO-CHAIRPERSON KOZBERG: And you must
14 be Peter Welch.

15 So while you're getting up for your remarks, could
16 we have the following people come forward, if they're still
17 here, Doug Adland, Assemblyman Mervyn Dymally, Conner
18 Everts, Marcy Friedman, and Dr. Jack Lewin, who will be
19 commenting on general government issues.

20 Peter Welch.

21 MR. WELCH: Thank you, Madam Co-Chair, Mr. Co-
22 Chair, and members of the Commission. Peter Welch, I'm the
23 President of the California Motor Car Dealers Association,
24 we're the statewide trade association that represents 1,500
25 franchised new car dealers in the State.

1 I'm here to talk about the New Motor Vehicle
2 Board, and the CPR's recommendation for its elimination. It
3 devotes five lines, out of 2,500 pages, it says "the dispute
4 resolution function should be handled by the parties
5 directly."

6 Last year, our members sold 2 million new cars, 2
7 million used cars, and serviced and did warranty and service
8 repair on millions of other vehicles. We're 20 percent of
9 the State's retail economy, and \$83 billion in sales and
10 service last year.

11 This Board was created in 1973, by legislation
12 that then Governor Reagan signed. As mentioned earlier,
13 it's sort of the two-fold Act. Part of the Act, the
14 Automobile Franchise Act, created a substantive body of laws
15 to govern franchise relations between manufacturers and auto
16 dealers, the other part of the Act established the Board to
17 regulate it.

18 The proposal from the CPR does nothing to
19 eliminate the substantive body of law but, again, focuses on
20 the Board. The Board was created to regulate the complex
21 relationship between multi-national auto manufacturers and
22 local car dealers, 80 percent are still family owned and
23 operated. There's a huge disparity of bargaining power.

24 It was also created to ensure that dealers fulfill
25 their obligations under their franchise, and provide

1 adequate service and warrant provisions for consumers.

2 The Board really has three powers, I'll only talk
3 about two. One is an appellate function, the other is a
4 consumer arbitration function. And if another agency can
5 come up with a more cost effective and better consumer
6 arbitration program than the Board does, we wouldn't object
7 to moving it to that.

8 But primarily, the issue that we center on is the
9 quasi-judicial functions of the Board. We do not believe,
10 Constitutionally, that it can be delegated to private
11 arbitrators or to the courts. In fact, that was tried ten
12 years ago in Illinois, they did away with their Board, moved
13 it to the courts, and the Supreme Court of Illinois found
14 that it violated the separation of powers.

15 Now, this Board does not adjudicate contract
16 disputes, it makes public welfare determinations, whether
17 it's injurious, for instance, or beneficial to the consumer
18 public to terminate or modify a franchise, to add, or
19 eliminate franchises.

20 In some parts of the State, the factories would
21 like to close stores, but there would be no other dealership
22 to perform service and warranty provisions.

23 We did submit written comments, and if anybody has
24 questions, we'd be happy to answer those as well. Thank you
25 for your time.

1 COMMISSION CO-CHAIRPERSON KOZBERG: Thank you.

2 If you could introduce yourself, and go ahead with
3 your testimony, we have three minutes and you'll get a
4 warning. Thank you.

5 DR. LEWIN: Thank you. I am Jack Lewin, I'm a
6 physician, I'm the CEO of the California Medical
7 Association. Thank you very much for the opportunity to
8 share a few of our views.

9 We are very pleased with the work that this
10 Commission has done, we think it's important work and, in
11 general, we believe that you're leading the State in a very
12 good direction towards streamlining government.

13 Our comments are limited to, today, a few topics
14 that I want to just highlight, even though our statement
15 reaches out to Worker's Compensation, and a few issues I
16 won't mention.

17 Well, first, we want to strongly support the
18 creation of a separate Public Health Department in our
19 government, under the leadership of a highly qualified
20 public health professional. This is a critical issue for
21 us. Healthcare costs are going to bankrupt not only this
22 State, but every state.

23 Most of the costs of healthcare, one percent of
24 the sickest patients in this nation consume nearly half of
25 the total of the budget of healthcare, five percent nearly

1 90 percent of that budget. Most of these patients suffer
2 from chronic diseases that are preventable.

3 Unless we invest in a public health concept, we
4 will all be bankrupted by the rising costs of healthcare.

5 I think our Governor, in this Administration, has
6 made tremendous appointments in healthcare, with Kim Belshe
7 at the head of the Agency, DHHS, Sandra Shewry in DHS. But
8 DHS focuses on the huge problems related to public funded
9 insurance, Medi-Cal and other programs. We need a public
10 health agency and we need it now, in order to save our
11 budget in the future.

12 Second, I'd like to talk about the Department of
13 Managed Healthcare. Again, I think the Governor has
14 appointed a very innovative new director, in Cindy Ehnis,
15 and we look forward to seeing some very positive changes in
16 that Agency.

17 We would hate to see that Agency, which is
18 relatively young, broken into several pieces, where we would
19 lose the accountability and cohesiveness needed to deal with
20 managed care in California. This is a State in which we
21 have really developed a healthcare system that differs
22 considerably from other states. We still have a great deal
23 of HMO care, where care is delegated to medical groups and
24 IPAs. We need this Agency and we need it intact.

25 We're happy to see it, like the Public Health

1 Agency, under the DHHS umbrella.

2 In terms of the Medical Board, we've made some
3 comments there about how we'd like to make sure that the
4 enforcement side of this Agency, that you have moved in your
5 plan to the Homeland Security area, is differentiated from
6 the healthcare investigation aspect of this. This isn't a
7 police agency, it really needs to be a Healthcare Quality
8 Agency to monitor healthcare.

9 In terms of hospital licensure and health plan
10 licensure, we support some of the consolidating of licensing
11 and streamlining that you have proposed. However, we
12 believe that we need to look carefully at the State laws
13 that account for both hospital licensure and for health plan
14 licensure in the unique California environment and protect
15 them. To abandon those programs would be very dangerous for
16 the quality of care of California.

17 So if you'd attend to those comments in our area,
18 we'd be most appreciative.

19 And finally, we want to keep the Emergency
20 Services Authority intact under the DHHS umbrella. We
21 believe that while it will be important for coordination
22 with Homeland Security, should there be a bioterrorism
23 event, we also believe that this agency will be 99 percent
24 focused on healthcare services and should remain there, with
25 the appropriate coordination with Homeland Security.

1 Thank you very much.

2 COMMISSION CO-CHAIRPERSON KOZBERG: Marcy.

3 MS. FRIEDMAN: My name is Marcy Friedman, and I
4 want to thank the Commission for all of their work, and for
5 the opportunity to appear before you, today. I'm sure I
6 wasn't the first person to look at the initials of the
7 California Performance Review, see CPR, and think of
8 resuscitation of government and, in some cases, a number of
9 agencies.

10 The California Arts Council has perhaps been
11 resuscitated, still breathes a little life, but it's being
12 starved to death in many ways by lack of funding.

13 My concern is that the coup de grace will be the
14 placement of the California Arts Council within an agency,
15 in a newly reorganized government, that will be either so
16 far from its mission, as to be out of sync with its purpose,
17 or else it will become so invisible within a large agency
18 that it will virtually be buried in the bureaucracy.

19 The California Performance Review Commission has
20 recommended the California Arts Council to the California
21 Service Corps, whose purpose is to promote and facilitate
22 volunteerism and philanthropy, including California State
23 Summer School for the Arts, Conservation Corps, Mentoring
24 Partnerships, and Senior Corps.

25 What I struggle with is how the California Arts

1 Council fits in here. I know it to be a regranting agency,
2 with a broad association within the nonprofit field. And
3 while the end users in the field are literally thousands of
4 volunteers for nonprofit art providers, the California Arts
5 Council is not a nonprofit agency. There isn't even a
6 mechanism for the receipt of a charitable donation, if
7 someone wished to do so, to the California Arts Council.

8 I know it's not the venue for discourse on the
9 value of arts, but how we value the arts is inexorably tied
10 to how we value the California Arts Council and the role
11 it's played in California.

12 Placing the Art Council within an appropriate
13 agency is critical to its relevance and much of what it does
14 is about encouraging creativity.

15 So if the California Service Corps isn't the best
16 slot, what is it? And perhaps what is missing is a new
17 reorganizational category that embraces both artistic and
18 cultural services that serve in the public interest.
19 Wouldn't it be reasonable to acknowledge the revenue-
20 producing power of the creative community through the
21 establishment of a Division for Cultural Services, that
22 might bring together various agencies that are more similar,
23 than they are disparate.

24 For example, numerous museums and State-owned
25 collections are managed by an assortment of agencies, such

1 as Parks and Rec., State Archives, Resources, and all share
2 similar needs for collection, management, maintenance,
3 marketing, and administration, and yet all operate
4 independently.

5 It's logical to me that the California Arts
6 Council, with its long experience with the art field, should
7 be a significant player, as well, in public art decisions.
8 There's clearly a need to simplify the way affinity groups
9 are placed in government departments.

10 If the goal of the CPR was to make government slim
11 and trim, then the bottom line is simply keep it simple.
12 Why would an arts agency be reporting to an agricultural
13 agency, or a museum to the Parks Department. What we need
14 to do is develop creative --

15 COMMISSION CO-CHAIRPERSON KOZBERG: Marcy, you're
16 going to have to conclude.

17 MS. FRIEDMAN: I am. Why make it difficult,
18 simply group together all the museums, the California Arts
19 Council, the historical collections, et cetera, into a new
20 Office of Cultural Affairs. Thank you.

21 COMMISSION CO-CHAIRPERSON KOZBERG: Thank you.
22 We're going to continue on with public testimony. We're
23 going to try and get a good representation, especially from
24 those entities that we have not yet heard from.

25 And if you have had the opportunity to speak

1 previously, at other locations, we will be taking new
2 speakers, first.

3 COMMISSION CO-CHAIRPERSON HAUCK: And in that
4 vein, I'll call the first five people. Paul McIver, Larry
5 Norton, Edwin Villmoare, William Hildebrandt, and Donita
6 Stromgren, is what it looks like.

7 So those names that I called, will you come and
8 sit in the front row to be ready to speak? It's three
9 minutes. No, you don't need to sit at the table, you can
10 stand at the mike. We need to keep this moving so we can
11 get as many people in as possible.

12 Right, go ahead, sir. Say your name, please?

13 MR. HILDEBRANDT: I'm William Hildebrandt, and I'm
14 on the --

15 COMMISSION CO-CHAIRPERSON HAUCK: Hang on, I don't
16 think that's on. All right. Well, then step up to it.

17 MR. HILDEBRANDT: I'm William Hildebrandt, and I'm
18 on the California State Historic Resources Commission, and I
19 specialize in prehistoric archeology.

20 As you know, the State Historic Resources
21 Commission is tied to the Office of Historic Preservation in
22 many ways, but your staff's analysis appears to
23 underestimate the critical role between these entities and
24 securing federal funds for historic preservation and,
25 importantly, money that contributes to the economic well

1 being of our State.

2 The Historic Preservation Tax Certification
3 Program, for example, is the largest economic incentive for
4 historic preservation in the United States, and without it
5 millions of dollars would be squandered, and the
6 revitalization of our older neighborhoods and downtown
7 districts would be diminished.

8 Both the Historic Resource Commission and the
9 Office of Historic Preservation are necessary players here,
10 as they are tasked by federal mandates to determine which
11 properties are eligible for these programs.

12 If the Commission and OHP are eliminated,
13 California would lose this program and it would be the only
14 state in the Union that has chosen not to participate.

15 Bigger money is involved with the federal
16 highways, or FHWA, which provides billions of dollars to
17 CalTRANS. If CalTRANS wants to use FHWA money, it must
18 comply with Section 106 of the National Historic
19 Preservation Act, which requires the Office of Historic
20 Preservation to review project proposals to ensure that
21 historic properties are being protected. This is a federal
22 law.

23 If you don't want to comply with Section 106 and
24 OHP review, that's fine, but you don't get the federal
25 highway funds. The financial implications of this are

1 enormous.

2 My general impression is that staff analyses have
3 been somewhat provincial, focusing on State level issues and
4 not recognizing the federal connections.

5 The Historic Resources Commission and OHP are
6 actually federally mandated, they are not initiated by State
7 government. In fact, the Commission costs the State \$17,000
8 a year, but brings in \$1.2 million in federal dollars to
9 meet these mandates, mandates that are necessary to
10 participate in big-time federal programs.

11 While I'm not here to comment on how to reorganize
12 departments on a macro level, that's not my expertise, I can
13 tell you that it is crucial to understand the federal
14 dollars that are at stake here, and retaining the Commission
15 and OHP, at least in a capacity that agencies, like federal
16 highways, can recognize and formally interact with.

17 In short, the elimination of the Historic
18 Resources Commission and Office of Historic Preservation is
19 penny-wise, but pound-foolish, and will be damaging to both
20 our history and economic well being.

21 Thank you.

22 COMMISSION CO-CHAIRPERSON HAUCK: Thank you, Bill.

23 Next?

24 MS. STROMGREN: Donita Stromgren, California
25 Childcare Resource and Referral Network, and I'm responding

1 today to HSS 21, under the Health and Human Services, but
2 bring this up because it speaks to consolidation of
3 licensing and certification functions, which results,
4 basically, in a government reorganization.

5 Our primary concern around this issue focuses on
6 the bifurcation of the policy programming piece of
7 licensing, from the technical licensing structure, and our
8 concern is that the loss of that bigger picture basically
9 results in a reduced quality of programming for licensing.

10 The CPR recommendation states, specifically, that
11 most licensing staff are either generalists or nurses. And
12 in fact, with the focus in that particular recommendation,
13 under medical services primarily, we actually missed the
14 portion of it related to childcare licensing, which is a big
15 concern of ours.

16 In fact, the staff that conduct childcare
17 licensing, orientations, and site reviews receive special
18 training to address the specific needs and issues of
19 children in childcare. Childcare advocates, in the field,
20 have worked hard to ensure that licensing staff receive the
21 appropriate training so that the quality of care that's
22 available for children is of the highest standards. And
23 we're very concerned that the consolidation under one system
24 would, in fact, dilute the childcare licensing system.

25 Even now, it's challenging to tie together the

1 positive proactive quality programming aspects of licensing
2 to the regulatory inspection system, and that further
3 consolidation will only make that harder.

4 I address, specifically, Assemblywoman Bates on
5 this issue, because she recently authored legislation, AB
6 72, to further strengthen the licensing system. And quite
7 honestly, realistically within that program, the only way
8 that's actually going to get implemented is with the
9 relationship that exists between the licensing staff and, in
10 fact, the resource and referral programs.

11 Our concern is that with the dilution of the
12 licensing that there won't be those existing relationships
13 at the local or the State level and that, in fact, the very
14 reasons for implementing this new legislation, which was
15 just signed by the Governor, will have no impact.

16 And so I also stress that in the report, and it's
17 no surprise that none of the other states that were
18 contacted regarding the structure of their health and human
19 services licensing and certification functions have
20 consolidated those functions, in fact, and this is in the
21 place where California should be the first.

22 Other states, as well as California, should --
23 okay, I'll wrap up. Basically, what I'd like to say is that
24 we're not opposed to change, but that the change needs to be
25 good change, it needs to reflect improvement in the delivery

1 system, and that it shouldn't be change just for change.
2 We're very open to looking at the consolidation of dependent
3 care and criminal background checks.

4 Thank you.

5 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you,
6 Donita.

7 Next.

8 MR. VILLMOARE: My name is Ed Villmoare, I'm on
9 the faculty at McGeorge School of Law. Today, I'm here in
10 the capacity as the Chief Hearing Officer for the California
11 Special Education Hearing Office. I'm here to address the
12 proposal that the California Special Education Hearing
13 Office be moved from McGeorge to the Office of
14 Administrative Hearings.

15 COMMISSION CO-CHAIRPERSON HAUCK: And we have had
16 someone from McGeorge here, also, at a previous hearing.

17 MR. VILLMOARE: Yes, and he addressed the fact
18 that the numbers are all wrong.

19 What I want to address today is that OAH is a
20 generalist organization, we are specialists. And let me
21 argue before you why specialist hearing officers are needed.

22 First of all, the disabilities that are covered by
23 the IDEA are very complex, and complex to understand.

24 Secondly, the educational methodologies used to
25 treat these problems are extremely complicated, they're

1 diverse, some work, some don't work.

2 There are a whole series of standardized tests,
3 maybe a hundred or so, that are used to diagnose and to
4 propose treatment. You have to know what those tests are.

5 You need to know all about vocational theories and
6 resources. And the body of law, itself, is enormously
7 complex. There are federal statutes, federal regulations,
8 state statutes, state regulations, and a huge body of law
9 out of the Ninth Circuit. These kinds of cases simply
10 cannot be handled by generalists.

11 What are the results of our decisions? Well, when
12 they're appealed to the District Courts in the Ninth
13 Circuit, we have been upheld 80 percent of the time, and our
14 expertise has been recognized, on at least a half a dozen
15 occasions, by the courts.

16 I'll end it there. Thank you.

17 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you.

18 And next, sir.

19 MR. NORTON: Good afternoon. My name is Larry
20 Norton, N-o-r-t-o-n. I'm a Mediator in private practice and
21 I specialize in the fields of education and of public
22 policy.

23 I've been a special education mediator in the
24 State of California for 24 years, since mediation became a
25 part of the due process procedures in this State, in

1 September of 1980, and it's from that perspective that I'd
2 like to comment briefly on inaccuracies which are contained
3 in the CPR document, as well as comments that have been put
4 forth before the Commission.

5 Recommendation number one, transfer responsibility
6 for conducting due process hearings and mediations from the
7 University of the Pacific, McGeorge School of Law, to the
8 Office of Administrative Hearings, because it will result in
9 greater convenience to the participants and cost savings to
10 the State.

11 First, contrary to what has been asserted or
12 implied, at no time in the past has OAH had responsibility
13 for conducting special education mediations. From 1980 to
14 1988, when OAH conducted due process hearings, mediations
15 were administered directly by the State Department of
16 Education, using independent mediators under contract to the
17 Department.

18 Secondly, mediations and hearings are already
19 conducted at a time and in places convenient to the
20 participants, usually at the office of the school district
21 in which the parent resides.

22 I have held mediation sessions at district
23 offices, school sites, coffee shops, public libraries, and
24 in one instance, in a prison cell at the Shasta County Jail.

25 OAH has four regional offices in Sacramento,

1 Oakland, Los Angeles, and San Diego. If a parent lives in
2 Dorris, California, it is not convenient to travel 287 miles
3 to the nearest OAH regional office in Sacramento, as the CPR
4 recommendation proposes.

5 Recommendation number two, the Governor should
6 suggest that the Department of Education increase the number
7 of cases resolved by mediation.

8 Assuming for a moment that a 95 percent settlement
9 rate is not sufficient, how is this to be accomplished?

10 Some specific proposals regarding this
11 recommendation might have been useful. If they were
12 provided, I am sure that they would be read with interest by
13 all those who are concerned about improving the due process
14 rights of special education students in the State of
15 California.

16 Thank you for your time.

17 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you.

18 Yes, sir.

19 DR. CLARK: Yeah, my name is Dr. Henry Clark, I'm
20 with the West County Toxics Coalition in Richmond,
21 California. You know, first of all I want to say that, you
22 know, I got up at six o'clock in the morning to come up here
23 to testify, and I was one of the first ones at the door. I
24 don't know how I end up being last, I'm still a little
25 disturbed with that.

1 COMMISSION CO-CHAIRPERSON HAUCK: Well, you would
2 have been in the next group, Dr. Clark.

3 DR. CLARK: Okay. Yeah, I'm all for
4 reorganization of government in concept, but to the degree
5 that it eliminates the duplication, and results in the cost
6 savings, and promotes effective delivery of service,
7 especially environmental justice and environmental
8 protection.

9 I am opposed to the elimination of the State Water
10 Resources Board and the California Air Resources Board, who
11 just led the State of California in an effective effort to
12 adopt measures to control our greenhouse, our gases, which
13 put California in a number one position in the State, and in
14 the world, in terms of controlling greenhouse gases, and it
15 should not be eliminated.

16 In the final end, we will see how services are
17 delivered to our community, particularly environmental
18 justice, and environmental protection of our communities.
19 And if we don't get some positive response to all of this
20 process, we will be coming to Sacramento to let you know
21 that we're not satisfied.

22 Thank you.

23 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you.

24 Is Paul McIver not here? He's gone, okay.

25 Alisha Deen, Dwight Washabaugh, Gary Viegas, John

1 Van Etten, Wendy Rodgers are up next.

2 Alisha Deen.

3 MS. DEEN: Good afternoon, Commission. My name is
4 Alisha Deen and I'm with the Environmental Justice Coalition
5 for Water. We are a California-wide coalition of over 50
6 nonprofit and community-based organizations, who advocate
7 for low income people and people of color communities, both
8 urban and rural.

9 Unfortunately, everyone does not have equal access
10 to clean, safe, and affordable water. We work to change
11 this.

12 Today, I would like to address the CPR process and
13 its embarrassing lack of public access for every-day people.
14 We believe that you never really wanted to hear from us at
15 all, that these public hearings are a joke, that the
16 structure of the public review process is completely
17 inadequate, and that the compilation of the CPR was done
18 without transparency or inclusion of critical stakeholders.

19 If you really wanted to engage us in meaningful
20 public participation, you would not have the public comment
21 period last on the agenda, when no one is here. You would
22 not allow Commissioners to walk out early and not hear what
23 we have to say. You would not use a venue with a parking
24 fee and no good public transit. You would not cut off the
25 public comment period at 5:00 p.m., when it began too late.

1 You would not expect people to travel across the State, to
2 attend other hearings, who signed up and were not able to
3 speak at Riverside, and San Jose, and Fresno. You would not
4 allow four people from the same organization to speak at one
5 hearing, while other perspectives were simply not heard.

6 You would, in order to -- if you really wanted to
7 engage us in meaningful public participation, you would hold
8 hearings in the evening, so that working people could
9 attend. You would offer childcare to participants, so that
10 they could attend. You would allow enough time to discuss
11 and incorporate our comments back into your document. You
12 would not turn anyone away who signed up to speak at these
13 hearings.

14 We want this Commission, the CPR staff, the
15 writers of the document, the press, and the Governor,
16 himself, to know, that this process should not be considered
17 meaningful public participation.

18 The people I represent do not all have computers
19 or internet access, or time to read 2,500 pages in less than
20 60 days' time. The grass roots organizations representing
21 them cannot afford to devote the same amount of staff time
22 on the CPR as big corporations, or even other NGOs can.

23 How can you possibly expect to hear from the
24 millions throughout the State, who will be affected by the
25 elimination of the local boards, in just five two-hour

1 sessions.

2 While the goals of the CPR are incredibly
3 worthwhile, the Environmental Justice Coalition for Water
4 feels that the recommendations are drastic and poorly
5 informed. A consolidated government will not be accessible
6 to the people of California, nor will it facilitate
7 democratic participation.

8 We also offer our written comments specific to
9 Water and Environmental Justice. Thank you.

10 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you,
11 Alisha.

12 (Applause.)

13 COMMISSION CO-CHAIRPERSON HAUCK: You know, just
14 in general, folks, we have done everything we could to try
15 to take public testimony at every one of these seven
16 hearings, and it's obvious there's a lot of interest in
17 this, but if we sat here all night, we could not accommodate
18 everyone who wanted to speak. So we're doing the best we
19 can.

20 You're up, sir.

21 MR. WASHABAUGH: Thank you. Good afternoon. My
22 name is Dwight Washabaugh, Director of the Sacramento Local
23 Conservation Corps, and today I represent the 11 California
24 local, nonprofit community conservation corps.

25 Local Conservation Corps are referenced in the

1 California Public Resources Code, Section 14507.5. In
2 subsection (b), our programs are described as being based
3 upon highly disciplined work experience, include an
4 educational component, and are designed to develop corps
5 member character and civic consciousness through rigorous
6 work on public projects.

7 This important dimension of the Conservation Corps
8 must not be lost in any reorganization.

9 With reference to the CPR report, Volume 4, Issues
10 and Recommendations, Chapter 3, Education, Training and
11 Volunteerism, ETV 29, restructure Governor's Office on
12 service and volunteerism, and ETV 31, scope of the
13 California Conservation Corps, the 11 California local
14 nonprofit Community Conservation Corps respectfully ask the
15 Commission to consider, carefully, the tremendous value
16 Conservation Corps bring to our State.

17 We caution against branding Corps as strictly
18 service and volunteerism efforts, to avoid the unintended
19 consequences of limiting their amazing potential and
20 greatest value.

21 While many Corps have effectively incorporated
22 service learning, our primary mission is to train
23 California's most disadvantaged population into the next
24 generation of workers by providing hope, education, and job
25 skills to our most vulnerable young adults, as well as

1 unparalleled improvements to our local communities.

2 California's Conservation Corps, both the State
3 CCC, and the 11 local nonprofit Conservation Corps, are part
4 of an auspicious 70-year legacy, dating back to FDR's
5 Civilian Conservation Corps. California Local Corps enroll
6 over 2,500 young adults, between the ages of 18 and 26 each
7 year, with many more on waiting lists. All are seeking a
8 job, job skills, and education, and the opportunity to serve
9 their communities.

10 Today's statistics show that many are reading and
11 writing at the seventh grade level, and that over 30 percent
12 of our youth in this State are in this situation.

13 Corps not only save lives, they deliver
14 outstanding return on investment. In many cases, we save
15 California's General Fund the annual cost of incarceration,
16 and our graduates leave our programs with the tools,
17 integrity, and motivation to be self-sufficient, no longer
18 contributing to the escalating costs of public support.

19 We are not an entitlement program. We deliver
20 performance and results.

21 We look forward, with great anticipation, to
22 working with the newly formed California Service Corps. We
23 hope this process of government review will preserve the
24 vital services we are able to provide our constituents, lead
25 to greatly increased funding for California's Corps

1 programs, and raise the awareness of the real value of the
2 Conservation Corps programs in California.

3 Thank you.

4 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you,
5 Dwight.

6 Yes, sir.

7 MR. VIEGAS: : Good evening. My name is Gary
8 Viegas, I am a special investigator with the Department of
9 Social Service's Bureau of Investigations, commonly referred
10 to as BOI. I am one of 74 peace officer investigators
11 charged with conducting criminal investigations of physical
12 abuse, sexual abuse, and suspicious death of the most
13 vulnerable population in California. This includes nearly
14 1.5 million elderly, dependent adults, and children, who
15 reside in residential care facilities, foster homes, and
16 those who attend day care.

17 The clients, who receive services from these
18 facilities, are more than just clients, they are our
19 children, our parents, our sisters, our brothers, our
20 family.

21 The unfortunate reality is that foster children,
22 the elderly, and the developmentally disabled have little or
23 no advocacy. Local law enforcement agencies do a fine job
24 serving their communities, but their resources are limited.
25 Their resources are dedicated to those cases that have a

1 high likelihood of arrest and conviction. Because of this,
2 a large number of cases are exclusively assigned to BOI to
3 investigate.

4 And when I tell you that BOI investigates physical
5 and sexual abuse in care facilities, I must tell you,
6 physical and sexual abuse equates to broken bones, sexual
7 assault, and death.

8 CPR has recommended that BOI not be included in
9 the proposed Department of Public Safety and Homeland
10 Security. This recommendation was based on inaccurate and
11 incorrect information, which resulted in CPR's conclusion
12 that BOI investigators perform a minimal law enforcement
13 duty.

14 In fact, the majority of BOI investigators' duties
15 involve law enforcement activities. BOI investigators work
16 independently and with other law enforcement agencies to
17 effectuate arrests and file criminal charges.

18 In response to CPR's recommendation, the BOI
19 provided accurate statistical data to the CPR Commission
20 that confirms that our duties, as peace officers, involve
21 substantial law enforcement activity, and our statistics are
22 consistent with other agencies that were included in the
23 proposed consolidation.

24 BOI investigators receive the same professional
25 law enforcement training as the investigators included in

1 the proposed Department of Public Safety.

2 In addition, BOI investigators receive specialized
3 training in child abuse, sexual abuse, and death
4 investigations. As a result of their training, BOI
5 investigators are experts in their field of criminal
6 investigations. However, BOI investigators are working for
7 a large department, reporting to a nonsworn administration,
8 who fails to understand the complexities of law enforcement
9 functions.

10 CPR did not recommend consolidating BOI
11 investigators into the proposed Department of Public Safety.
12 A correct evaluation of BOI statistics will show that BOI
13 investigators conduct criminal investigations, effectuate
14 arrests, and generate a substantial number of criminal
15 complaints.

16 BOI's law enforcement statistical data and
17 training is comparable and, in some cases, superior to those
18 agencies recommended for consolidation.

19 In a time where smart government is essential, it
20 would be an unwise decision to not utilize BOI's training
21 and expertise, and include us in the proposed Department of
22 Public Safety.

23 Thank you.

24 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thanks,
25 Gary.

1 Is this Wendy?

2 MS. RODGERS: Yes. Good afternoon, my name is
3 Wendy Rodgers -- I'm sorry, my name is Wendy Rodgers, and
4 I'm here representing the Pacific Forest Trust. We are a
5 nonprofit conservation organization and we work to preserve,
6 protect, and restore private forest lands here, in
7 California, as well as in Washington and Oregon.

8 And I would like to speak to you, today, about two
9 specific comments regarding California forest policy within
10 the CPR.

11 A major concern for us, within the CPR, is a
12 recommendation that would divide the current
13 responsibilities of the California Department of Forestry
14 and Fire Prevention into two separate departments. The CPR
15 basically recommends that the resource management functions
16 of CDF be housed under the Department of Natural Resources,
17 while the Fire Protection portion of CDF be housed under the
18 new Department of Public Safety and Homeland Security.

19 We feel that the separation will be detrimental to
20 the State's ability to integrate the management of fuels
21 reduction with fire fighting.

22 The current integration that CDF maintains between
23 these two functions, of fuels reduction, the management
24 function of firefighting functions -- sorry. Basically, the
25 current integration that CDF maintains has been seen

1 throughout the U.S. as a positive role model, basically a
2 step forward from historical models that separated these two
3 functions of forestry.

4 Treating fire suppression merely as a public
5 safety, and as a disaster response issue, fails to recognize
6 the interconnection that occurs between resource and fuel
7 management of forests, and the potential for forest fires to
8 occur in the first place.

9 We recommend that the current structure of CDF be
10 housed within the same division.

11 The second recommendation that we are concerned
12 about is the recommendation to eliminate the Board of
13 Forestry. The Board of Forestry serves as an important
14 function in giving the public ongoing access to the decision
15 making process, provides transparency, and keeps the public
16 informed and involved in resource and forestry issues.

17 Over 45 percent of California's land area is
18 covered by forest, and California's forests are important
19 for our State's water resources, our clean air, and
20 recreation opportunities.

21 Forests are an important resource in California
22 and we believe that the citizens of California deserve to
23 have a Board where forestry issues can be presented and
24 discussed.

25 In addition, the Board of Forestry is not a

1 significant expense to the State, and very little money
2 would be saved through its elimination.

3 We strongly feel that the Board of Forestry should
4 not be eliminated.

5 We have a few other suggestions, that we will
6 provide in written form. I would like to thank you for your
7 time.

8 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you,
9 Wendy.

10 Are you John Van Etten?

11 MR. VAN ETTEN: Yes, sir. Mr. Commissioner,
12 Members, John Van Etten, on behalf of the California Credit
13 Union League. I want to be extremely brief here, because
14 it's getting late in the day.

15 We have submitted letters to the CPR staff, that I
16 think you'll get, outlining our concerns.

17 The report proposes to further combine the
18 financial institutions regulated by the Department of
19 Financial Institutions, with those in the Department of
20 Corporations.

21 And as you've heard from a number of folks that,
22 in and of itself is not bad, the devil is more in the
23 details of exactly how that will be done, and what we refer
24 in the industry as firewalls between the different entities.
25 Each type of financial institution, whether it's securities,

1 whether it's banking, whether it's credit unions, are unique
2 and offer something unique to the citizens of the State of
3 California.

4 And if they are going to combine those entities,
5 we need to make sure that the firewalls that are in law, to
6 protect each industry from undue influence from other
7 industries, are there as well.

8 We also have several other technical concerns, and
9 I wanted my counterpart, from the California Banker's
10 Association, Maurine Padden, to outline those briefly, if
11 she could.

12 MS. PADDEN: Yes, Mr. Chair, Members, Maurine
13 Padden with the California Banker's Association,
14 representing federally and State chartered institutions,
15 including savings institutions, as well as banks, doing
16 business in this State, and trust departments.

17 Our concerns follow Mr. Van Etten's concerns,
18 relating to combining the financial institutions'
19 supervision and regulation system into an overall
20 superagency.

21 As you may recall, as a critical part of the
22 monetary supply system, and the economy as a whole, part of
23 the payment system that financial intermediaries provide a
24 function for, we think that it's critical that we retain the
25 legal expertise, the supervision, and the enforcement

1 philosophy that is currently retained within the Department
2 of Financial Institutions.

3 If we are unable to preserve the value of the
4 State Charter, the option for many of our institutions will
5 be to seek a federal charter.

6 We are strong supporters of the dual charter
7 system, and we do support the overall efforts of this
8 organization, recognizing the special considerations that
9 need to be given to supervised financial institutions.

10 I have written comments and I will defer the rest
11 of my time to those written comments. Thank you so much for
12 your time.

13 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you.

14 Just as a matter of information, we will be taking
15 testimony until six o'clock this evening, we have to vacate
16 the building at 6:00 p.m. So we will get to as many people
17 as we can between now and that time.

18 Next, Charles Waters, Fred Walton, Bill Allayand,
19 Catherine Blakemore, and Norman Owen.

20 MR. WATERS: Mr. Commissioner, it's good to see
21 you again, sir.

22 COMMISSION CO-CHAIRPERSON HAUCK: You testified
23 before.

24 MR. WATERS: You better believe it, and I'm
25 testifying again.

1 One of the things that I need to share with you,
2 and I want Mr. Chon -- this is not directed to the
3 Commission. Sir, your recommendations were based on
4 misstatements on the functions of the Board, of the
5 Veteran's Board. The Secretary answers to the Board, the
6 Board does not answer to the Secretary.

7 Read the law. The law's right here, California
8 Military and Veteran Code. I didn't want to take up a lot
9 of time and I'm not going to, but I wanted to make that
10 very, very clear. We had a Veteran's meeting in San Diego
11 this last weekend, 50 members of the Veteran's leadership of
12 this State, of the State Commander's Commission met and
13 unanimously, not one dissenting voice, and we're having our
14 meeting on the 16th of October, and we will write to the
15 Governor, if we have to. But every organized Veteran's
16 group in the State of California wants to keep this Board.

17 We do, too. And we will not stop until we have
18 this Board and we keep this board.

19 Thank you, sir.

20 COMMISSION CO-CHAIRPERSON HAUCK: Charles, you
21 make your point. You did the last time, too.

22 (Applause.)

23 COMMISSION CO-CHAIRPERSON HAUCK: All right, Fred.

24 MR. WALTON: Mr. Chairman, ladies and gentlemen,
25 good afternoon, or maybe it's almost good evening.

1 Thank you for your time and effort that you're
2 putting in --

3 COMMISSION CO-CHAIRPERSON HAUCK: Tell us who you
4 are, first?

5 MR. WALTON: Pardon me?

6 COMMISSION CO-CHAIRPERSON HAUCK: Tell us who you
7 are?

8 MR. WALTON: Oh, I'm sorry, Fred Walton. I'm the
9 State Commander of the American Legion, the world's largest
10 Veteran's Organization. We have 154,000 great members here,
11 in California.

12 At your recent Fresno and L.A. hearings, many
13 great suggestions came forward in support of the Cal-VET
14 Board, and they were all fundamental, and they were all good
15 and passed on, and you took those, that's fine.

16 The simple facts are, the Cal-VET Board is
17 composed of intelligent, experienced, and devoted senior
18 veterans, all volunteers, whose sole purpose is to provide
19 due process and handle appeals made by veterans. They take
20 their job serious.

21 The costs that have been figured up for this
22 seven-person Board, for the last year, is only \$16,000.
23 What more could you get for so little price.

24 In short, the veterans, in general, trust and
25 honor other veteran's decisions. They feel more comfortable

1 with dealing with their own fellow veterans. I truly
2 believe that a well-experienced Cal-VET Board will make the
3 right decisions and offer the veterans a fair response.

4 This morning in the presentation, your tech
5 advisors gave a presentation here, they said that the
6 Veteran's Affairs Department is a unique department, and we
7 would like to keep our unique Veteran's Board intact because
8 it's such an important part of that veterans organization.

9 Our veterans deserve a fair hearing board, nothing
10 less. To keep the doors of freedom open around the world,
11 our younger veterans are fighting and dying for us today.
12 They're going to be coming back, before too long, to our
13 great State of California, and they're going to need our
14 help, and we have to be there to help them out. Many have
15 been seriously wounded.

16 Meanwhile, our senior California veterans need
17 well-functioning and managed veteran's homes, and we have
18 those and we intend to improve them in the future.

19 Please join the California Veteran's
20 organizations, and I represent a lot of them, because I
21 belong to them all, to provide support and oversight to the
22 veterans by retaining the current Vets Board. Our veterans
23 truly need your help to keep our Veteran's Board intact. It
24 does excellent work.

25 Thank you for your time and your excellent

1 consideration. Thank you.

2 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you,
3 Fred.

4 Catherine.

5 MS. BLAKEMORE: Good afternoon, I'm Catherine
6 Blakemore, the Executive Director of the California
7 Protection and Advocacy Agency. We're a federally mandated
8 agency to protect and advocate for the rights of
9 Californians with disabilities.

10 I want to briefly comment on the recommendations
11 regarding the proposed change to the special education
12 hearing process. It appears that some written information
13 we gave to the staff was misconstrued to lead to a
14 particular recommendation, and I want to set that record
15 straight.

16 I also want to encourage you, in a redesign of the
17 way in which special education systems or hearings are
18 conducted, that you talk to the users of the system, which
19 would be students with disabilities and their parents.

20 Specifically, as to the hearing process, the
21 recommendation is to replace a current independent,
22 nonprofit agency with a State entity Office of
23 Administrative Hearing.

24 The current law works well. The current law
25 requires that the State contract enter into a process for

1 evaluating proposals about who can best do those hearings.
2 That makes sense. Go out for competitive bid as a way of
3 ensuring that there is a fair system for students to access.

4 The current system settles 95 percent of the cases
5 that are before it, that's a pretty impressive track record.

6 I also want to take a moment to call to your
7 attention the recommendations we did make to the staff, that
8 did not find its way to the report.

9 The first is that before parents have to file for
10 a hearing, it makes sense to strengthen the processes at the
11 local school district level, so that students' needs are met
12 either in the IEP meetings or through local, alternative
13 dispute resolution.

14 It also makes sense to find ways that there can be
15 more effective independent evaluations of students' needs by
16 targeting some resources to that process.

17 Thank you very much for your time.

18 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you,
19 Catherine.

20 Okay, next, Richard Markuson, Kristy Wiese,
21 Captain Bill Greig, Lee Sandahl, and Nick Clark.

22 Are you Richard?

23 MR. MARKUSON: I am. Thank you, Commissioners,
24 for extending the comment period. Richard Markuson,
25 representing the Consulting Engineers, and Land Surveyors of

1 California, and the Structural Engineers Association of
2 California.

3 We urge you to recommend retaining the Board for
4 Professional Engineers and Land Surveyors. We've provided
5 written comments about a number of issues, but one that I
6 would like to highlight, if the Board was eliminated, it
7 would be unique in all California states and territories.

8 Every other state and territory has an independent
9 board that licenses design professionals.

10 We are very concerned that if the Division of
11 Commercial Licensure took over testing, licensing, and
12 discipline for engineers and land surveyors, there would be
13 a problem with comity, or the ability of California licensed
14 engineers to practice in other states, coming from a very
15 unique system.

16 For this reason, and the reasons that we included
17 in our written testimony, we urge the retention of the Board
18 for Professional Engineers and Land Surveyors. Thank you,
19 again.

20 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you,
21 Richard.

22 Kristy?

23 MS. WIESE: Good evening. I'm Kristy Wiese, I'm
24 with Nielsen Merksermer, and I'm here tonight representing
25 the California Association of Rehabilitation and

1 Reemployment Professionals, otherwise known as CARRP.

2 CARRP is an association of vocational counselors
3 that works with injured workers, in the Worker's
4 Compensation system, and focuses on getting those injured
5 workers back to work as quickly as possible.

6 I'm here tonight to urge the Commission to reject
7 the recommendation, which proposes the elimination of the
8 Commission on Health, Safety, and Worker's Compensation.

9 Our organization has had the opportunity to work,
10 over the years, with CHSWC, as the Commission is known. And
11 while we often don't agree with their findings, we have
12 found the process that they use to come to those findings to
13 be very analytical, very fair, and very process oriented.

14 CARRP is urging the Commission to remain in place
15 and to shift its focus to looking at return-to-work
16 activities. Our experience is it's through return to work
17 that employers can save money, injured workers can get back
18 to work, and that that's a gap in the system that we really
19 need to look at closing.

20 CHSWC, if retained, has the opportunity for the
21 Governor to shift the focus by making some new appointments.
22 There are some terms of current members that are coming due,
23 and we would urge the Commission to leave CHSWC in place, to
24 maybe have the Governor make some more diverse appointments,
25 and ensure that this entity stays in place as a forum for

1 all of the players in the Worker's Comp system to come
2 together and try to deal with, analyze, and enact additional
3 reform. Thank you.

4 COMMISSION CO-CHAIRPERSON HAUCK: Kristy, thank
5 you.

6 Captain Greig?

7 CAPTAIN GREIG: Thank you. I'm Captain Bill
8 Greig, of the San Francisco Bar Pilots. The San Francisco
9 Bar Pilots are mariners, not aviators. We bring the large
10 ships, some over a thousand feet long, and over a hundred
11 thousand tons, to and from the open seas, into the Ports of
12 San Francisco Bay, as well as Stockton, Sacramento, and
13 Monterey.

14 A mistake, leading to a collision or a grounding,
15 could have catastrophic consequences on the sensitive marine
16 environment of California.

17 We've been responsible for the safe navigation of
18 ships from sea and into the waters of Northern California
19 since the 1800s. We are the oldest, continuous operating
20 organization in California.

21 During its first session, in 1850, the California
22 Legislature recognized the requirement for local knowledge
23 and maritime expertise to oversee piloting in San Francisco
24 Bay and adjacent waters. They formed the board of Piloting
25 Commissioners.

1 This action follows the federal government's
2 Lighthouse Act of 1789, which recognized the importance of
3 focused and local direction of piloting.

4 Since the formation of the Board of Pilot
5 Commissioners, water bourne navigation and maritime safety
6 in Northern California waters, ultimately protecting the
7 delicate environment of the waters and shores of these
8 piloted grounds, have become the standard for worldwide
9 maritime industry to follow.

10 The Board is efficiently run and at no cost to the
11 California taxpayer or government, not a penny.

12 The CPR report has recommended the elimination of
13 the Board and, in two different parts of the report,
14 recommends putting these vital pilot oversight functions
15 into two different and conflicting entities, the proposed
16 Division of Commercial Licensing and the proposed California
17 Infrastructure Authority.

18 The San Francisco Bar Pilots strongly oppose
19 elimination of the Board of Pilot Commissioners. The
20 recommendation of the CPR to place licensing functions under
21 the Division of Commercial Licensing does not address the
22 important functions of the Board, such as rate setting,
23 incident review, continuing education, pilot evaluation,
24 training selection and, most importantly, safety of
25 navigation.

1 The structure of the California Infrastructure
2 Authority seems to ignore the linkage between local
3 knowledge and navigation safety and environmental protection
4 that have been determined by Congress, the Legislature, and
5 the Supreme court.

6 The Board is an efficient and focused seven-member
7 Commission, operating with a small staff of two. At least
8 four of the members, by statute, are mariners. All, by
9 statute, are from areas that border the pilotage grounds.
10 All this will be lost if the CPR recommendation is followed.

11 The Board does not cost the State of California
12 one penny, it is completely funded by a minimal fee from the
13 users of pilotage. Most of these users are foreign flag
14 vessels.

15 Lastly, and with all due respect, after reviewing
16 the 28 pages of contacts included in the CPR report, we feel
17 the Committee had insufficient information to make the
18 recommendation to eliminate the Board. Not one contact on
19 these 28 pages was a pilot, a Board member, or a
20 representative of the maritime industry.

21 On behalf of the San Francisco Bar Pilots, I offer
22 our assistance to you in this matter. Please do not
23 hesitate to contact us. Thank you.

24 COMMISSION CO-CHAIRPERSON HAUCK: Thank you,
25 Captain.

1 Are you Lee Sandahl?

2 MR. FEARN: No, I'm speaking on behalf of Nick
3 Clark, who had to leave early.

4 COMMISSION CO-CHAIRPERSON HAUCK: All right,
5 Lee Sandahl's not here?

6 What's your name, sir?

7 MR. FEARN: Jonathan Fearn.

8 COMMISSION CO-CHAIRPERSON HAUCK: All right, go
9 ahead.

10 MR. FEARN: I'm speaking today on behalf of YLF,
11 and the Governor's Committee for the Employment of People
12 with Disabilities. Every year, 60 people with disabilities,
13 ranging in age from 15 to 18, attend Sacramento's Youth
14 Leadership Forum.

15 Sorry. My name is Jonathan Fearn. I'm an honors
16 student at UC Davis. I'm here today to protest the proposed
17 elimination of the Governor's Committee for the Employment
18 of People With Disabilities.

19 Besides myself, I am here today representing my
20 sister, who cannot be here because she's a law student at UC
21 Hastings. She credits much of her academic and leadership
22 success, as I do, to the Governor's Committee, Youth
23 Leadership Forum for Students with Disabilities.

24 It wasn't until I attended YLF in 2003 that I
25 finally understood why my sister had become so passionate

1 about disability issues after she attended. I met so many
2 successful people who didn't let their disabilities or, more
3 importantly, societal attitudes stand in the way of their
4 achievements.

5 I arrived at YLF as someone who didn't identify as
6 a person with a disability. I left five days later proud to
7 be a person with a disability, proud to be a part of this
8 vibrant community.

9 Maybe someday programs, like YLF, won't be needed
10 because young people with disabilities will have the
11 opportunities. But that day isn't today and that time isn't
12 now. It may not even be in 10 years or 20 years. That
13 makes YLF even more important. This program is committed to
14 producing a proud and successful next generation of people
15 with disabilities. People like me, like my sister, Nick
16 Clark, Hope, Nick Moore, and countless others. People who
17 refuse to conform to society's negative perceptions and,
18 instead, are committed to changing them.

19 YLF changed my life and the lives of every person
20 fortunate enough to be part of the program. Eliminating the
21 Governor's Committee on the Employment of People with
22 Disabilities will be a step back for our community and, more
23 importantly, the State's disabled youth.

24 The Governor has been on the board for Special
25 Olympics, which started in Ms. Shriver's backyard. Please

1 support YLF, which started in ours. Thank you.

2 (Applause.)

3 COMMISSION CO-CHAIRPERSON HAUCK: Thank you. We
4 have heard much testimony about this, I think the Commission
5 is very mindful of what you just said.

6 All right, Irwin Nowick, Mark Christian, Allan
7 Roeder, Jesus Gallegos, Eve Bach.

8 MR. NOWICK: Thank you for letting me speak today.
9 I'm here to talk about --

10 COMMISSION CO-CHAIRPERSON HAUCK: Say who you are,
11 Irwin?

12 MR. NOWICK: Irwin Nowick, I work for the State
13 Senate and the State Assembly in a leadership capacity.

14 I want to talk about, and I think I'm speaking for
15 myself, but other, for members of the Legislature,
16 individually, on this, about the issue of two-year budgets,
17 which was buried in the report.

18 I think two-year budgets are a bad idea for
19 specifically the reasons Joel Fox and Bill Leonard said in
20 the 1996 Constitutional Revision Commission. It's very
21 difficult to do forecasting.

22 And also, there are 22 sections of the State
23 Constitution that key off of a fiscal year.

24 Now, the 1996 report that Mr. Hauck was the head
25 of, did an excellent job on a number of areas, and a lot of

1 those recommendations were adopted in Prop. 58 and Prop.
2 1(a), which is on the ballot. And I drafted Prop. ACA 5X1,
3 which was the Cancimilla-Richmond proposal, which was the
4 template for 58, and it included some of the ACA 2X
5 Richmond, the Campbell proposal, in terms of the mid-year
6 correction authority.

7 It's inherently difficult to do two-year
8 forecasting, as Mr. Fox and Mr. Leonard noted, but also
9 there's implementation issues.

10 Now, the way to do better forecasting and to do
11 better budgeting probably would be something that the people
12 at the Department of Finance have talked about, but have not
13 really looked at, and that's moving back the fiscal year to
14 something like October 1, like the federal government does,
15 maybe.

16 Because what happens now is the first five months
17 the committees meet and review the budget, but the real
18 budget doesn't really happen until they do the May revise,
19 and then you have like a 50-day period until July 1st in
20 order to pass a budget.

21 It would probably make sense if the Governor
22 pushed back when he would introduce the budget, and then
23 have a fiscal year later on, and that way you'd have the
24 oversight and some of the other things that were in the 1996
25 report, that made sense.

1 And there were some other things in the report
2 from 1996, that also made sense, in terms of tighter
3 budgeting, and those should be looked at. But this two-year
4 budget concept has a lot of problems and I think it was, for
5 that reason it was rejected in 1996. And I don't often
6 agree with Joel Fox, but on this one he was right.

7 COMMISSION CO-CHAIRPERSON HAUCK: All right, thank
8 you, Irwin.

9 Mark Christian.

10 MR. CHRISTIAN: Thank you. Mark Christian, with
11 the American Institute of Architects California Council.
12 Thank you for staying here later than scheduled, than
13 planned. I will be very brief.

14 I'm here to speak against the recommendation of
15 the CPR staff to eliminate the California Architect's Board.
16 Quite honestly, we don't see how eliminating that Board
17 would benefit the public more so than keeping the Board
18 would.

19 Eliminating it would not save taxpayer's money.
20 The Board is funded strictly by the license fees on
21 architects. Eliminating the Board would not improve the
22 public safety. An important responsibility of the
23 Architects Board is to protect the public health, safety,
24 and welfare. Eliminating the Board would not improve that.
25 At best, it would keep it the same.

1 Eliminating the Board would not improve public
2 participation in the regulation of the architectural
3 practice. The Board has to meet in public. All the
4 meetings of the Board are open to the public. The Board has
5 public members on it. There are various commissions and
6 task groups that are comprised of members of the public, and
7 members of the profession, and members of the insurance
8 industry that help it regulate the practice of architecture,
9 and help it protect the public health, safety, welfare of
10 the public.

11 Again, we do not see how eliminating it would
12 improve, would be better than keeping the Board, and we ask
13 you to not accept that recommendation.

14 Thank you very much.

15 COMMISSION CO-CHAIRPERSON HAUCK: All right, thank
16 you, Mark.

17 You must be Jesus Gallegos?

18 MR. GALLEGOS: Yes, sir.

19 COMMISSION CO-CHAIRPERSON HAUCK: All right, take
20 it away, Jesus.

21 MR. GALLEGOS: Okay. I'm a hospital police
22 officer, working at the Napa State Hospital. I'm here to
23 address the public safety.

24 Ladies and gentlemen, I'm a hospital police
25 officer with the Department of Mental Health, I'm assigned

1 to the Napa State Hospital's police department.

2 I'm here today to explain why the DMH hospital
3 police officers should be included in the proposed
4 Department of Public Safety and Homeland Security Division
5 of Law Enforcement.

6 Hospital police officers at DMH are the same as
7 our counterparts, hospital police officers working for the
8 DDS, the Department of Developmental Services, Office of
9 Protective Services, who are included in your
10 recommendations.

11 We are specialized uniformed peace officers that
12 patrol State property in marked patrol units and have peace
13 officer authority under Penal Code Section 830.3, the same
14 as DDS peace officers. The only difference, DDS has
15 approved police officer standardized training for the
16 hospital police officers, while DMH does not.

17 The Hospital Police Officers Association of
18 California has tried for the last ten years to convince DMH
19 to change its mind. Thus far, attempts have been
20 unsuccessful.

21 Annual training budgets for each hospital police
22 department are nonexistent and, therefore, officers are out
23 of compliance in legislatively mandated training.

24 A few examples of DMH peace officer's law
25 enforcement duties are to enforce State, county, and city

1 laws, respond to emergency calls for assistance, assist
2 outside agencies, when requested, traffic enforcement,
3 vehicle stops, issue citations, execute arrests, subpoena
4 service, arrest warrants, and we provide custody transports
5 of the patients and are responsible for the security of the
6 facility.

7 On a daily basis we encounter combative and
8 agitated patients, the majority of who are street and prison
9 gang members. Within the facility we combat the sale of
10 illegal drugs and strong arm extortion.

11 The patients incarcerated within DMH facilities
12 are removed to society because they pose a danger to the
13 citizens of California and themselves.

14 In addition, DMH is solely responsible for housing
15 all of California's sexually violent predators. Their
16 offenses include, but are not limited to, murder,
17 cannibalism, rape, murder, mayhem, torture, arson,
18 carjacking, robbery, kidnapping, voluntary manslaughter,
19 felony spousal abuse, aggravated sexual assault, felony
20 assault, battery, burglary, terrorist threats, and narcotics
21 offenses.

22 DMH houses people found not guilty by reason of
23 insanity, mentally incompetent to stand trial, et cetera.

24 Many of the patients housed by DMH have been in
25 and out of the correctional facilities their entire lives.

1 Some are transferred from the Department of Corrections
2 because they cannot control them.

3 The DMH contracts with counties, cities, and
4 private agencies to run homeless shelters, drug rehab.
5 centers, juvenile delinquent centers, conditional release
6 programs, which are halfway homes, and other businesses on
7 State property, that we are responsible for protecting.

8 We also maintain databases of patients, who are
9 registered sex offenders, per 290 of the Penal Code, and we
10 also maintain a database of specimens -- I'm sorry.

11 COMMISSION CO-CHAIRPERSON HAUCK: No, stay there
12 for a second.

13 MR. GALLEGOS: Yes, sir.

14 COMMISSION CO-CHAIRPERSON HAUCK: In one sentence,
15 tell us what your point is?

16 MR. GALLEGOS: Oh, I'm sorry. We want to be
17 included into the Homeland Security for Law Enforcement
18 Division.

19 COMMISSION CO-CHAIRPERSON HAUCK: You want to be
20 included?

21 MR. GALLEGOS: Yes, sir.

22 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you.
23 Okay, Mark Aprea, Patricia Diaz, Lisa Tadlock

24 MR. APREA: Mr. Chair, Members of the Commission,
25 I'm Mark Aprea, with Aprea and Company, here representing

1 the accounting firm of PriceWaterhouse Coopers.

2 We want to urge you here, today, to reject those
3 who have proposed a Tax Court be made a part of the Tax
4 Commission recommendation by CPR.

5 The proposal this year, for a Tax Court, first of
6 all has nothing to do with the CPR recommendation for a Tax
7 Commission. That measure was introduced earlier this year,
8 before there were any recommendations by CPR. The measure
9 cleared the Assembly Judiciary Committee by a single vote,
10 but ultimately died in the Assembly Appropriations
11 Committee.

12 Those who have advocated for a Tax Court have
13 urged that a Tax Court be adopted because the Board of
14 Equalization, because they are elected, are unable to make a
15 fair adjudication of a tax matter.

16 They've also cited the fact that the CFO Magazine
17 survey indicated that California was in the bottom five
18 states. What was failed to be -- what they also failed to
19 announce was that three of the bottom five states also had a
20 Tax Court, so that there is no corollary between a Tax Court
21 and tax fairness perceived by the business community.

22 There are four major problems with a Tax Court.
23 First is the cost. The Judicial Counsel estimated, in the
24 late nineties -- or excuse me, late eighties and early
25 nineties, when another Tax Court proposal was being made,

1 that this would cost anywhere from six and a half to seven
2 and a half million dollars annually, for a five-member Tax
3 Court.

4 Second, that same Judicial Council has indicated
5 that there are problems with Article 6, Section 10 of the
6 California State Constitution, which guarantees that the
7 Superior Court should have original jurisdiction on legal
8 disputes, and there may be a problem there.

9 Next, a Tax Court would make it more difficult for
10 individual taxpayers to get their tax matters adjudicated.
11 The Board of Equalization is a quasi-judicial body, in which
12 they allow individuals to come before them, and there are no
13 formal rules for the Tax Court -- for the Board of
14 Equalization, rather, to hold a hearing.

15 And then finally, and this comes to my client's
16 self-interest, and vested self-interest, is that a Tax
17 Court, by definition, would allow only for attorneys or
18 individuals to represent themselves in pro per, and it would
19 not allow for accountants to assist their clients.

20 I also have with me here, Kathy Hatch, with AEA,
21 who will make just a brief comment.

22 MS. HATCH: Good evening, Members, Kathy Hatch,
23 representing AEA, the American Electronics Association, and
24 we represent the high tech industry here, in California, and
25 we would echo the same comments as Mr. Aprea. Thank you.

1 COMMISSION CO-CHAIRPERSON HAUCK: Thank you.

2 Patricia Diaz. Is she not here?

3 All right. Lisa Tadlock?

4 You don't look like Lisa Tadlock.

5 MR. TENORIO: No, I am not Lisa. Lisa could not
6 be here. My name is Tom Tenorio, so if I could offer up a
7 few comments in her stead, I'd appreciate it.

8 COMMISSION CO-CHAIRPERSON HAUCK: Who are you
9 with, Tom?

10 MR. TENORIO: Tom Tenorio, I'm with the
11 California/Nevada Community Action Partnership Board of
12 Directors.

13 COMMISSION CO-CHAIRPERSON HAUCK: All right. Are
14 these comments related to what Lisa would have said?

15 MR. TENORIO: Yes.

16 COMMISSION CO-CHAIRPERSON HAUCK: All right, go
17 ahead.

18 MR. TENORIO: I want to thank you for the
19 opportunity. The effort that you're putting forth really
20 holds a lot of promise for improvement and performance of
21 State services, as well as for performance in support of
22 State priorities.

23 And while nothing's perfect, we do appreciate the
24 work of the Commission thus far.

25 What I am here to express is, on behalf of the

1 Association, our grave reservations regarding the proposed
2 move of the State Department of Community Service and
3 Development to a super community services unit. The
4 proposed move will actually dilute the desired return on
5 investment that's expected by the Governor and the people of
6 California.

7 The State Department of Community Service and
8 Development receives no State General Fund support and so,
9 therefore, would not generate any savings. Rather, the
10 unique focus on efficient administration of anti-poverty
11 efforts would be negatively impacted by burying the
12 organization within the State's bureaucracy, far away from
13 access to public policymakers. The State's over 3 million
14 low income residents would be the losing party.

15 For three reasons, that I'll cite here, we just
16 want you to be aware of why this is not a good idea. There
17 is a current focus, already, that results in greater
18 efficiencies on the part of the Department of Community
19 Service and Development and it really spells out the
20 difference between support, which is what earmarks a lot of
21 State services in that proposed unit, and development, which
22 is what the Community Service and Development Department is
23 entirely about.

24 It's the difference between one person separating
25 the Department from access to Legislators and three people.

1 The second is that the Department of Community
2 Service and Development actually leads the nation on
3 developing outcome measures, and they did this before being
4 told to do so, because there is a big difference between
5 services and what the result of those services are. They
6 didn't wait to be told, but they're leading the nation in
7 that effort to develop outcome measures.

8 The last is that groups, like mine, because I'm
9 just a volunteer on the Board of Directors, thank you, are
10 actively engaged in local communities, leveraging more
11 dollars with the money that comes through the State
12 Department of Community Service and Development, to the tune
13 of five to one. That's at least \$300 million in the State
14 of California that we are able to marshal, so that we focus
15 that effort on the issues that are before us, affecting low
16 income families.

17 And so in closing, I want to urge the elevation of
18 the Department of Community Service and Development to a
19 position, more like the first commission. The State's low
20 income population and economy will be better off as a
21 result. Thank you.

22 COMMISSION CO-CHAIRPERSON HAUCK: All right,
23 thanks.

24 Tony Fisher?

25 I see you standing there, ladies, so you know,

1 take it easy, I'll get to you.

2 Go ahead, Tony.

3 MR. FISHER: Good afternoon. I am Tony Fisher,
4 representing New United Motor Manufacturing, Inc., otherwise
5 known as NUMMI, which is the General Motors/Toyota Joint
6 Venture Automobile Assembly Plant located in Fremont,
7 California.

8 NUMMI supports, in general, the elimination of
9 duplication through the consolidation of agencies and
10 departments, as proposed in the CPR report.

11 However, NUMMI is concerned that many, if not all,
12 of the 11 proposed departments would be able to make
13 decisions on certain policy or appeal issues without a
14 reasonable and effective check and balance process, which
15 boards and commissions provide.

16 Thank you for taking the time to listen to NUMMI's
17 comment and concern.

18 COMMISSION CO-CHAIRPERSON HAUCK: Thank you, Tony.

19 All right, ma'am, come forward, tell us who you
20 are.

21 MS. KROWECH: Thank you very much. My name is
22 Lita Krowech, I'm an ALJ, an Administrative Law Judge with
23 the Unemployment Insurance Appeals Board, and I came here on
24 my own, all the way from Oakland, so I'm glad I finally have
25 a chance to speak.

1 And I would just like to say that from what I've
2 heard here at the hearing, there seems to be some confusion
3 about how our Board operates. First of all, the lion's
4 share of the over 200,000 decisions we issue a year are made
5 by field ALJs. We are not political appointees, just civil
6 service appointees, who are hearing cases in the field,
7 issuing timely decisions.

8 We are completely -- almost a completely federally
9 funded agency. So eliminating our agency doesn't save the
10 State any money. And because we're a federally funded
11 agency, we have certain federal requirements we have to
12 meet, including very timely hearings and timely decisions.

13 I think, from what I understand, the average
14 decision was issued within 39 days of the day the appeal was
15 filed in the field.

16 And obviously, if you're unemployed, timeliness is
17 very, very important.

18 We also are required to follow certain federal
19 standards in the conduct of our hearings. Our hearings are
20 really different than, let's say, Worker's Compensation
21 appeals, and other hearings, they're much briefer. And, of
22 course, we deal with a higher volume of cases.

23 Professor Asimov, who was an advisor to the
24 California Law Revision Commission, discussed combining the
25 appeals function in a central panel, in a law review

1 article, that I'm going to submit to you, and he found that
2 it would impair both the efficiency and accuracy of various
3 agencies to do so, and I would second that argument.

4 The Appeals Board is at the second level of
5 appeal. Most states have a second level of appeal. And
6 only about -- well, about 18,000 cases last year went to a
7 second level of appeal. Those cases would probably go to
8 the Superior Court.

9 In closing, I just want to say that Mr. Washington
10 addressed this a little bit, saying the Appeals Board was
11 not supposed to become a political entity, and I would like
12 you to consider not throwing out the baby with the bath
13 water. That we are a very efficient agency, we do these
14 hearings very quickly, and I think we offer due process to
15 the parties, both claimants and employers. And I think
16 there could be correction at the level of how you appoint
17 people to a Board, but that doesn't mean you need to
18 eliminate the Board.

19 I think if it's merged into a central agency, even
20 a labor agency, we would lose the efficiency and maybe even
21 lose federal funding. Thank you.

22 COMMISSION CO-CHAIRPERSON HAUCK: Come on forward.
23 We're going to do this until six o'clock, folks, and then we
24 have to leave this building.

25 MS. TAHTI: Thank you.

1 COMMISSION CO-CHAIRPERSON HAUCK: Tell us who you
2 are?

3 MS. TAHTI: Angela Tahti, with the Arts Council of
4 Placer County, and I offer a local perspective on the issue
5 of the placement of the California Arts Council.

6 Recognizing that Californians invest more than 10
7 million hours of volunteer time for nonprofit arts
8 organizations, and that's a value of 165 million, I
9 understand why the consideration is to place the CAC under
10 the California Service Corps, and I do like the proximity of
11 that on the org. chart, closer to the Governor's Office.

12 However, I'm begging you not to overlook that
13 there are more than 89,000 arts related businesses,
14 including nonprofit organizations, and more people employed,
15 about 500,000, in the creative industries, than in any other
16 state in the nation.

17 And I'm asking you to also recognize the impact of
18 the nonprofit art sector, which includes 2.7 billion in
19 worker income that nonprofit arts contribute to California's
20 ranking as the most visited State in the nation. So we are
21 the cultural tourism vehicles and heritage tourism vehicles.

22 COMMISSION CO-CHAIRPERSON HAUCK: Okay. Now, can
23 you conclude so you can give a couple of people behind you
24 time?

25 MS. TAHTI: Yes, thank you. I just want you not

1 to overlook the economic community and workforce development
2 power of our sector by placing us with consideration only to
3 the philanthropic and volunteer aspect because, in reality,
4 we are thousands and thousands of professionals, generating
5 lots and lots of money and value for our State. Thank you
6 very much.

7 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you.

8 MS. PERRY: My name is Betty Perry, I'm the Public
9 Policy Director of the Older Women's League of California.

10 COMMISSION CO-CHAIRPERSON HAUCK: Okay.

11 MS. PERRY: And we have been concerned that the
12 Performance Review has not given much attention to the aging
13 population of California, which is growing very rapidly, as
14 I know you all understand. And we feel --

15 COMMISSION CO-CHAIRPERSON HAUCK: We're part of
16 that population, we do understand. Go ahead, Betty.

17 MS. PERRY: But you're young, you're young.

18 And we know that as we age we try to pretend
19 everything is fine, but things happen. We see it to
20 ourselves, and to our friends, and we need services in the
21 community. We need those community programs that the senior
22 centers put on. We need help -- I have worked very hard for
23 the In-Home Supportive Services Program. I am very alarmed
24 about the changes to the Public Authority that are in the
25 report.

1 I think that this has been a marvelous way to get
2 people involved. You know, I could talk all day, I'll be
3 very, very quick.

4 COMMISSION CO-CHAIRPERSON HAUCK: No, you
5 couldn't.

6 MS. PERRY: Oh, you don't know. You don't know
7 me.

8 COMMISSION CO-CHAIRPERSON HAUCK: We have heard a
9 lot of -- wait, Betty, we have heard a lot of testimony on
10 this, let's give the person behind you time.

11 MS. PERRY: No, I have one thing I have to say.

12 COMMISSION CO-CHAIRPERSON HAUCK: All right, say
13 it.

14 MS. PERRY: My friend, John Kehoe, spoke about the
15 Commission on Aging, and he referred to our organization as
16 supporting his views. John and I are old friends, and I
17 could see how he might think that I agreed with him, but our
18 organization supports the continuation of the Commission.

19 COMMISSION CO-CHAIRPERSON HAUCK: Thank you. All
20 right, we have time for one more.

21 MR. SATKOWSKI: Well, thank you. My name is Paul
22 Satkowski, I'm an investigator with DMV investigations. I'm
23 one of the leading experts on identify theft, and I
24 initiated many of the reforms at DMV regarding policy and
25 procedures.

1 One slice of the pie of the CPR report had to do
2 with employee suggestions, proposals. I submitted a
3 proposal in 1998, and it shows you kind of the dark side of
4 bureaucracy. My proposal was to have a reporting system for
5 lost or stolen licenses. I documented, in my report, how it
6 would save the State \$68 million.

7 Five and a half years later, the proposal got
8 adopted, and I certainly recommend making the changes to get
9 good suggestions from employees.

10 Thank you.

11 COMMISSION CO-CHAIRPERSON HAUCK: Okay. All
12 right. Say who you are, and make the point in two
13 sentences, and we'll try to get through the people that are
14 there, but that's it.

15 MR. RAGATT: My name is Mark Ragatt, and I know
16 you've heard a lot about the Heart Disease and Stroke
17 Prevention Treatment Task Force.

18 COMMISSION CO-CHAIRPERSON HAUCK: We have heard a
19 lot about it.

20 MR. RAGATT: I am the original genesis of that
21 bill. We've rerun it, it's now self-sufficient.
22 Ironically, I now find myself a heart disease survivor and
23 have applied for the Commission. I think it's the best
24 example of government and private working together to
25 address a high profile issue, at no cost.

1 COMMISSION CO-CHAIRPERSON HAUCK: Okay, that's
2 more than two sentences, and there's a lot of sympathy on
3 this Commission for that.

4 All right.

5 MS. WESTCOTT: Nadine Westcott, the Professional
6 Engineers in California Government. I came here to testify
7 with regards to Design/Build to Procurement.

8 COMMISSION CO-CHAIRPERSON HAUCK: All right,
9 folks, let me interrupt you. You keep lining up back there,
10 we're not going to have time, we've got to get out of this
11 building. So go ahead, Nadine.

12 MS. WESTCOTT: Pardon me. Design/Build to
13 Procurement and the excessive cost of contracting out
14 engineering work for the State of California.

15 COMMISSION CO-CHAIRPERSON HAUCK: Right.

16 MS. WESTCOTT: I have prepared my comments,
17 written, so I can submit those to you now?

18 COMMISSION CO-CHAIRPERSON HAUCK: We're happy to
19 receive them.

20 Yes, sir.

21 MR. GIBLER: Good evening, my name is John Gibler,
22 I'm a policy analyst with Public Citizen's California
23 Office. The two sentence version, unfortunately, is going
24 to be the less-finessed version of my comments.

25 I'd like to say that, though we welcome the spirit

1 of the endeavor, the document that was produced in the CPR
2 is profoundly unbalanced, and the source for that analysis
3 comes from a systematic review of the endnotes which
4 uniformly represent industry, known public advocates.
5 There's not a single environmentalist, public policy
6 advocate, environmental or social justice advocate, or
7 ordinary citizen, that I was able to find, in an entire
8 review of the endnotes.

9 My ending point will be there's a philosophical
10 thread throughout this entire document, that I think is
11 dangerous, and I think that is conflating two very distinct
12 social roles, that of the citizen and that of the consumer.

13 COMMISSION CO-CHAIRPERSON HAUCK: All right, thank
14 you, sir.

15 Next.

16 MR. MORGAN: My name is Jim Morgan, I have been
17 employed for the last ten years as a toxicologist for the
18 Office of Environmental Health Hazard Assessment, also known
19 as OEHHA, of the California Environmental Protection Agency.
20 I, and the vast majority of other scientists at OEHHA, think
21 that the CPR proposal to move OEHHA into the proposed DHHS
22 is an extremely bad idea, for two reasons.

23 First, it will reduce, not increase the efficiency
24 of government operations.

25 Second, it will make it much harder to retain the

1 highly trained professional staff that OEHHA presently has.

2 Thank you.

3 COMMISSION CO-CHAIRPERSON HAUCK: Thank you.

4 Thank you for being brief.

5 All right. Yes, ma'am?

6 MS. GUIDOTTI: June Guidotti, and thank you for
7 hearing my comment. As a citizen, I oppose the
8 reorganization of our State Agency AR Board. I could not
9 breathe if you did something with that Board. Taking that
10 Board and putting it under BCDC CalTrans, and eliminating
11 and putting an umbrella over it, I can't get through the
12 system.

13 I have five Executive Orders that I have submitted
14 to you, and these orders are signed into law, and you cannot
15 do what you're doing, trying to put a power plant in.
16 Willie Brown, Pete Wilson, and the County of Solano County.
17 There is alternatives that can be done and it's in the
18 Executive Orders.

19 I oppose portions of what you're trying to do.
20 Thank you.

21 COMMISSION CO-CHAIRPERSON HAUCK: Okay, thank you.

22 All right.

23 DR. NICHOLS: Thank you for giving us this moment.

24 I'm Dr. Michael Nichols, I'm Chairman of the Chaplains
25 Occupational Classification, with AFSCME, the Union. I'm

1 going to make three statements, real quick.

2 Civil service was created to overcome the abuses
3 of political pork barreling. Privatization is nothing less
4 than a new name for pork barreling.

5 COMMISSION CO-CHAIRPERSON HAUCK: Michael, don't
6 read your statement, just give us the three quick
7 statements.

8 DR. NICHOLS: Okay, that's the first one. The
9 most important one is an area that you left out in your CPR,
10 and it has to do with leadership. There's a difference
11 between leadership and management.

12 Leadership, to be good, has to have the components
13 of spiritual, ethical, and moral basis. I heard the fraud,
14 waste, abuse, mismanagement that comes because of ethical
15 and moral issues and it needs to be addressed.

16 COMMISSION CO-CHAIRPERSON HAUCK: All right.
17 Thank you, sir.

18 MR. DENT: Hello, I'm with the Youth Justice
19 Coalition, and we're here to say that we're here to demand
20 the closure of the California Youth Authority, and present
21 something that's going to actually work and be better for
22 California, and the reason why is because there's been four
23 deaths in the past year.

24 COMMISSION CO-CHAIRPERSON HAUCK: Thank you, sir.

25 All right, and you get the last word.

1 MR. HOUSE: Well, thank you very much for that.
2 Henry House, representing the Linux Users Group of Davis.
3 We represent 200, actually over 200, users of open source
4 software in the Davis area, from University researchers to
5 small, medium, and large businesses. We're here to express
6 our strong support for recommendation SO 10, of the
7 California Performance Review, which recommends using open
8 source software, where possible.

9 COMMISSION CO-CHAIRPERSON HAUCK: All right.

10 MR. HOUSE: Open source software is here, now, and
11 it's ready for primetime. Progressive private businesses
12 are using it, it can help the State save a lot of money.
13 Thank you very much.

14 COMMISSION CO-CHAIRPERSON HAUCK: All right, thank
15 you very much.

16 And ladies and gentlemen, that concludes our
17 hearing for today.

18 (Thereupon, the September 27th
19 meeting and public hearing of the
20 California Performance Review was
21 adjourned at 6:06 p.m.)

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CERTIFICATE OF REPORTER

I, RONALD J. PETERS, a Certified Shorthand Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing State of California, California Performance Review, Government Reorganization public hearing was reported by my staff and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties in this matter, nor in any way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of September, 2004.

Ronald J. Peters
Certified Shorthand Reporter
License Number 2780
Certified Manager of Reporting Services
Registered Professional Reporter

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