

CALIFORNIA CITIZENS COMPENSATION COMMISSION

TRANSCRIPTION OF RECORDED
CALIFORNIA CITIZENS COMPENSATION COMMISSION
HELD AT MARRIOTT BURBANK
BURBANK, CALIFORNIA
ON APRIL 14, 2011

TRANSCRIBED BY: DONNA K. NICHOLS, RPR, CSR NO. 5660

1 CHAIRMAN DALZELL: All right, I -- I think we're
2 ready to begin. My name is Tom Dalzell. I am the
3 newly-appointed Chair of the Commission. I hereby call the
4 California Citizens Commission -- Compensation Committee to
5 order.

6 Our first order of business is the roll call.
7 Please.

8 CLERK: Okay. Tom Dalzell.

9 CHAIRMAN DALZELL: Present.

10 CLERK: Charles Murray.

11 COMMISSIONER MURRAY: Present.

12 CLERK: Kathy Sands.

13 COMMISSIONER SANDS: Present.

14 CLERK: Ruth Lopez-Novodor.

15 COMMISSIONER LOPEZ-NOVODOR: Present.

16 CLERK: Scott Somers.

17 COMMISSIONER SOMERS: Present.

18 CLERK: John Stites.

19 COMMISSIONER STITES: Present.

20 CLERK: Wilma Wallace?

21 We have a quorum.

22 CHAIRMAN DALZELL: Thank you. Our -- our next order
23 of business will be review and approval of the minutes from
24 the June 16th, 2010 commission meeting. It's not present.
25 I have no opinion as to the accuracy of the minutes.

1 Do any of the commissioners have comments or
2 corrections for these minutes?

3 COMMISSIONER SANDS: I don't this month. The -- I
4 think they're a lot better than they were last month, so we
5 appreciate the new service, whoever it was. And I'll move
6 approval.

7 COMMISSIONER LOPEZ-NOVODOR: Second.

8 COMMISSIONER SOMERS: Mr. Chairman, I'm sorry, I have
9 one correction, and I apologize --

10 COMMISSIONER LOPEZ-NOVODOR: Okay.

11 COMMISSIONER SOMERS: -- I'm trying to find the page
12 on motion of . . . My apologies here. It was a motion that
13 I had indicated a ten percent . . . As a matter of fact, it
14 was five percent. Page 30, line three.

15 COMMISSIONER SANDS: What page?

16 COMMISSIONER SOMERS: Page 30.

17 COMMISSIONER SANDS: Thirty.

18 COMMISSIONER SOMERS: Line 3 where it says I would
19 propose a ten-percent reduction. That was actually a
20 five-percent reduction. It's reflected in the rest of the
21 minutes. I think it was just transcribed incorrectly.

22 CHAIRMAN DALZELL: So with that correction is there
23 a -- a motion to approve the minutes?

24 COMMISSIONER MURRAY: So moved.

25 CHAIRMAN DALZELL: Is there a second on the motion?

1 COMMISSIONER LOPEZ-NOVODOR: Second.

2 CHAIRMAN DALZELL: Those in favor please say aye.

3 (Multiple voices saying aye).

4 CHAIRMAN DALZELL: Those opposed?

5 Motion carries. The minutes as corrected from the
6 June 16th, 2010 Commission meeting stand.

7 We now come to opening comments by Commission
8 members. I would turn first to my immediate predecessor
9 and -- who has been very gracious in the very brief transfer
10 of -- of the -- the -- the mantle here and -- and ask
11 Commissioner Murray for any comments -- opening comments he
12 may have.

13 COMMISSIONER MURRAY: The -- the only statement I
14 have is I do appreciate the time I've served and do
15 appreciate the members that I've worked with. It's been
16 educational for me, and I think we've, oh, achieved a lot at
17 this point. And I think in the future we'll be able to
18 achieve more. I thank you and good luck.

19 CHAIRMAN DALZELL: Thank you.

20 Commissioner?

21 COMMISSIONER SANDS: Mm-hmm. I'd like to welcome
22 everyone. I thank you all for being here. And I -- I also
23 too would like to say that I think Chuck has done a great
24 job as our Chair, and I do welcome Tom in his new role,
25 and -- and I look forward to a lot of good decisions we can

1 make. Thank you very much.

2 CHAIRMAN DALZELL: Commissioner Stites.

3 COMMISSIONER STITES: Oh, I reiterate welcome aboard.
4 And again, I thank Chuck Murray for his hard and long work,
5 and I'm looking forward to continuing on.

6 COMMISSIONER LOPEZ-NOVODOR: Good morning. Ruth
7 Lopez-Novodor. And there's a lot of work still be done, but
8 there was -- we've worked really hard in the last two years,
9 and I want to thank you, Chuck, for all your hard work. I
10 want to welcome our new Chairman. Thank you.

11 CHAIRMAN DALZELL: Commissioner Somers.

12 COMMISSIONER SOMERS: I just reiterate the comments
13 of others. Welcome aboard, Mr. Chairman. And to Chuck
14 Murray, I think Chuck has put in an extraordinary amount of
15 time and effort on this in, frankly, not easy times for
16 everyone. So I congratulate Chuck on all the hard work he's
17 done, and we thank him for all of his service as Chair.

18 CHAIRMAN DALZELL: At this point are there reports
19 requested by the Commission from the staff?

20 MS. BALDWIN: There have been several reports that
21 have been sent to the commissioners. They're all in the
22 binder that you have in front of you, and they're all posted
23 on DPA's CCCC, the Commission's Web site. So I don't
24 believe there are any staff reports to -- new staff reports
25 other than those reports that I've given previously.

1 CHAIRMAN DALZELL: The reports, as I see them in the
2 binder provided that are also posted on the Web site, the
3 first is a comparison of state retirement provisions for
4 state legislators. It appears to encompass all 50 states.

5 The next is a letter to Chairman Murray dated March
6 7th, 2011 from the Chief Administrative Officer of the
7 Assembly and the Secretary of the Senate explaining the
8 application of the session per diem.

9 The next is also dated March 7th, 2011, also from the
10 Secretary of the Senate and the Chief Administrative Officer
11 of the Assembly preparing a chart and materials --
12 associated materials related to the State of California
13 Automobile Program.

14 Next is a legal opinion from the Department of
15 Personnel Administration dated March 4th, 2011 to the
16 Commission, in effect, concluding that the Commission may
17 adopt a resolution before the certification of the budget
18 deficit is issued by the Department of Finance.

19 The next is a 2011 Salary Survey Summary for the
20 constitutional offices, legislature, with county executive,
21 city managers, city mayors, et cetera.

22 Next is a 2011 Constitutional and Legislative Officer
23 Benefits.

24 And that concludes the -- the materials that we were
25 provided that are all posted on the Web site; is that

1 correct?

2 MS. BALDWIN: That's correct. There are some other
3 miscellaneous reports that were included in there that you
4 didn't mention. There is a -- let me go through here real
5 quick.

6 In the section for retirement statistics there is the
7 all-state survey, and then there is a summary for
8 legislators and constitutionals retirement benefits after
9 that, after the yellow sheet. It's right here.

10 The reports from and memos from the Assembly and the
11 Senate, we've included those.

12 And then tables that show member expenditures for
13 both the Senate and the Assembly, and then the automobile
14 policy for the Assembly. And then actually usage for the
15 Senate and Assembly is also included in that section.

16 And then we have the legal opinion.

17 I think that encompasses pretty much everything that
18 was included in the staff reports.

19 CHAIRMAN DALZELL: Thank you very much.

20 MS. BALDWIN: You're welcome.

21 CHAIRMAN DALZELL: Ms. Baldwin, have -- have any
22 members of the public notified you of their interest in
23 speaking?

24 MS. BALDWIN: We have no speakers signed up.

25 CHAIRMAN DALZELL: Are there any present who would

1 like to speak although they are not signed up?

2 Hearing none, we now move to Commission discussion
3 and vote on state officer compensation. And I understand
4 from Commissioner Murray that he, in his work leading this
5 Commission, delegated various areas of compensation to
6 various Commission members and that the expectation, which
7 seems a good expectation, is the Commission members would
8 report to the full Commission on the work that they've done
9 on their area of expertise, hold motions until we've gone
10 through it all.

11 Is that correct? Is that how we proceed?

12 COMMISSIONER MURRAY: Right.

13 CHAIRMAN DALZELL: Well, let's start with you again
14 then. Do you have an area?

15 COMMISSIONER MURRAY: I have an overall area. If I
16 could use the white board.

17 CHAIRMAN DALZELL: Sure. Please.

18 COMMISSIONER MURRAY: Let me try to pass out what I'm
19 going to put on the white board. Your knowledge.

20 Under the Brown Act none of us can meet except on one
21 on one. I -- (unintelligible) this is more for the members
22 as opposed to (unintelligible).

23 We have been criticized in -- in the past
24 (unintelligible) that we are going to bring the salaries
25 down, the benefits down to a level that we wouldn't be able

1 to attract new members of the legislature. What we wanted
2 to do is sort of try to codify where we stand, what we're
3 looking at and why we're making the recommendations that
4 we're trying to make (unintelligible) here. So the board
5 for the legislature (unintelligible) we -- we have as a base
6 salary. And -- and this is an average of the Assembly and
7 the Senate and an average of present pro tem bringing
8 everything down to one level. And we have ninety-five
9 thousand two ninety-one as a base (unintelligible).

10 If you add in how much is contributed to health --
11 health insurance, we have five thousand seven seventeen.
12 And retirement we basically have zero under the proposition
13 (unintelligible). On the (unintelligible) basis, that is
14 (unintelligible), contributions to the lease payment, we
15 give them a state gas card and all repairs and all the
16 accidents, which is -- it relates to insurance. That comes
17 out to seven thousand four fifty (unintelligible) per year
18 for the legislature.

19 Per diem, which is -- comes out to twenty-two
20 thousand eight thirty-nine. Now, why do we include that
21 as -- as compensation even though it's tax free. In our
22 research it looks like no matter what the legislature
23 officer does, all he has to do is call in and wants to work
24 out of his house if he can (unintelligible). And so Kathy
25 Sands in her study has really looked into this, and she's

1 going to make -- make a recommendation that
2 (unintelligible). (Unintelligible) one thousand three
3 hundred.

4 Now, if you look at the other states, which is
5 (unintelligible), there is a -- you have other states
6 (unintelligible). New York state, adding all of these, most
7 of them have a (unintelligible) for a retirement plan. So
8 I -- I extracted the contribution for the (unintelligible).
9 So if the retirement plan in the State of New York is one
10 hundred and twelve thousand oh ninety-six. Illinois is
11 seventy-eight thousand three seventy-four. Washington is
12 fifty thousand oh thirty-two. The great State of Texas is
13 twenty-eight thousand which is unique because they don't
14 seem to (unintelligible).

15 So those are the comps we have to compare to the
16 legislator's salary to ours. We have an average with all of
17 them of sixty-seven thousand two eighty-four. These are
18 basically as -- as the DPA has provided to us
19 (unintelligible) to our state, the State of California.
20 As -- on this basis our legislature is (unintelligible)
21 twice the average. And the -- and so using this as a basis
22 (unintelligible).

23 In addition, we've done some research through Debbie
24 Baldwin's office. One of the complaints was, again, if we
25 don't have a good salary, good base, good benefits, we're

1 not going to be able to attract senators (unintelligible)
2 Assembly. We looked at this. In 2009 we passed -- we
3 passed a decrease in the salary, 18 -- I believe it was an
4 18-percent cut across the board per diem salary
5 (unintelligible).

6 We compared the mode of applications that an
7 individual applied to run for one of the elected offices
8 that we're involved in. Between 2008 (unintelligible) 2009
9 we (unintelligible), 2010 was -- was the election year.
10 There was a 16.4 percent increase in applications. So this
11 obviously -- the 18-percent decrease we put in place isn't
12 trying to deter anybody from running for (unintelligible).

13 So this is what I wanted to get back to the panel so
14 they can see how (unintelligible). And I think each one has
15 their own reports, but that's up to you, Mr. Chairman.

16 CHAIRMAN DALZELL: Well, I -- I have a few questions
17 about the numbers that you put up.

18 COMMISSIONER MURRAY: (Unintelligible).

19 CHAIRMAN DALZELL: I -- I see the material that the
20 DPA staff compiled on the same five states. And they have,
21 in some cases, significantly different numbers than you for
22 the total compensation used in the categories that you used.

23 Have -- have you seen the numbers that -- that they
24 provided? Were they e-mailed to you?

25 COMMISSIONER MURRAY: I thought I used the data that

1 they gave me. If you (unintelligible).

2 CHAIRMAN DALZELL: I believe -- well, I'll give you
3 the -- the State of New York. I think that the number that
4 they came up with was one twenty-one.

5 COMMISSIONER MURRAY: Okay. But -- but that included
6 the benefit (unintelligible) retirement.

7 CHAIRMAN DALZELL: For the retirement. I understand.
8 Why -- why did you exclude it?

9 COMMISSIONER MURRAY: Because --

10 COMMISSIONER LOPEZ-NOVODOR: Apples and apples.

11 COMMISSIONER MURRAY: Because the legislatures in our
12 state don't get a retirement. So we're trying to put them
13 on the same plane.

14 CHAIRMAN DALZELL: But the same plane is total
15 compensation. I'm not chal -- I'm wondering. I'm
16 thinking --

17 COMMISSIONER MURRAY: Yeah.

18 CHAIRMAN DALZELL: -- I'm thinking out loud. But
19 if --

20 COMMISSIONER MURRAY: Right.

21 CHAIRMAN DALZELL: -- if you're -- if you're looking
22 at total compensation --

23 COMMISSIONER MURRAY: Well, this --

24 CHAIRMAN DALZELL: -- in -- in my experience if you
25 can't compare, you don't compare.

1 And is it -- is it your finding -- perhaps we'll hear
2 from someone else, that legislators in other states get no
3 reimbursement for mileage?

4 COMMISSIONER MURRAY: As far as the studies we've
5 seen, we are the only states that do provide cars for the
6 legislatures and do -- do -- do the reimbursement. The
7 closest we have to the State of California that I've seen
8 and the research that has been -- been provided to us is the
9 State of New York which provides pool or fleet cars to -- to
10 their legislators.

11 CHAIRMAN DALZELL: All right. And you did not try to
12 quantify that as a -- as a -- as a benefit?

13 COMMISSIONER MURRAY: The only -- only because
14 legislators and -- and -- and you have to realize it's very
15 hard for us to get data. I mean it takes us months to get
16 data.

17 CHAIRMAN DALZELL: I understand.

18 COMMISSIONER MURRAY: Okay. We asked for the budget
19 number. We got 12 sheets. And I -- and I just asked what's
20 the total budget for the State of California. So I mean
21 it's -- it's -- it is not easy. And I'm sure you've gone
22 through it.

23 CHAIRMAN DALZELL: Yes.

24 COMMISSIONER MURRAY: What I -- what I'm saying is
25 on -- on the auto side is that most -- most -- a lot of --

1 of the legislators fly up and get a fleet car to use up
2 here. That's not included in the numbers either. So we --
3 so we've tried to come -- or I've tried to come as close as
4 I can to -- to real world.

5 CHAIRMAN DALZELL: Yeah, I'd -- I'd be interested
6 in -- in -- in hearing what other commissioners, especially
7 Commissioner Somers who has the -- the compensation
8 background, has to say about the apples -- apples to
9 apples --

10 COMMISSIONER MURRAY: Right.

11 CHAIRMAN DALZELL: -- comparison. It's difficult
12 where one state does not have apparently a major benefit.

13 COMMISSIONER SOMERS: Right. Yeah, I think it's --
14 if I may.

15 A couple of comments before I directly answer that
16 one. The numbers do seem a little bit different here,
17 Chuck. That New York number, for instance, the base salary
18 of ninety-six, I think the base salary that we previously
19 talked about was seventy-nine.

20 COMMISSIONER MURRAY: This is off of one of the
21 reports we got from the DPA, one of the last reports we got.

22 COMMISSIONER SOMERS: Okay. And the -- and at the
23 same time, the retirement benefit for New York was
24 previously shown as twenty-six thousand two thirty-five as
25 opposed to fifteen thousand two sixty-four.

1 COMMISSIONER MURRAY: Okay.

2 COMMISSIONER SOMERS: So the numbers are a little
3 different the last two days --

4 COMMISSIONER MURRAY: Okay.

5 COMMISSIONER SOMERS: -- than they were two days ago.

6 COMMISSIONER MURRAY: Right.

7 COMMISSIONER SOMERS: So I guess I'm not quite
8 sure --

9 MS. BALDWIN: If I can address -- no. There was
10 nothing else sent out other than the two spreadsheets that
11 I've just given to Tom. And that was two, three days ago.

12 CHAIRMAN DALZELL: Where did this one come from then,
13 the one that you're working off of?

14 COMMISSIONER MURRAY: I made it up. I extracted the
15 numbers from the reports given to us through the DPA.

16 CHAIRMAN DALZELL: Okay.

17 MS. BALDWIN: Did you take -- no, they didn't come
18 from here either, because the ones from here correlate to
19 the sheet out there. So I think you may have just misread
20 those, the two numbers that aren't correct, New York and
21 (unintelligible).

22 COMMISSIONER MURRAY: Okay. But on a -- on a
23 broad-brush basis --

24 COMMISSIONER SOMERS: Illinois is correct. Illinois
25 is sixty-seven eight thirty-six. But the retirement numbers

1 are different. Now, the retirement numbers can be
2 calculated differently depending on whether you're looking
3 at an average of a 30-year retirement or whether you look at
4 a six-year retirement.

5 FEMALE VOICE: Absolutely. And what -- what this
6 report -- and let me clarify. This report is comparing five
7 different states, some of them only once every two years.
8 We're comparing -- we're taking so many assumptions with
9 this data. We're assuming that a percentage for retirement.
10 We're assuming health benefit percentage. We're taking base
11 salary. And I don't have my report in front of me, but per
12 diem amounts. And then looking at the number of sessions
13 per year by a calendar, which is projected sessions.

14 And then the second report that followed with the
15 higher number from California takes into account the actual
16 number of sessions, but you still -- you're comparing apples
17 to oranges.

18 COMMISSIONER SOMERS: No, I understand that. I --
19 I'm just trying to figure out how the numbers got to be
20 different here --

21 FEMALE VOICE: I -- I --

22 COMMISSIONER SOMERS: -- in the last two days. I
23 guess I'm just trying -- and also to see if there was -- I
24 thought the retirement benefits actually looked high, as I
25 looked -- original retirement benefits I thought of 26,000,

1 I think that's probably high if you looked at someone who
2 had just six or eight years in the New York -- if you
3 compared that --

4 FEMALE VOICE: Right, Scott.

5 COMMISSIONER SOMERS: -- then -- then that number
6 would be high --

7 FEMALE VOICE: Right.

8 COMMISSIONER SOMERS: -- even on an annual basis,
9 because they would have accumulated over X number of -- of
10 years.

11 COMMISSIONER MURRAY: Well, it -- it is -- it is
12 high, but keep in mind we have -- we have all -- all the
13 term limits out here. So --

14 COMMISSIONER SOMERS: Right, exactly.

15 COMMISSIONER MURRAY: -- you can't -- you can't go
16 beyond six to eight years in the Senate or in the Assembly.

17 COMMISSIONER SOMERS: Right. But let me -- let me
18 also -- Mr. Chairman, let me answer your question more
19 directly -- or directly on -- with regard to retirement
20 benefits.

21 I think the answer is that, yes, retirement benefits
22 are certainly generally considered an appropriate component
23 of compensation. It is total compensation. And retirement
24 benefits can be a very significant portion of compensation,
25 as we know, from -- I mean if you look at -- historically at

1 government compensation. If you look at the total number of
2 years of retirement compensation and average that in with
3 the total number of years of actual compensation, it
4 increases that number dramatically.

5 So I think, in fairness, it should be considered.
6 That being said, the -- the people of the State of
7 California basically voted not to provide retirement
8 benefits for legislators. So it becomes kind of a judgment
9 call as to whether people think that it should be included
10 or not.

11 But the general answer to your question is that
12 retirement benefits are an important component of total
13 compensation.

14 CHAIRMAN DALZELL: And perhaps the most difficult to
15 quantify. You can look at the cost of the contribution, or
16 you can look at the benefit. Looking at the cost of
17 contribution can vary pretty dramatically from year to year
18 based upon the funding status of the -- of the pension plan.
19 It's pretty tricky.

20 Did you make any attempt to factor in the -- the cost
21 of living in these five states?

22 COMMISSIONER MURRAY: No, I didn't.

23 CHAIRMAN DALZELL: And I -- I see that the -- the DPA
24 provided the number of days in session, and it appears that
25 New York, Illinois and Washington are in session about a

1 third of the -- of -- of the time that California is in
2 session. And, of course, Texas meets every other year.

3 COMMISSIONER MURRAY: Right. Correct.

4 CHAIRMAN DALZELL: It's -- you know, I -- if it
5 sounds like I'm criticizing your work, I'm not. I am
6 commenting more generally on the real difficulty of
7 compensation comparisons. It's -- it's --

8 COMMISSIONER MURRAY: I would agree.

9 CHAIRMAN DALZELL: We -- we would like to think that
10 it's a science, but there's certainly some art in there, and
11 some -- and our job is to get it as scientific as possible,
12 and -- it's difficult though.

13 COMMISSIONER MURRAY: Right. No, true. The --
14 just -- just to add on, oh -- oh, to what you said, I agree
15 there -- excuse me, there is no -- there are no two states
16 that are exactly like each other. I mean some go -- have
17 sessions every other year. We work, you know, two hundred
18 and -- I forget what the number is -- days a year.

19 But in the other states is -- when they don't meet,
20 that doesn't mean they have another job somewhere. They go
21 home and work the district. So like in our state here, as I
22 was told at -- at one of the meetings, they are never off,
23 they're always on duty, on call. So from -- oh, from that
24 point of view, to calculate the per diem, yes, you're right.

25 Okay, but if it -- I would say if the two numbers

1 were within five percent of each other or ten, I wouldn't be
2 concerned. But since it's more than double, the average of
3 the other -- other states, even though we might be off 3,000
4 here, 4,000 there, it is very significant. Okay?

5 CHAIRMAN DALZELL: Yes.

6 COMMISSIONER MURRAY: Okay. I thank you very much.

7 CHAIRMAN DALZELL: Do we have a volunteer for -- for
8 next?

9 Hearing none, Commissioner Sands?

10 COMMISSIONER SANDS: Okay, well, mine is the per
11 diem. Now, actually, you know, we're looking for the right
12 thing to do and what's appropriate. As I look at the per
13 diems this year, the legislature is paid a per diem of a
14 hundred and forty-one eighty-six. And I feel this is fair.

15 They also receive non-session per diems for travel
16 away from a member's tax home and outside Sacramento, and
17 that makes their per diems that they actually receive more.
18 And this per diem is similar to the state employees. They
19 submit a travel reimbursement claim, and upon approval it's
20 sent to the state controller for payment. Those are for the
21 non- -- out of Sacramento per diems that are paid.

22 So, anyway, right now I feel that the per diems are
23 in line. But I do have a recommendation for something to
24 do. Do you want me to do that now?

25 CHAIRMAN DALZELL: You can -- I would like to hold

1 the motions.

2 COMMISSIONER SANDS: Okay.

3 CHAIRMAN DALZELL: But I think I'd -- I'd like to
4 hear the recommen --

5 COMMISSIONER SANDS: Yeah, what -- what --

6 CHAIRMAN DALZELL: -- the recommendations.

7 COMMISSIONER SANDS: Yeah. What -- what I'm thinking
8 to do is to ask staff to prepare a letter to the Franchise
9 Tax Board for Chairman -- for you to sign asking for a legal
10 opinion or a similar document asking whether the
11 legislator's per diem should be taxable. We've talked about
12 this a little before. And I think there's a question on
13 that. And so we'd like to ask if the legislate -- if -- if
14 the per diems should be taxable and if there is a way to
15 ensure that they are not paid, the legislators are not paid
16 per diems if they don't physically attend a scheduled
17 session. If they're sick or they're out of town, should
18 they really be paid a per diem? I question that. And
19 should there be really eligible excused absences? That's
20 what I'm thinking about. Okay?

21 CHAIRMAN DALZELL: Yeah. I have -- I have some --
22 some questions about the per diem too. And my -- my reading
23 of the Roberts Rules of Order suggest to me that I should
24 attempt to remain neutral on issues before the board --
25 before the Commission, and -- and I'll attempt to do so. My

1 questions are only questions, they don't suggest an answer.

2 I have con -- a -- another legal concern, which is to
3 what extent, if any, is the per diem legitimately something
4 that this Commission can look at. I know that you have.
5 But as -- as I read the -- the Constitution, I am not at all
6 sure that the per diem would fall into the category of other
7 similar benefits to medical, dental and insurance. So
8 that -- that is a question.

9 And also, the per diem is -- is -- is set by an
10 entirely different body, the name of which escapes me at the
11 moment.

12 FEMALE VOICE: (Unintelligible) compensation?

13 CHAIRMAN DALZELL: Yes.

14 (Speaking over each other).

15 CHAIRMAN DALZELL: And so this --

16 (End of tape one, side A).

17 FEMALE VOICE: Okay.

18 CHAIRMAN DALZELL: But I think those are really solid
19 questions.

20 COMMISSIONER STITES: Mr. Chairman. I thought that
21 was answered in the opinion issued by Attorney General Brown
22 when this issue came up. And I believe he determined that
23 it was considered compensation. Am I wrong on that?

24 COMMISSIONER SANDS: Yeah, we -- we've -- we've
25 adjusted it, and we haven't been told we couldn't.

1 CHAIRMAN DALZELL: Yeah, as I read Attorney General
2 Brown's opinion from June 16th, 2009, I don't see it
3 covering this issue. I -- I -- I think that what he was
4 addressing was whether you can change -- change the rules in
5 the middle of a fight and change the salary of a legislature
6 during the -- a legislator during their term. But I -- I'm
7 very -- the letter I have in front of me, I think that's
8 what it says.

9 COMMISSIONER STITES: That was a -- excuse me. That
10 was an issue that he brought up himself. We originally --
11 we never asked. We assumed that we would do it at the end
12 of their term --

13 MALE VOICE: Right.

14 COMMISSIONER STITES: -- that any action we took
15 would be initiated at the end of their term. He made that
16 as an independent decision on -- on his own.

17 CHAIRMAN DALZELL: Right. Then I have not seen his
18 opinion saying that you could -- that this Commission may
19 address per diem. I'm very -- I'm very new. I under -- I
20 understand that. Yes.

21 COMMISSIONER MURRAY: If I could add a point since --
22 since I was here, this is -- this is ground we've gone over
23 before. And I -- and I don't mean that as a criticism,
24 just -- just as -- as a definition.

25 Two things come to mind, and I -- and I've spoken to

1 our counsel about this which she neither agrees or
2 disagrees, but she's aware of it.

3 One is if we made a recommendation and the State of
4 California took the recommendation, reduced the salaries,
5 reduced the per diem benefits, that is -- that is an
6 affirmation that at least the State of California feels we
7 have the power to do it, oh, number one.

8 Two is on -- on the -- on the history we have on the
9 author of the bill which put us in effect, it is referred to
10 as fringe benefits; that is, salaries and the fringe
11 benefits and the per diem, non-taxed being paid the way it
12 is being paid certainly qualifies as a fringe benefit.

13 So just as background, that -- that there has been
14 research on that.

15 CHAIRMAN DALZELL: Yeah, these -- I'll -- I'll just
16 state for the record, the only two opinions that I've seen,
17 and I suspect that there are more, I -- I saw Attorney
18 General Brown's opinion dated June 16th, 2009, which you
19 explain was -- he was answering a question that he wasn't
20 asked.

21 COMMISSIONER STITES: Right. We didn't ask, on that
22 particular area.

23 CHAIRMAN DALZELL: Right. And the second opinion
24 that I have seen is dated June 15th, 2009 from Chief Counsel
25 Bill Curtis and Assistant Chief Counsel Linda Mayhew from

1 the Department of Personnel Administration saying that the
2 only benefits within our purview are those for which the
3 employee or employer pays a premium in exchange for a
4 guarantee against loss. So those are the two that I have
5 seen. And I'm guessing that there are others.

6 Who's next?

7 FEMALE VOICE: (Unintelligible).

8 CHAIRMAN DALZELL: (Unintelligible).

9 FEMALE VOICE: Okay.

10 COMMISSIONER STITES: The area that I was asked to
11 research was involving the vehicles. And we've discussed
12 before how the vehicles are obtained to each body of the
13 legislature Senate. The Assembly have comparable rules.
14 The -- the elected member picks a vehicle that he likes, and
15 it's purchased for him by the Rules Committee, as I
16 understand it, and then he is paid a stipend, and right now
17 it varies between each person somewhere close to 300 bucks,
18 \$300. And that is used to basically lease the vehicle. All
19 other costs associated with that vehicle are paid for by the
20 Rules Committee.

21 I did a quick history on it, and basically what it
22 comes down to is -- and I was asked to project it out over a
23 five-year period. They average in the Assembly \$7,397
24 dollars, and that's basically to -- that averages in the
25 allowance paid per member, insurance premiums, repairs and

1 gas and oil figures. And those are based upon figures that
2 were given to me by the legislature.

3 The Senate, very comparable, it -- they have -- they
4 average out about \$7500. So collectively projected out over
5 five years we're looking at a cost of three million six that
6 it costs the taxpayers of California to maintain these
7 vehicles.

8 Traffic accident costs, I -- the only figures I were
9 able to get is the past. We can't project what it's going
10 to cost us on the insurance rates. The insurance rates
11 though in the past five years were 768,000.

12 Purchase costs for the Assembly was one million
13 eight. The Senate was six hundred and sixty-seven. And I
14 will also advise there's several members on -- in both
15 legislative bodies who declined to take a vehicle or to
16 purchase a vehicle. I think it was 27 in the Assembly, and
17 I believe 12 in the Senate. So they've opted not to do it,
18 they pay their own way.

19 If you include the costs in of the vehicles, and I
20 took those costs on the vehicles directly from the
21 information that we were provided on those who have it,
22 you're looking at six million nine over five years to keep
23 them driving.

24 That's pretty much the figures that I came up with.
25 Probably the most astounding issue was the traffic accident

1 costs, and generally even over a five-year period, 768 is a
2 little bit above the national average. But if you're going
3 to drive in California, you're going to run into something
4 eventually, or something will run into you, so . . .

5 Now, there was a couple of issues of how to address
6 that. I want to -- I was kind of confused by the fact that
7 the Rules Committee determined -- now, they're supposed to
8 deal with the business issues. They determined that they
9 would pay for the gas on the vehicles. The vehicles is
10 purchased for them by -- with tax money, and then we pay for
11 the gas and all the repairs and all the maintenance. And
12 it's all tax money. So the figure of 6.9 million didn't
13 throw me off over a five-year period.

14 Now, there's another way to address this issue. We
15 could possibly -- and it's -- it's the recommendation, just
16 something that I came up with. Can we deal with this just
17 by applying a flat fee, give them, say, \$300 a month on both
18 sides and tell them use that for a vehicle and the state
19 doesn't purchase -- or they buy those vehicles, I guess.

20 Over five years, with all 120 members, because that
21 would be a blanket fee across both sides of -- both bodies,
22 we look at about \$2.1 million over five years. So
23 considering just the cost without the purchase was 4.4
24 million, we're looking at a savings of about \$2.2 million.
25 If you include the vehicle purchases, which are a one-time

1 purchase, but that one time happens every time we have a
2 change of legislative members or they can purchase a vehicle
3 that's already there, it's up to them, then we're looking at
4 4.7 million.

5 That's basically the figures I came up with.

6 CHAIRMAN DALZELL: Were -- were you able to -- to get
7 then with your figures to an average cost per mile?

8 COMMISSIONER STITES: That was supplied. Average
9 cost per mile was -- for the Assembly -- now, this was
10 revised figures. We had our initial figures, and they said
11 they were too high, so they sent us a -- the legislature
12 sent us a corrected version of what there is. And you know
13 the statistics as well as I do. But they came up with 37
14 cents a mile in the Assembly, and in the Senate it was 42
15 cents a mile. The average driving over the year was 19,500
16 miles in the Assembly and 17,600 in the Senate.

17 CHAIRMAN DALZELL: So the thirty -- 37 or 38 cents
18 for the Assembly and the Senate at 42, 43, those are
19 certainly below the IRS 50 cents a mile.

20 What does the State of California reimburse?

21 FEMALE VOICE: Fifty -- 51 cents a mile. Fifty-one.

22 CHAIRMAN DALZELL: Probably uses the IRS. And
23 that -- actually, it may be 51, not 50 on the IRS. I think
24 it did go up a penny, all right.

25 COMMISSIONER STITES: But also understand that those

1 figures do not factor in the cost of the vehicles, the
2 insurance costs.

3 CHAIRMAN DALZELL: I think that it --

4 COMMISSIONER STITES: Well, the insurance costs it
5 does, but it doesn't factor in the cost of the accidents,
6 which was 768,000.

7 CHAIRMAN DALZELL: But you --

8 COMMISSIONER STITES: So it probably would be just a
9 hair higher.

10 CHAIRMAN DALZELL: Yeah, the -- the insurance is
11 self-insurance, right?

12 COMMISSIONER STITES: Yes. That's why we --

13 CHAIRMAN DALZELL: Right. And so --

14 COMMISSIONER STITES: Well, actually, they -- excuse
15 me, sir. But they actually pay about \$6, because they're
16 supposed to provide liability insurance for the time that
17 they drive to and from work, or, you know, (unintelligible).

18 CHAIRMAN DALZELL: Right.

19 COMMISSIONER STITES: And that -- that's supposed to
20 remain under ten percent of the total.

21 CHAIRMAN DALZELL: Now, in terms of the travel
22 expenses, I do have that -- that June 2009 letter that
23 explicitly -- from the Chief Counsel of DPA explicitly
24 saying the travel expenses are not within our adjustment
25 power.

1 Is there anything more that I -- that you know about
2 that that I don't know about the -- the legal opinion?

3 COMMISSIONER STITES: That's -- (unintelligible) the
4 Attorney General took a different view.

5 CHAIRMAN DALZELL: I have not seen that letter.

6 COMMISSIONER SOMERS: All right. Mr. Chairman, may I
7 make a comment on that?

8 CHAIRMAN DALZELL: Sure, please.

9 COMMISSIONER SOMERS: Generally, you know, if you
10 look at what's happened in the private sector and apparently
11 other states, since we I think are one of only three states
12 that actually has cars, and even those others I think don't
13 provide cars to everyone, part of the reason that people
14 have moved away from that, from the compensation perspective
15 and benefit perspective, is because the cost control
16 procedures are tougher, that when you either reimburse
17 people directly, you know that they're spending money
18 directly for specific kinds of things. And as -- as opposed
19 to providing a vehicle to someone, providing the gas credit
20 card for someone, that it makes it just more difficult to
21 sort of say, okay, when are they using it for business
22 purposes and when are they not.

23 So, you know, ultimately the fact that the vast
24 majority of people have chosen not to provide cars also
25 suggests -- and I've not seen numbers on this, but

1 ultimately you save money.

2 CHAIRMAN DALZELL: Well, depends on what you're doing
3 instead whether you're saving money. If you're -- if
4 you're -- it seems to me that if you're going pay 51 cents a
5 mile instead of paying 37 cents a mile, you're probably not
6 saving money. I think it -- half of that equation is --

7 COMMISSIONER SOMERS: If you could really show that
8 that's the case -- and -- and I think -- again, I think the
9 general sense is that it's usually not the case or people
10 would be providing cars to -- to organizations and -- as
11 opposed to either -- either providing some sort of monthly
12 vehicle allowance or actual reimbursement.

13 I -- I -- I don't -- if -- if you could really show
14 that -- that, in fact, this is a cheaper way to do it, then
15 I'm all for it.

16 CHAIRMAN DALZELL: Commissioner Stites, did you have
17 a -- a comment on this?

18 COMMISSIONER STITES: Well, what I was saying, no one
19 here, as I understand it, has suggested that we put them on
20 a mileage program. My only suggestion -- or what I examined
21 was just a flat fee, as a lot of businesses do. And
22 California's had unlimited -- legislators have unlimited
23 access to vehicles, and no other state does that.

24 In times of prosperity we all prosper and we can
25 wallow in it. This is not a time of prosperity. And we

1 have to make recommendations and take action to ensure that
2 we're not throwing money away.

3 COMMISSIONER SANDS: I had a question. I didn't
4 quite -- I don't understand what you're recommending, a flat
5 fee of --

6 COMMISSIONER STITES: Flat allowance.

7 COMMISSIONER SANDS: I mean -- flat car allowance?

8 COMMISSIONER STITES: Yes.

9 COMMISSIONER SANDS: Okay, good, okay. Got it.

10 COMMISSIONER STITES: In other words,
11 (unintelligible) no allowance, but I -- I look at -- I see a
12 flat allowance.

13 COMMISSIONER LOPEZ-NOVODOR: Very good. Well, as you
14 can see, I focused just on the salary component. And -- but
15 even looking at the salary component you kind of have to see
16 how that fits in to the rest of the compensation.

17 As it stands right now, based on the reports for
18 legislators -- I'm going to address that first. California,
19 even with the per diems as without the pensions come in
20 competitive with the states like New York and Illinois. My
21 recommendation right now is that the salaries remain the
22 same, and I'll explain why.

23 There are different factors in determining an
24 increase in salary. As you mentioned, Mr. Chairman, one of
25 them could be cost of living. Another could be -- and I'm

1 saying could be on purpose -- could be performance. Another
2 could be market. Another could be financial viability. And
3 a third one that I think is relevant today is leadership and
4 example.

5 The ones that I prefer for this evaluation include
6 market, financial viability and leadership. And I'll
7 explain why cost of living and performance I don't believe
8 carry as much weight as the ones I've listed.

9 Performance, for one, is not our job. Performance
10 belongs to the voters. When our citizens are in the ballot
11 box, if the legislator performed, hopefully they engage him
12 for another term. If the legislator did not perform,
13 hopefully they let him know with their votes.

14 So I don't choose performance as one of the factors
15 for this determination. I will, however, caveat that with
16 the following. There are certain performance factors that
17 come back to bite you anyway. They have nothing to do with
18 this decision. But they stand tall and loud. And I think
19 that's when we fail to balance leadership with our decision
20 making.

21 So in terms of performance, I'm going to put that to
22 the side. I'll come back to it when I get back to
23 leadership.

24 Relative to cost of living, cost of living today is,
25 yes -- oh, I'm sorry. Cost of living today, the increase in

1 cost of living is a wonderful measure, but in private
2 industry -- and I hate to use that term, because this is
3 government, but I'm going to use it to give you a contrast.

4 Cost of living is great, but it doesn't generate
5 bottom-line contributions of value if performance or market
6 won't bear it. In other words, if there is not sufficient
7 outcome or value created, cost of living increases only
8 reinforce behavior. So there's a -- there's a question
9 about whether cost of living is a good measure, in my
10 opinion, being in the private sector.

11 I am a small business, and right now I am not having
12 a lot of luck, if you want to call it that, in terms of
13 revenue. So I can't offer cost-of-living increases to my
14 people. And that's because that's the reality of the
15 financial viability of my company.

16 So right now we're talking about potentially a
17 financial challenge in the State of California. I'm not
18 sure cost of living right now is the right measure.

19 I'd like to go to now financial viability. As you
20 know, bottom line is can we afford it. This one needs to be
21 paired with leadership. Pardon me, I meant to address
22 market.

23 Market and cost of living are about -- from the
24 significant players in the industry about the same level
25 anyway at this point. The market is showing increases in

1 executive pay of about 2.8 percent according to both the
2 Cullpepper report and the Hay Group. They feel that they
3 will see executive's compensation increase -- increase by
4 about two point -- 2.8 percent or two percent.

5 However, there is a common denominator there. If the
6 businesses go out of business, there is no market viability
7 for those individuals. And this is where financial
8 viability and leadership go hand in hand.

9 We are dealing with a state that has nine percent in
10 March closures of businesses. That increased from -- from
11 February. We had a positive -- I'm on the NFIB board. We
12 had a positive report of small business -- what do you call
13 it when they're positive in the industry that impacts
14 economy?

15 But, anyway, the positive in January and February
16 dropped in March because sales remained flat. These are the
17 reality of where we stand in California, two point -- we
18 still are at 2.2 million. Even though we've had a little
19 growth in some sectors, it's very minuscule compared to the
20 amount of people that don't even have a job, are not
21 receiving a check, and cost of living, market and all those
22 factors don't apply to them. And that's where leadership
23 becomes a factor in this decision.

24 There's another caveat toward the 2.1 percent
25 increase, and that has to do, again, with the companies that

1 are financially successful right now.

2 Now, I want to tell you something, I don't think it's
3 small business. Small business is being challenged, and,
4 yet, small business is the largest creator of jobs in the
5 State of California. So if you want to take a real measure,
6 let's take a look at small business. And we're talking
7 about closures, leaving the State of California. These are
8 the challenges that small businesses are facing. So even
9 with this -- and certain industries are facing.

10 So even with this increase that's reported, again,
11 they're ones that there are a lot of Californians that are
12 not experiencing an increase, and, therefore, I cannot, with
13 a clear conscious, given the report that we received from
14 the Department, recommend an increase of any kind at this
15 point.

16 I do believe that the salaries that they are
17 obtaining currently, including that of the executive branch,
18 are well within the range of pay, not only in other states
19 but for California.

20 Now, if we compare it to other counties that don't
21 have a Citizen's Commission and are raising themselves with
22 their own votes, yes, we fall short. But I think that's why
23 this particular Commission was formed, so that it wouldn't
24 be the legislators deciding their salaries on their own.

25 So with that I'm -- unless you have any questions,

1 that pretty much summarizes my position at this point.

2 CHAIRMAN DALZELL: Well, that was a -- a brilliant
3 report. That was -- as they all have been. But really --
4 really well said. And I think that -- I'd like to clarify
5 one thing that I said. When I -- when I mentioned cost of
6 living, I was not talking about increases in the consumer
7 price index. I was -- I was back on the apples versus
8 apples --

9 COMMISSIONER LOPEZ-NOVODOR: Oh, I see.

10 CHAIRMAN DALZELL: -- certainly costs more to live in
11 California than it does in most of Texas. But, yeah, the
12 consumer price index is well below two percent. It's
13 hovering right at one percent. So there -- there -- we
14 are -- the -- the only up side of this is that we are living
15 in a time with very little inflation.

16 COMMISSIONER STITES: Mr. Chairman, may I make one
17 other comment on that report, on -- in terms of salaries.

18 You asked about the retirement benefits, and I think
19 it's very important that we do include them, at least in
20 terms of understanding what other people get. And at the
21 same time, you know, when the people of California voted not
22 to give legislative members retirement benefits, presumably
23 they didn't mean for us to -- to, therefore, take all that
24 money and put it back into cash compensation so that we're
25 continuing to look at apples to apples. That being said,

1 it's -- it's an important -- it's an important thing to
2 think about.

3 There is one other element that I think supports base
4 salaries and what we do pay. If you look at New York, for
5 instance, New York has I think something like 200 or 220
6 legislators. And if you actually look at the number of
7 constituents that each of them has, it's something like --
8 on the Assembly side it's 150,000, 140,000, something like
9 that, as opposed to over 400,000 for each of our California
10 legislators. So you can well argue that -- that the job is
11 bigger here because there are more constituents. And I
12 think that has to be weighed in as a factor also among all
13 the things that -- that -- that you had mentioned.

14 That being said -- and, frankly, if I looked at the
15 numbers, I -- I -- I have a -- I support the comment that
16 it's very difficult for me to see the -- the number doesn't
17 look bad. In fact, we took -- we took them down 18 percent.

18 Where I come out, where I have trouble is the
19 economy, because financial condition is always a relevant
20 factor, as you pointed out, in -- in compensation. And it
21 was one of the reasons why last year I recommended that we
22 take salaries down five percent, and my colleagues did not
23 support that, so we didn't do anything.

24 But when Governor Brown is talking about trying to
25 get ten percent reductions out of most departments, most

1 areas of the state this year, I'm certainly not sitting here
2 saying those people that -- that he's trying to get ten
3 percent from are not fairly paid. But we -- we have to find
4 money someplace.

5 And it's -- it still troubles me. It makes it very
6 difficult, it seems to me, to -- for the legislator --
7 legislative members and the governor and others not to have
8 some reduction. The number, frankly, I've been -- very
9 candidly, the number of 12 percent was tossed around
10 earlier. I cannot support a 12-percent reduction. I still
11 lean in the direction of some reduction just because I think
12 you have to lead from the top. And I think it's very
13 difficult to ask other people to cut compensation, and
14 Governor Brown is asking every other group to somehow find a
15 way to cut ten percent without the legislature and the
16 governor taking any kind of a hit. It troubles me.

17 COMMISSIONER LOPEZ-NOVODOR: Mr. Chairman, I -- I did
18 have an additional comment I failed to make.

19 CHAIRMAN DALZELL: Please.

20 COMMISSIONER LOPEZ-NOVODOR: I do believe that the
21 salaries are still a little vulnerable, as one area is when
22 the budget is finalized and the state or someone else is
23 asked to take a cut of some kind. I think this Commission
24 should take a look at what this leadership dictates in terms
25 of the salary and compensation. That's one area of

1 vulnerability.

2 Another has to do with contributions that
3 (unintelligible) for pensions in other states. If there
4 seems to be a change in that reimbursement, then these
5 numbers become a little skewed, a little high.

6 So those are two areas that I think this Commission
7 should just look at cautiously for the sake of leadership
8 going forward.

9 CHAIRMAN DALZELL: Thank you.

10 Commissioner Somers, did you have a --

11 COMMISSIONER SOMERS: Yes. And then I have -- yes,
12 thank you.

13 (Speaking over each other).

14 COMMISSIONER SOMERS: I -- on the benefits side, my
15 report is on the insurance-related benefits side, of with --
16 of which health benefits are the 800-pound gorilla in that,
17 you know, 80 to 85 percent of what -- everything there is,
18 health benefits.

19 We took that down -- we took the states -- just to be
20 clear, two years ago we took the state's contribution to
21 health and a couple of other related benefits down by 18
22 percent. We did not say that the employees have to pay an
23 additional 18 percent. We basically left it up to the
24 employees in the state to come up with other options that
25 hopefully could reduce the ultimate cost to -- to employees.

1 We also then pegged that last year. Basically we
2 retained the 18 percent, but we allowed for this year and
3 future years for adjustments to reflect increases as they
4 need to occur so that they're not stuck at a certain level.

5 The DPA tells me that -- based on the reduction over
6 the last two years that the average state employee
7 contributes -- well, they used to contribute roughly ten
8 percent, that number is now 30 percent. And the number that
9 the -- that we're provided here of five thousand seven
10 seventeen, while it's higher than some of the other states,
11 we know that insurance -- particularly health insurance in
12 California is higher. And given how much employees are --
13 are -- are paying, I recommend no change to that.

14 CHAIRMAN DALZELL: Thank you. We would now turn to
15 Commission discussion and vote on state officer
16 compensation.

17 I anticipate at least four different motions --

18 MS. BALDWIN: Excuse me.

19 CHAIRMAN DALZELL: Yes.

20 MS. BALDWIN: We -- we may have to take a break, a
21 few-minute break.

22 CHAIRMAN DALZELL: Oh, for the court reporter?

23 MS. BALDWIN: For the -- yes.

24 CHAIRMAN DALZELL: Sure.

25 MS. BALDWIN: Since we've been -- we've been going

1 since -- can we break now?

2 CHAIRMAN DALZELL: Sure.

3 MS. BALDWIN: Can we break now?

4 (Break in proceedings)

5 (End of tape one, side B)

6 CHAIRMAN DALZELL: All right, back in session after a
7 brief pause for -- for the court reporter.

8 What I was starting to say is that I anticipate
9 several motions that would -- in the eye of reform, the
10 resolution that this Commission is charged with -- coming up
11 with before June 30th. I anticipate a motion with respect
12 to the travel, I anticipate a motion with respect to
13 salaries, and I anticipate a motion with respect to
14 benefits. And it may be that some of those are status quo,
15 preserved for another year, but I anticipate at least three
16 different motions.

17 And as I understand Commission -- Commissioner Sands'
18 recommendation, that would not take the form, I don't think,
19 of -- of being part of the resolution, but, rather, asking a
20 sister agency for their opinion on -- on certain issues.

21 And so -- so three different motions. And I think
22 that based on the Chief Counsel memorandum of June 15th,
23 2009 on travel expenses, there is at least some question as
24 to our legal ground to proceed on that one issue.

25 I would prefer proceeding on all the issues at once

1 rather than piecemealing. I believe in fact-based decision
2 making and legal decision making. And I -- Commissioner
3 Murray has done a very good job with the comparison. I
4 think we'd want to double check it against the numbers
5 provided by the Commission staff so that we -- we're not
6 arguing about numbers, we're making policy based upon our
7 belief of what is best for the citizens of California.

8 So it would be my preference that we schedule another
9 meeting in the month of May and come back together with
10 legal guidance and -- and I think that the -- what -- what
11 Commissioner Murray mentioned about having spoken with the
12 author of the initiative, I'm not sure that's something that
13 was taken into consideration by Chief Counsel Curtis or
14 Assistant Chief Counsel Mayhew when they wrote their opinion
15 in 2009. I think everything should be considered.

16 So that -- that is my preference. And I really defer
17 to -- to my fellow commissioner members on whether they
18 think that that is an appropriate way to proceed. So the
19 idea would be don't do things piecemeal, do them all at the
20 same time. Because it may be that if we are given strong
21 legal guidance saying you may not go into this one area,
22 that will inform our decision on other areas.

23 So I would ask for guidance from the DPA, further
24 legal guidance on the issue of travel expenses and -- and
25 send them to the -- to the proposition, to the initiative's

1 author.

2 And also, it is possible that we perhaps could get
3 something back from the State Franchise Tax Board within a
4 month, although I don't know if they move that quickly. But
5 we could certainly ask for it and -- and reconvene and
6 address all issues in May. That would be my preference.

7 COMMISSIONER STITES: Mr. Chairman?

8 CHAIRMAN DALZELL: Sir.

9 COMMISSIONER STITES: I believe that is ground
10 already covered. Two years ago these questions came up.
11 And, actually, last year the author of the bill did come
12 forward. But when this bill was constructed and devised,
13 there were benefits then -- the benefits now being enjoyed
14 were not there then.

15 And as you know, with any legislation, any law, it
16 always adapts itself. We're talking about compensation.
17 When I look in Websters, compen says -- says money, any --
18 any benefit you get, whether it's a fringe benefit or it's
19 an actual salary issue. Everything that this body has ruled
20 on or taking a -- taken a stand on in my mind is
21 compensation.

22 We can go to the attorneys, and the attorneys change,
23 and you'll get different opinions. And I'm sure Jerry
24 Brown, now that he's Governor, may have a different opinion
25 than he did when he was an Attorney General. The actions

1 that we take as -- as this board should not be delayed
2 waiting on another legal opinion.

3 The legal opinion, or, actually, the opinion that
4 counts is the public. And if you've seen the mail that
5 we've gotten, we received, the e-mails and just in my
6 private conversations with people who know and know I'm --
7 what position I'm on this board, what we recommend here is
8 very much more than -- in benefits and salary than what the
9 public would like to see the legislature have.

10 So I don't think -- I think -- frankly, I think it
11 just delays the process. We wait another two months, we
12 come up with another legal opinion. One of our legislators
13 decided to file a claim and challenge that. He had full
14 option to pursue a suit if he wanted to. He didn't. So
15 that in my mind is telling.

16 I -- I would suggest that we move forward. If
17 there's motions to be made, we vote now. And if someone
18 comes later, or they come up with an opinion, then let them
19 run it up to the Supreme Court and we'll see how it lays.

20 CHAIRMAN DALZELL: Well, the only opinion I have in
21 front of me on the issue of travel expenses says thou shalt
22 not. And I -- I would like to see the subsequent opinion.
23 I don't think we have it here today, if it exists. But I'm
24 a lawyer and maybe a little bit more cautious than you.
25 When I have the Department of Personnel Administration Chief

1 Counsel from Governor Schwarzenegger saying all other
2 benefits, including travel expenses, are not within the
3 Commission's adjustment power, I stop there. But --

4 COMMISSIONER MURRAY: If I could add a point.

5 CHAIRMAN DALZELL: Go ahead, sure.

6 COMMISSIONER MURRAY: Excuse me. Just since -- since
7 I was in that chair for a while.

8 In -- in the business world, in the small business
9 world and even in the corporate business you go to a lawyer
10 to get an opinion that you want. Okay, that's the way it
11 works. You can get any opinion to say anything you want as
12 long as you go to the right lawyer with -- with -- with all
13 due respect to the legal profession. I mean that -- that is
14 the way it works.

15 We have gone through this, and I think we have enough
16 of a track record based on what we have done in the past and
17 the precedents we have settled. Our 18 percent
18 across-the-board cut wasn't -- wasn't offered -- challenged
19 by anybody within the state. That is, the employee benefits
20 side did the pay cuts, got -- spent endless hours working
21 with them on the various plans they have on how to cut the
22 insurance benefits or how to offer other insurance benefits.

23 As far as -- as the per diem is concerned, we cut
24 that 18 points. No one complained. It was put in place and
25 done. I would think if there was some objection, someone in

1 the state would say, hey, you don't have the power to do
2 this. And no one raised their hand.

3 CHAIRMAN DALZELL: I'm focusing on travel allowance,
4 I'm not focusing on per diem.

5 COMMISSIONER MURRAY: Okay.

6 CHAIRMAN DALZELL: Because as I understand the per
7 diem recommendation from Commissioner Sands is -- is not an
8 alteration, it's -- it's seeking guidance from a sister
9 agency.

10 COMMISSIONER MURRAY: Right.

11 CHAIRMAN DALZELL: So my comments are limited to
12 the -- to the travel expenses.

13 COMMISSIONER MURRAY: No, I would agree, but -- but I
14 believe last time we -- I believe we cut the car
15 allowance --

16 COMMISSIONER SANDS: Mm-hmm.

17 COMMISSIONER MURRAY: -- 18 percent last time.

18 COMMISSIONER SANDS: Yeah.

19 COMMISSIONER MURRAY: And -- we --

20 COMMISSIONER SANDS: Yeah. Yeah, we've really been
21 all over this.

22 COMMISSIONER MURRAY: -- regardless of this, the
23 state approved it, and the state cut the travel allowance.
24 So I mean we have -- you know, not to play lawyer, because
25 I'm not, but prima facie evidence out there that it has been

1 accepted by the State of California that we have the power
2 to do it.

3 Now I understand what you're saying, and I understand
4 how you want to be right and firm and so on and so forth. I
5 would propose that we pass a resolution and then let it go
6 through the process and have the challenges come up as they
7 have in the past and we want rather than, oh, go ahead,
8 let's postpone it, postpone it, and then we don't -- we end
9 our term and it's too late and other members can make it --
10 I -- oh, I know John Stites is -- has an obligation where he
11 has to be overseas for about a month so he probably won't be
12 able to make the meeting in May. So we are --

13 COMMISSIONER SANDS: I really have an issue with that
14 also in May. We only have a few days.

15 COMMISSIONER MURRAY: So I mean it's -- it's -- I
16 mean we're -- we're -- and I understand what you're saying
17 and I understand why you're saying it, but on our
18 Commission, like yourself, we're business people. We work
19 for corporations, we have our own corporations, we work
20 from a -- we have other schedules. It's hard enough to get
21 us together for one meeting and get us to agree on something
22 at one meeting rather than say let's put it on the shelf and
23 speak about it again. I'd rather -- my vote would be to get
24 a resolution passed and then let it, oh, be challenged. And
25 if it is challenged and if the challenge is valid, then we

1 opt to hold another meeting at (unintelligible).

2 CHAIRMAN DALZELL: Well --

3 COMMISSIONER SOMERS: Mr. Chairman, may I make a
4 comment?

5 CHAIRMAN DALZELL: Please.

6 COMMISSIONER SOMERS: Historically -- historically.
7 I've been on this Commission now for -- this is my third
8 year. And I think we usually have had what I would consider
9 a preliminary meeting which is what this meeting I think is.
10 And -- and then we have a final meeting, and typically it's
11 been in June I think, but May would be fine with me.

12 And part of -- so I guess I would -- I would be in
13 favor of a second meeting on any of these issues that you
14 think are -- you know, we should be exploring further. But
15 partly because we are not permitted to talk with each other
16 as a group I find this first meeting kind of very helpful
17 just to sort of see what other people have been doing and --
18 and I think it's useful to have some reflection time in
19 between and -- and ultimately have a final.

20 And, for instance, on the issue of -- some of these
21 other issues, there clearly are issues about whether we have
22 prerogative to do some of these things. I -- I remain a
23 little bit troubled on the -- on the car thing. John,
24 you've done a lot of work on that, but I think I still heard
25 the question of, you know, if we're at 36 cents as opposed

1 to 50 cents, are -- are we saving money by -- by getting rid
2 of cars. And -- and I don't know that we've seen the final
3 analysis on that. And I -- I guess I would feel
4 uncomfortable voting on it unless we really make sure that
5 we've buttoned everything up there.

6 COMMISSIONER STITES: If I may interject. The
7 question here is not to put them on a mileage system, it's
8 to give them a flat allowance. One month, a dollar sum.

9 COMMISSIONER SOMERS: But didn't you say that you
10 hadn't included the car, the car price -- the cost of the
11 cars were not included in your analysis?

12 COMMISSIONER STITES: No, the cost -- because if you
13 went to 6.9 million over a five-year projection, the cost of
14 the cars were placed in there. And that's the only way we
15 could go with it. And I base that upon the members who now
16 have a vehicle that was purchased. That may change in the
17 future. So it -- it's statistics. You know, they
18 fluctuate.

19 It -- but what I'm saying is -- and I don't know why
20 this issue keeps coming up about mileage. We're not
21 offering -- I -- I wouldn't make a suggestion or a
22 recommendation to offer them a mileage program. I just say
23 give them a flat car allowance. That's exactly what private
24 industry does. And most private industry's gotten away from
25 that. So they couldn't get a -- they could not get a flat

1 allowance and mileage. So it would be one or the other.

2 But I'm not suggesting a mileage. That's 51 cents a mile.

3 And there's no way to -- there's no process in place
4 to determine whether or not the vehicle's being used for
5 business or for private issues. There's no -- they don't
6 record it. It's an honor system. I'm not saying anybody
7 out there is dishonorable, but if I'm going to sit here
8 and -- and make a suggestion, I wouldn't do a mileage.
9 There's just no process for it.

10 COMMISSIONER SANDS: Well, can you say what you would
11 be recommending as a car allowance?

12 COMMISSIONER STITES: Three hundred bucks.

13 COMMISSIONER SANDS: That's got to save a lot of
14 money.

15 COMMISSIONER STITES: Well, I -- at -- in the figures
16 it would save a little bit more than half of the cost, and
17 that's not even a -- including the cost of the vehicles.

18 COMMISSIONER LOPEZ-NOVODOR: Three hundred per what?

19 COMMISSIONER STITES: Three per member --

20 COMMISSIONER SANDS: A month.

21 COMMISSIONER STITES: -- per month.

22 And if -- if I -- Mr. Chairman, I don't want to
23 belabor this, but the cost for 300 monthly with 120
24 members -- and, now, you also understand that some of those
25 members are not using cars. This may change their mind,

1 they'll take the allowance. It would cost us 2.1 million
2 projected over five years.

3 Now, with the -- with the current costs, excluding
4 the cost of the vehicles, it's costing us 4.4. million.

5 COMMISSIONER SANDS: Yeah, that saves a lot.

6 COMMISSIONER STITES: And if you include the cost of
7 the vehicles, that kicks it up to 6.9. So we're saving 2.2
8 million by going to a standard flat monthly allowance.

9 CHAIRMAN MURRAY: If I could add a point,
10 Mr. Chairman.

11 CHAIRMAN DALZELL: Please.

12 COMMISSIONER MURRAY: I think one thing that hasn't
13 been calculated back in, we have state personnel that
14 administer the claim program, we have state personnel that
15 audit supposedly all of the mileage program, we have state
16 personnel that handled the leases. I think we have -- have
17 a body count savings within the State of California, all
18 these people, maybe five employees, just to pull a number
19 out of the air, that the state could save because if we went
20 to a flat amount a month, it would just be, you know, half
21 an employee a month and then put it on their expense
22 account. So there's -- on top of the seven million there's
23 an additional cost savings. And I haven't made any of -- of
24 the calculations in -- in that area, but I think it's valid
25 to include it.

1 CHAIRMAN DALZELL: Commissioner Murray, based on your
2 statement that lawyers say what you want them to say, do I
3 then assume that in 2009 you asked the lawyers to tell you
4 that you could not affect travel expenses, and that's what
5 they told you because that's what you wanted to hear?

6 COMMISSIONER MURRAY: No. We didn't get the right
7 lawyer.

8 COMMISSIONER STITES: If there was a question of
9 legality, Mr. Chairman, if there was a question of legality,
10 the state controller would not have done it. I know him
11 personally, and he has no problem with bracing the governor
12 or bracing anyone else when he thinks some kind of conduct
13 is illegal.

14 CHAIRMAN DALZELL: Well, it's --

15 COMMISSIONER STITES: So -- I -- I -- and he has his
16 own legal team. But he went ahead and went through with
17 every recommendation that we made.

18 CHAIRMAN DALZELL: I am -- I am just not used to --
19 to working with a group that is going to flatly ignore
20 advice of their counsel, a written opinion.

21 COMMISSIONER MURRAY: Well, you -- you have -- if
22 I could --

23 CHAIRMAN DALZELL: Please.

24 COMMISSIONER MURRAY: -- step in.

25 You have a legal opinion, and then you have the

1 implementation which was done with the legal opinion
2 published, shall we say. And -- and I think more people
3 looked at this and said do they have the power to do it.
4 And it's yes.

5 I think from a realistic point of view we were ready
6 to owed to down the road. And we have explored if it was
7 bounced back by the state going -- getting outside counsel
8 because they felt very, very strongly that in today's
9 environment compensation in the real world, the private
10 sector, is everything; that is, everything get paid, the
11 benefits, all -- oh, the salary, the car allowance.

12 I mean it -- what -- the travel area, what the state
13 is doing is archaic compared to, one, all the other states.
14 We're the only states, according to The Sacramento Bee, that
15 provides a leased car to their employees. Every corporation
16 that I've talked to, and I've talked to the HR folks, they
17 stopped car allowances and reimbursed mileage and leased
18 cars seven or eight years back.

19 And so I think all we're trying to do is say, one, it
20 is the compensation, and, two, we have to save money, and,
21 three, let's go to -- go to the real world and -- and have a
22 flat fee.

23 CHAIRMAN DALZELL: In none of my comments am I
24 addressing the merits of the travel allowance or of the
25 suggestion that we go to a flat amount. I'm really -- I'm

1 not commenting on that. I am con -- concerned about the
2 legality of what the suggestion is. And as -- although we
3 are called the Compensation Commission, the language in
4 the comp -- in the Constitution doesn't direct us to
5 establish compensation, it directs us to establish annual
6 survey and the medical, dental insurance and other similar
7 benefits.

8 So the -- the language that we're looking at is not
9 compensation, it's other similar benefits. And we have the
10 counsel of DPA saying that this is not another similar
11 benefit. Only -- the only other similar benefits are
12 premium guarantee against loss.

13 COMMISSIONER STITES: Well, what would be a similar
14 benefit? If you give some -- if you purchase a car for
15 someone, then give them the money to pay for it, then give
16 them the money to pay for the gas, maintenance, and oil, why
17 would that not be some kind of compensation?

18 COMMISSIONER SANDS: Oh, yeah.

19 CHAIRMAN DALZELL: It would be some kind of
20 compensation, but that word does not -- is not found in a --

21 COMMISSIONER STITES: Then we fall it into the
22 similar benefit.

23 CHAIRMAN DALZELL: The similar benefits follows
24 premium and guarantee against loss I think is -- is the
25 interpretation of the Chief Counsel of DPA two years ago.

1 If it just said other benefits, boy, you'd have a much
2 better argument, but it says other similar benefits.

3 COMMISSIONER STITES: Okay, again, I'm confused.
4 Because if somebody's paying for my health insurance and my
5 dental care and somebody's paying for my car and fueling it,
6 I would consider that a similar benefit.

7 CHAIRMAN DALZELL: Well, our attorney didn't.

8 COMMISSIONER MURRAY: But -- but to -- to counter
9 that at that time, we had -- we had evidence from -- and
10 I'm -- I'll refer to you, Joan. What is the repository of
11 the college where all the state bills go and --

12 MS. MARKOFF: State Controller, or --

13 COMMISSIONER MURRAY: No, no, there -- oh, there's a
14 college that is the reposit --

15 MS. MARKOFF: Oh, the legislative history, is that
16 what you're talking about?

17 COMMISSIONER MURRAY: Yeah. What's the name of the
18 college that --

19 MS. MARKOFF: I'm not sure --

20 COMMISSIONER MURRAY: -- does that?

21 MS. MARKOFF: -- there's a college, per se.

22 COMMISSIONER MURRAY: There -- where do all the
23 legislative histories go to be archived when they die?
24 There's --

25 COMMISSIONER STITES: The legislative intent

1 histories and all that?

2 COMMISSIONER MURRAY: Right.

3 COMMISSIONER STITES: What's the name of that outfit?

4 MS. MARKOFF: I'm not sure.

5 COMMISSIONER MURRAY: Okay. And anyway, there is a
6 college. The -- the definition of the statute was salaries
7 and fringe benefits. Okay. And there -- there's as many
8 facts on one side as -- as -- as there are on the other.

9 John feels very strongly about this, I feel very
10 strongly about this, that, you know, we can get a legal
11 opinion to say this, so we have one opinion opposing the
12 other. So -- then to -- then May 31st or June 31st comes,
13 and then we're -- we're dead for another year.

14 So I -- I go back to what I said, I'd rather have a
15 resolution and then let someone knock it out. And I know
16 you don't agree with that philosophy. But then -- then wait
17 and wait and wait until someone has an opinion. As I have
18 found out, getting data from -- from the State of California
19 or getting the legal opinions from the State of California
20 aren't that forthcoming. So I think by putting off the
21 resolution all we are doing is -- is ensuring that our
22 Commission has no action this year.

23 COMMISSIONER SANDS: Well, I would --

24 CHAIRMAN DALZELL: I -- I don't know that that -- if
25 the one leads to the other.

1 COMMISSIONER MURRAY: Okay.

2 CHAIRMAN DALZELL: I -- I don't know that it would
3 really take -- I mean this is not the first time there's
4 been two meetings a year. There were two last year, there
5 were three the year before. And I'm not -- I'm not sure
6 that it -- the -- were you going to say something,
7 Commissioner Sands?

8 COMMISSIONER SANDS: Yeah, I'd like, personally, to
9 move ahead with a -- with a resolution, I would.

10 CHAIRMAN DALZELL: All right, well, in -- in my --
11 my -- my first meeting as Chair I am not going to -- I am
12 not going to rule a motion out of order. However, I'll
13 state for the record that I believe that the Commission in
14 addressing this is going against the explicit specific
15 advice -- written advice of the counsel for DPA in terms of
16 its scope. I'll say that for the record, and then we'll
17 proceed.

18 So do we want to -- do we want to get the -- the
19 motions -- I -- I think I hear three motions on salaries,
20 benefits and travel expenses. And then we should take
21 action on Commissioner Sands' -- oh, that would not be part
22 of the resol --

23 COMMISSIONER SANDS: Okay.

24 CHAIRMAN DALZELL: -- part of the resolutions.

25 Should we get all motions out there and discuss them,

1 or do you want to discuss them one at a time?

2 COMMISSIONER LOPEZ-NOVODOR: I think one at a time.

3 CHAIRMAN DALZELL: All right.

4 COMMISSIONER LOPEZ-NOVODOR: One at a time. That's
5 what -- because they're --

6 CHAIRMAN DALZELL: All right.

7 COMMISSIONER LOPEZ-NOVODOR: Yeah, they all have
8 their --

9 CHAIRMAN DALZELL: All right. Well, let's start
10 with -- let's start with salary.

11 COMMISSIONER LOPEZ-NOVODOR: I move that we leave the
12 salaries as is. And if there are changes before June
13 relative to what the governor expects from the entire group,
14 that we consider that at that time.

15 COMMISSIONER STITES: Need a second.

16 CHAIRMAN DALZELL: Yes, a -- a second?

17 COMMISSIONER STITES: I'll second.

18 CHAIRMAN DALZELL: All right, so let me restate the
19 motion.

20 The motion is that the annual salaries for the state
21 officers would continue to be as set forth in the motion of
22 June 16th, 2010.

23 COMMISSIONER SANDS: That's correct.

24 CHAIRMAN DALZELL: All right, is there discussion on
25 the -- on the motion?

1 (Speaking over each other)

2 CHAIRMAN DALZELL: No, go ahead. Go ahead.

3 COMMISSIONER SANDS: No, I didn't have any
4 discussion.

5 COMMISSIONER SOMERS: Oh. Well, I guess I -- I would
6 be interested just in sort of -- we have a motion on the
7 floor, but of knowing where other people stand on it as I --
8 you know, if -- if I were to make a -- a motion or if I were
9 to adjust it, I very reluctantly and strictly on the basis
10 of the financial condition of the state would urge that we
11 lower across the board salaries five percent.

12 CHAIRMAN DALZELL: Are you asking the author to amend
13 her motion, or --

14 COMMISSIONER SOMERS: No, I'm not right now.

15 CHAIRMAN DALZELL: You're -- you're speaking your
16 opinion?

17 COMMISSIONER SOMERS: I'm speaking my opinion.

18 CHAIRMAN DALZELL: All right.

19 Any further discussion from other commissioners?

20 COMMISSIONER SANDS: No. I -- you know, I -- I'm
21 wondering what we're going to do about the travel.

22 COMMISSIONER STITES: That's the next motion.

23 COMMISSIONER SANDS: That's the next motion. But --
24 so . . . I --

25 COMMISSIONER LOPEZ-NOVODOR: Would you like me to

1 postpone my motion until after the discussion on travel?

2 COMMISSIONER SANDS: That's what I'm kind of
3 thinking. I'm just wondering where we're --

4 CHAIRMAN DALZELL: That's fine with -- that's fine
5 with the Chair.

6 COMMISSIONER SANDS: Is that -- is that all right?

7 CHAIRMAN DALZELL: Yes.

8 COMMISSIONER SANDS: I'd like to do that.

9 CHAIRMAN DALZELL: All right.

10 COMMISSIONER LOPEZ-NOVODOR: And I rescind my --

11 COMMISSIONER SANDS: Is that okay, Ruth?

12 COMMISSIONER LOPEZ-NOVODOR: Yeah. I -- I would --

13 COMMISSIONER SANDS: I do -- I do support you, but I
14 would -- and -- but as the five percent, I'd like to see
15 what we're going to do with the travel.

16 COMMISSIONER SOMERS: Mr. Chairman, could we get a --
17 I -- I would be very interested in -- again, because we
18 don't get opinions from -- this is the only time we do.

19 What do other people think about salaries?

20 COMMISSIONER SANDS: Well, you know, I -- I feel that
21 if we do something with the car, that's -- to me is going to
22 be a pretty big hit. And -- but I -- I don't know. The
23 salaries, I really don't think we should take them down
24 anymore. So I guess that's my -- my feeling.

25 CHAIRMAN DALZELL: Commissioner Murray, do you --

1 COMMISSIONER MURRAY: As far as I am concerned, I
2 would agree with Commissioner Sands that let's -- let's
3 leave the status quo now, because the other elements that
4 make up the compensation are -- are going to hopefully be
5 adjusted, and let's look at what comes out as the bottom
6 line.

7 CHAIRMAN DALZELL: Commissioner Stites.

8 COMMISSIONER STITES: I'm fine.

9 COMMISSIONER SANDS: Oh, excuse me.

10 CHAIRMAN DALZELL: All right.

11 COMMISSIONER SANDS: Okay, so we're going to go on to
12 the travel?

13 CHAIRMAN DALZELL: All right, Commissioner Stites,
14 would you like to make a -- a motion with respect to the
15 travel expenses.

16 COMMISSIONER STITES: Well, I -- it's not an issue of
17 travel expenses, it's an issue of vehicles. Travel
18 expenses, as I look through this -- these figures being
19 given to, there's still auto rentals going on, people are
20 renting vehicles and the like when they feel the need. So I
21 think basically alls we're discussing here is the -- the
22 current process and how to make it more effective and fair,
23 especially to the California taxpayers.

24 So my motion is that all legislative members receive
25 a \$300 monthly allowance that they can apply toward the cost

1 of using their vehicles, their own vehicles.

2 CHAIRMAN DALZELL: Is there a second for that motion?

3 COMMISSIONER MURRAY: I'll second it, but I'll ask a
4 question.

5 That would -- that would mean every other -- every
6 other element of the travel expenses is -- is eliminated as
7 of that date; i.e., oh, the gas cards are gone, they have to
8 buy their car or get another car and turn it back to the
9 state as of a certain point in time. Is that correct?

10 COMMISSIONER STITES: Yes.

11 COMMISSIONER MURRAY: Okay.

12 COMMISSIONER STITES: We're simplifying a process
13 that's --

14 COMMISSIONER MURRAY: Right.

15 COMMISSIONER STITES: -- very complicated.

16 COMMISSIONER LOPEZ-NOVODOR: When would it be
17 effective?

18 (End of tape 2, side A)

19 CHAIRMAN DALZELL: Let's say for discussion here I'd
20 look at when -- what is in -- in the statute. We do
21 everything effective as of the next election day, or the
22 next --

23 COMMISSIONER STITES: Yeah, but that was ruled by AG
24 Brown that it would be December. So I would assume it will
25 happen in December.

1 COMMISSIONER MURRAY: Oh, December 1st or December
2 3rd or --

3 COMMISSIONER LOPEZ-NOVODOR: That's the first Monday
4 in December.

5 COMMISSIONER STITES: Right.

6 COMMISSIONER MURRAY: The first Monday in December.

7 COMMISSIONER SANDS: And are car allowances taxable?
8 It seems to me mine was when I had a car allowance. Are
9 they taxable? Do you know that?

10 MALE VOICE: I -- they generally are taxable.

11 COMMISSIONER SANDS: They are?

12 MALE VOICE: Yes.

13 COMMISSIONER MURRAY: I -- I believe it's shown in
14 the special box on the W-2.

15 COMMISSIONER LOPEZ-NOVODOR: Okay. May I ask a
16 question?

17 CHAIRMAN DALZELL: Yes, sure.

18 COMMISSIONER LOPEZ-NOVODOR: The 300, is that what --
19 on the spreadsheet that we received, which mine is real tiny
20 on my iPhone, I saw \$5,400. How does this -- for automobile
21 expense. Did I read that wrong on that spreadsheet --

22 CHAIRMAN MURRAY: I don't know which sheet you're
23 referring to?

24 COMMISSIONER LOPEZ-NOVODOR: -- that they gave us?
25 It says auto, \$5,400. Here's auto, \$5,400, okay, which

1 contributes to the total compensation of \$106,408.46.

2 What is that number?

3 FEMALE VOICE: The \$5,400?

4 COMMISSIONER LOPEZ-NOVODOR: Yes.

5 FEMALE VOICE: I believe that's the amount that the
6 state pays up to 90 percent, I believe, or \$5,400 for the
7 automobile, their state --

8 COMMISSIONER LOPEZ-NOVODOR: Per year?

9 FEMALE VOICE: -- payment. Right.

10 CHAIRMAN DALZELL: Strictly relates to the car lease?

11 FEMALE VOICE: Right.

12 CHAIRMAN DALZELL: Okay.

13 COMMISSIONER STITES: And it depends on the cost of
14 the vehicle, it depends on which plan they go under. They
15 have a three-year and a four-year plan.

16 FEMALE VOICE: Right.

17 (Speaking over each other)

18 COMMISSIONER STITES: It's a very complicated process
19 on both sides.

20 COMMISSIONER LOPEZ-NOVODOR: Well, it is for me,
21 because I'm not a (unintelligible) person.

22 FEMALE VOICE: And everyone has this option.

23 COMMISSIONER STITES: Yes.

24 FEMALE VOICE: All legislators have this option? So
25 you're reducing effectively that number to 3600, worst case.

1 COMMISSIONER STITES: Well, actually, some will see
2 an increase, because some are getting less than 300 right
3 now.

4 CHAIRMAN DALZELL: For the purposes of the survey,
5 we're showing 5400. We're assuming that everyone takes it.
6 Or it's --

7 COMMISSIONER STITES: They don't.

8 CHAIRMAN DALZELL: I know that they don't.

9 COMMISSIONER STITES: Right.

10 CHAIRMAN DALZELL: But for the purposes of the
11 survey, I think we're assuming that they do, that -- that
12 shows the 5400.

13 COMMISSIONER STITES: My numbers didn't reflect that.
14 I only put the numbers in that I received from them at who
15 was actually using the vehicle and what the average cost
16 was.

17 CHAIR Dalzell: Some individuals will go down, some
18 individuals will go up. On the aggregate it would go down
19 from 5400 to 3600.

20 COMMISSIONER LOPEZ-NOVODOR: That was my question.

21 COMMISSIONER STITES: Yeah, okay. Again, it's
22 statistics.

23 COMMISSIONER LOPEZ-NOVODOR: And that number does not
24 include things such as gas cards --

25 COMMISSIONER STITES: Apparently not.

1 FEMALE VOICE: No.

2 COMMISSIONER STITES: No, it wouldn't. Because they
3 are -- the other figures that were received from the
4 California legislature actually reflected a 7300 and 7500
5 for the Senate. So it wouldn't include, I guess, cost of
6 insurance, repairs, gas, oil, and all that.

7 CHAIRMAN DALZELL: And as I understand your motion,
8 Commissioner, you are proposing a -- a flat amount for five
9 years without any escalated for increase in costs of living?

10 COMMISSIONER STITES: It's a flat amount. We review
11 it every year.

12 CHAIRMAN DALZELL: So it's not for five years, it's a
13 flat --

14 COMMISSIONER STITES: No.

15 CHAIRMAN DALZELL: Okay.

16 COMMISSIONER STITES: The -- my figures were --

17 CHAIRMAN DALZELL: The savings were projected out
18 over five years --

19 COMMISSIONER STITES: Five years.

20 CHAIRMAN DALZELL: -- but you were propose -- okay.

21 COMMISSIONER STITES: I can give you an annual
22 savings too.

23 CHAIRMAN DALZELL: Yeah.

24 COMMISSIONER STITES: But, you know, it's --

25 CHAIRMAN DALZELL: So, actually, why don't you.

1 COMMISSIONER STITES: Annual savings was -- just
2 based upon the costs that were reflected here were \$495,000
3 for the Assembly, and the Senate was two forty -- \$240,000
4 savings. So put that together and what have we got? I need
5 a math major.

6 COMMISSIONER SANDS: Four, five, seven --

7 COMMISSIONER STITES: A little over 700 grand.

8 COMMISSIONER SANDS: -- thirty-five.

9 CHAIRMAN DALZELL: All right.

10 COMMISSIONER STITES: So that's an annual savings.

11 COMMISSIONER LOPEZ-NOVODOR: Of 700,000.

12 COMMISSIONER STITES: Mm-hmm.

13 COMMISSIONER LOPEZ-NOVODOR: That's good.

14 COMMISSIONER STITES: That's quite a bit of money.

15 COMMISSIONER LOPEZ-NOVODOR: Divided by how many
16 legislators?

17 COMMISSIONER SANDS: I have no questions.

18 COMMISSIONER LOPEZ-NOVODOR: I would call for the
19 question.

20 CHAIRMAN DALZELL: All right. Do you all understand
21 the motion? The motion is a flat \$300 a month to be
22 substituted for the existing policy of allowance, insurance,
23 repairs, gas and oil.

24 COMMISSIONER STITES: And vehicle purchase, Rules
25 Committee paying for their -- yeah.

1 CHAIRMAN DALZELL: All right. And that's the only --
2 this is the -- only meant to address that portion of the
3 travel expenses, it does not address the other portions of
4 it. This is in lieu of the -- the leased car option.

5 COMMISSIONER STITES: Yes.

6 CHAIRMAN DALZELL: In place of.

7 All right, those in favor please state aye.

8 (Multiple voices saying aye).

9 CHAIRMAN DALZELL: All right, and as -- as Chair, it
10 does not appear that there was a tie, so I will not vote.
11 It appears it was unanimous minus the Chair. And I'll,
12 again, state for the record that I believe that we are
13 trying to effect something which our counsel has told us we
14 may not effect.

15 Now, shall we return to the -- shall we return to the
16 salary?

17 COMMISSIONER LOPEZ-NOVODOR: Yes, let's do that.

18 CHAIRMAN DALZELL: All right. And have -- have we
19 all said our peace on -- on the salary?

20 All right, is there a call for -- call for another
21 question?

22 COMMISSIONER SANDS: Repeat.

23 COMMISSIONER STITES: Well, we have to do --

24 COMMISSIONER SOMERS: All right, she has to call --
25 she has to make a motion again --

1 (Speaking over each other)

2 COMMISSIONER LOPEZ-NOVODOR: I recommend that we keep
3 salaries at -- at the same position that we had them last
4 June. And the only exception that I make in my motion is
5 that if there is a call from the Governor or the legislature
6 to impose additional changes on the staff, that that be
7 considered.

8 CHAIRMAN DALZELL: That we reconvene?

9 COMMISSIONER LOPEZ-NOVODOR: We reconvene --

10 CHAIRMAN DALZELL: Prior to June 30th.

11 COMMISSIONER LOPEZ-NOVODOR: Right.

12 COMMISSIONER STITES: I'll second.

13 CHAIRMAN DALZELL: All right, there's a second on the
14 motion?

15 COMMISSIONER MURRAY: Second.

16 CHAIRMAN DALZELL: All right. Any further
17 discussion?

18 Those in favor please state aye.

19 (Multiple voices saying aye)

20 CHAIRMAN DALZELL: No. Again, it does not appear
21 there's a tie. I will not vote. The motion carries.

22 Commissioner Somers do you have a motion with respect
23 to benefits?

24 COMMISSIONER SOMERS: Yes. I make the motion that we
25 retain -- that we do not make any adjustments -- let me get

1 this right. That we -- that the 18 percent reduction that
2 we made two years ago remains in effect, otherwise all state
3 employees -- sorry -- all -- all of the individuals that we
4 are responsible for are eligible for increases provided by
5 the state to reflect increased costs of the state.

6 CHAIRMAN DALZELL: And are you propose --

7 COMMISSIONER SOMERS: -- (unintelligible) cost of
8 insurance.

9 CHAIRMAN DALZELL: Are you proposing to restate the
10 motion, that we use the language from June 2010?

11 COMMISSIONER SOMERS: I'm -- I'm fine with using that
12 language.

13 CHAIRMAN DALZELL: All right.

14 COMMISSIONER LOPEZ-NOVODOR: Did you hear that?

15 COMMISSIONER SANDS: No.

16 FEMALE VOICE: They're going -- can you restate that
17 for her so she hears about the language, what you just said.

18 COMMISSIONER LOPEZ-NOVODOR: I -- I did not hear what
19 you were saying.

20 CHAIRMAN DALZELL: Who, me? Who, sir, me, sir?

21 FEMALE VOICE: You said are you okay with using the
22 language from the --

23 CHAIRMAN DALZELL: From the June 16th 2010, salary
24 and benefit resolution, I am specifically looking at
25 paragraphs two, three and four of that motion -- of that

1 resolution that deal with the health benefits, dental,
2 vision, life insurance, dental, vision, long-term
3 disability.

4 COMMISSIONER MURRAY: Two, three and four?

5 CHAIRMAN DALZELL: Two, three, and four.

6 COMMISSIONER SOMERS: I propose to use that same
7 language for the adoption of our treatment board
8 insurance-related benefits this year.

9 CHAIRMAN DALZELL: All right, and there's a second?
10 (Multiple voices saying second).

11 COMMISSIONER MURRAY: I have a question.

12 COMMISSIONER SANDS: Oh, questions.

13 COMMISSIONER MURRAY: Item four -- sorry about that.

14 CHAIRMAN DALZELL: Yes.

15 COMMISSIONER MURRAY: Item four refers to 18 percent
16 reduction.

17 CHAIRMAN DALZELL: Oh, we do?

18 COMMISSIONER MURRAY: Are you sure you want to
19 include that?

20 CHAIRMAN DALZELL: Well, that's from the amounts in
21 effect on July 1 --

22 COMMISSIONER SOMERS: Exactly.

23 CHAIRMAN DALZELL: -- 2009.

24 COMMISSIONER SOMERS: That -- that's included.

25 Essentially that becomes a built-in --

1 COMMISSIONER MURRAY: Okay.

2 COMMISSIONER SOMERS: -- one-time adjustment.

3 CHAIRMAN DALZELL: So we're carrying forward that
4 one-time adjustment.

5 COMMISSIONER SOMERS: Okay, exactly.

6 COMMISSIONER LOPEZ-NOVODOR: What? Go ahead. Do you
7 have a question?

8 COMMISSIONER SANDS: You probably need the speaker
9 up.

10 MR. COBB: I'm Ralph Cobb. I'm the Department of
11 Personnel Administration health policy advisor.

12 I just want to make sure that we're clear. In 2009
13 we did an 18-percent reduction health, dental, vision,
14 across the board. And the 2010 resolution, we kept the 18
15 percent reduction for the dental and vision off the
16 reduction from the 2009 rate. So that stayed as a fixed
17 payment.

18 For the health, we moved to a 20 percent reduction
19 off of the formula amount that state managerial employees
20 received because there was concern last year that if we kept
21 everybody frozen -- the health contribution frozen at the
22 2009 level because the extent to which health premiums
23 continue to go up, that it made more sense to gear the
24 reduction to the formula for health so that it would
25 continue to track the premiums.

1 CHAIRMAN DALZELL: That's -- that's paragraph two.

2 COMMISSIONER STITES: Right.

3 CHAIRMAN DALZELL: So the motion, as I restate it,
4 and correct me -- if the author will correct me if I'm
5 wrong -- is to carry forward paragraphs two, three and four
6 from the June 16th, 2010 salary and benefit resolution for
7 the year beginning December 2011.

8 Is that your motion, sir?

9 COMMISSIONER STITES: Does that make sense to you?

10 COMMISSIONER MURRAY: Mm-hmm.

11 CHAIRMAN DALZELL: Does that make sense?

12 COMMISSIONER SOMERS: Just to make sure I'm clear
13 on --

14 CHAIRMAN DALZELL: Carry forward paragraphs two,
15 three and four of the June 16th, 2010 salary and benefit
16 resolution.

17 COMMISSIONER LOPEZ-NOVODOR: Okay.

18 COMMISSIONER SOMERS: That's exactly --
19 (Speaking over each other).

20 COMMISSIONER MURRAY: That makes sense.

21 CHAIRMAN DALZELL: -- for the year beginning December
22 blank 2011.

23 COMMISSIONER SOMERS: Doesn't that do it, Ralph?

24 MR. COBB: Yes.

25 COMMISSIONER SOMERS: Okay. Okay, yes.

1 CHAIRMAN DALZELL: All right. So that is a motion.
2 And there's a second?

3 COMMISSIONER SOMERS: There's a second.

4 COMMISSIONER SANDS: Second.

5 CHAIRMAN DALZELL: All right. And discussion?
6 Those in favor?

7 (Multiple voices saying aye).

8 CHAIRMAN DALZELL: Those opposed?

9 For a third time no tie, so no vote from the Chair.
10 Motion carries.

11 I would ask a parliamentarian, which may or may not
12 be you, Commissioner Sands had several requests for guidance
13 from the state Franchise Tax Board on the issue -- per diem
14 issues. Not taking action, but I think -- do you want to
15 restate those -- restate those? And then -- and then the
16 question to the parliamentarian is do we need a motion to --
17 to ask for this guidance, or can we take it upon ourselves?

18 FEMALE VOICE: From what I understand from
19 Ms. Baldwin based on past practice here this -- this would
20 not be a motion. This would be a request to get a -- a
21 staff report.

22 Is -- is that everybody's understanding?

23 CHAIRMAN DALZELL: Okay.

24 FEMALE VOICE: And so she would just convey what she
25 would like Debbie Baldwin to seek, and we can provide it.

1 CHAIRMAN DALZELL: I think that if you state it for
2 the record, you'll probably get a unanimous Commission
3 supporting it so it's not a single commissioner asking for
4 it.

5 FEMALE VOICE: Yeah.

6 CHAIRMAN DALZELL: But if you restate it --

7 COMMISSIONER SANDS: One thing I -- I have in the
8 past had a motion to leave the per diem status quo also. I
9 don't need do that this time? We have had a motion for it
10 in the past.

11 CHAIRMAN DALZELL: Let's -- let's -- let's -- let's
12 do that.

13 COMMISSIONER SANDS: Is that all right?

14 CHAIRMAN DALZELL: Yeah, I mean I -- again, I --

15 COMMISSIONER SANDS: I mean in the past. So I'll
16 move -- I'll make a motion that I feel the per diems are in
17 line and that I would -- I'll recommend that they stay
18 status quo.

19 CHAIRMAN DALZELL: Is there a second for the motion?

20 COMMISSIONER MURRAY: Second.

21 CHAIRMAN DALZELL: Discussion?

22 Those in favor?

23 (Multiple voices saying aye).

24 CHAIRMAN DALZELL: Those opposed?

25 The motion carries.

1 COMMISSIONER SANDS: Okay.

2 CHAIRMAN DALZELL: All right, so please state your --

3 COMMISSIONER SANDS: And I'd ask for my -- yeah, my
4 request.

5 CHAIRMAN DALZELL: -- the staff request.

6 COMMISSIONER SANDS: Yeah, was to have staff prepare
7 a letter to the Franchise Tax Board for our Chairman to sign
8 asking for a legal opinion or -- or a similar document
9 asking whether the legislators' per diem should be taxable.
10 And if there's a way to ensure that if they are not paid,
11 that if -- to ensure that they are not paid per diems if
12 they do not physically attend a scheduled session. If they
13 are sick or they are out of town, they should not be paid
14 per diems. That's a question. And if they should or --
15 should or should not have excused absences. So that would
16 be my question.

17 CHAIRMAN DALZELL: Questions.

18 COMMISSIONER LOPEZ-NOVODOR: Do you want to repeat
19 them back?

20 CHAIRMAN DALZELL: I -- I will happily sign such a
21 letter.

22 COMMISSIONER SANDS: Okay, thank you.

23 CHAIRMAN DALZELL: Do -- do any of the other
24 commissioners want to speak on that? And I think it's --
25 they're all good questions.

1 FEMALE VOICE: Kathy, you will send me a copy of
2 the --

3 COMMISSIONER SANDS: Okay.

4 FEMALE VOICE: -- motion so I have that with this?

5 COMMISSIONER SANDS: Okay, all right. I'll e-mail it
6 then.

7 FEMALE VOICE: As it takes -- it takes a while to get
8 the meeting minutes.

9 COMMISSIONER SANDS: Yeah, sure.

10 CHAIRMAN DALZELL: As the -- as the novice here, I
11 believe that we have covered the issues that we need to
12 cover for -- on the voting on the state officer
13 compensation. That would leave us for additional discussion
14 by Commission members.

15 Is there any?

16 COMMISSIONER SANDS: So this means we're not going to
17 have another meeting?

18 CHAIRMAN DALZELL: Unless I -- I -- I think we'll
19 honor the suggestion from Commissioner Navarro (phonetic)
20 that --

21 COMMISSIONER LOPEZ-NOVODOR: Novodor.

22 CHAIRMAN DALZELL: Nov -- say it.

23 COMMISSIONER LOPEZ-NOVODOR: Novodor.

24 CHAIRMAN DALZELL: Novodor.

25 COMMISSIONER LOPEZ-NOVODOR: It's okay. We're --

1 CHAIRMAN DALZELL: I apologize.

2 COMMISSIONER LOPEZ-NOVODOR: I'm usually not
3 (unintelligible).

4 CHAIRMAN DALZELL: -- that if the -- if between now
5 and June 30th the -- the budget is adopted and calls for
6 further cuts in salaries, that we would -- of state
7 employees that we would reconvene, in the unlikely event.
8 But so there will -- there will not be a second meeting
9 unless that precondition takes place, and then we'll try to
10 move very quickly and -- and see what should -- well, what
11 our response should be. So no second meeting.

12 COMMISSIONER MURRAY: I -- I would not -- I would not
13 restrict having a second meeting just on that one basis,
14 because a lot can happen in three months.

15 CHAIRMAN DALZELL: Okay. I am -- I am happy -- I am
16 happy to -- at the request of one commissioner I am happy to
17 reconvene if there have been changed -- changed
18 circumstances --

19 COMMISSIONER LOPEZ-NOVODOR: Yeah, I think --

20 CHAIRMAN DALZELL: -- rather than changed thinking,
21 but changed circumstances, yes. And -- and a lot can
22 happen, and -- and probably not a lot good. But sometime it
23 will start being good.

24 COMMISSIONER MURRAY: Nothing's good anymore.

25 CHAIRMAN DALZELL: No, I have -- there was something

1 good.

2 All right, anything further from any Commissioner?

3 All right.

4 COMMISSIONER MURRAY: The -- the only thing is -- not
5 to -- not to belabor it, we had a spirited debate on the
6 auto expenses, reducing it, we have a resolution, we have a
7 motion.

8 Is it going to stay there, are we going to let them
9 react to it?

10 CHAIRMAN DALZELL: Yes.

11 COMMISSIONER MURRAY: Okay.

12 CHAIRMAN DALZELL: I -- I -- I said -- I stated my
13 opinion. I did not vote on it.

14 COMMISSIONER MURRAY: Okay.

15 CHAIRMAN DALZELL: It carried. It's there.

16 COMMISSIONER MURRAY: Okay.

17 CHAIRMAN DALZELL: And if they react, they react.

18 COMMISSIONER MURRAY: Okay.

19 CHAIRMAN DALZELL: If they don't, they don't.

20 COMMISSIONER MURRAY: Okay. All right.

21 CHAIRMAN DALZELL: And if somebody reacts, it will
22 probably be a termed-out legislator who's -- who's not --
23 not concerned about the political consequences of
24 challenging it. All right.

25 COMMISSIONER MURRAY: Or a brand new one that has

1 eight years left.

2 CHAIRMAN DALZELL: I don't know. I think -- I think
3 that the Commission -- I -- I did not express my opinion
4 on -- on the merits of the proposal, and I -- and I think
5 that the Commission is taking its charge of representing
6 the -- the taxpayers of California in -- in addressing that.

7 COMMISSIONER MURRAY: Okay.

8 CHAIRMAN DALZELL: All right. Hearing nothing
9 further, we are adjourned.

10 COMMISSIONER LOPEZ-NOVODOR: Thank you.

11 (Speaking over each other)

12 (Voice in background)

13 FEMALE VOICE: We have a problem, Chuck. Would you
14 mind reading the board or the folks trying to record this.

15 COMMISSIONER MURRAY: I -- I can't read, but I
16 will --

17 FEMALE VOICE: We have a copy.

18 COMMISSIONER MURRAY: -- be glad to give you a copy
19 of it.

20 FEMALE VOICE: Okay.

21 (Voice in background).

22 (End of proceedings).

23 ---o0o---

24

25

1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

2 ---o0o---

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