

PUBLIC HEARING  
STATE OF CALIFORNIA  
CALIFORNIA STATE AUDITOR  
BUREAU OF STATE AUDITS

In the Matter of: )  
 )  
Citizens Redistricting Commission )  
 )  
Proposed Regulations )  
\_\_\_\_\_ )

CREST THEATER  
1013 K STREET  
SACRAMENTO, CALIFORNIA

MONDAY, SEPTEMBER 14, 2009

10:00 A.M.

Reported by:  
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CSR No. 13456

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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A P P E A R A N C E S

FOR THE STATE AUDITOR'S OFFICE

- Sharon Reilly, Chief Counsel to the State Auditor
- Steven Russo, Chief of Investigations
- Janis Burnett
- Stefanie Ramirez-Ridgeway

PUBLIC SPEAKERS

- Jim Wright
- Malka Kopell, California Forward
- Douglas Johnson, Rose Institute
- Eugene Lee, Asian Pacific American Legal Center
- Rosalind Gold, NALEO Educational Fund
- Trudy Schafer, League of Women Voters of California
- Derek Cressman, Common Cause
- Sam Walton, NAACP
- Steve Reyes, Kaufman Legal Group
- Kim Alexander, California Voter Foundation
- Peter Van Meter
- Christopher Maricle
- Sam Paredes, Gun Owners of California
- Jeffrey Tartaglia
- Mark Pruner
- Gary Darling

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

2 STATE AUDITOR HOWLE: Good morning. For those of  
3 you who don't know me, my name is Elaine Howle, I'm the  
4 California State Auditor, and I wanted to welcome you to  
5 today's public hearing on our regulations that we've  
6 drafted for the Citizens Redistricting Commission.

7 I want to start out by thanking you for being a  
8 part of the process, a very important process that we're  
9 going through to create this commission that's going to  
10 have such a critical role in establishing districts,  
11 drawing the lines for the assembly, senate, and Board of  
12 Equalization districts, and as we know, will have a  
13 significant impact on the future of our state.

14 As you're aware, I'm sure, the purpose of our  
15 meeting today is to hear your thoughts on the regulations  
16 that my office has drafted, and we're eager to hear what  
17 your thoughts and comments are so that we can improve  
18 those regulations and make them as good as possible and to  
19 continue on the process, this transparent process that  
20 we're using to implement Prop 11.

21 I'm quite proud of the fact that the voters of  
22 California asked my office and actually entrusted my  
23 office with this important role as far as selecting the  
24 commission, but for this to be successful for California,  
25 we need your continued input, not only today, but in the

1 future in assisting us in getting the word out to all  
2 California voters of the importance of this commission and  
3 their role in either applying to be a member of the  
4 commission or just spreading the word to other voters in  
5 California who may be good candidates and good, qualified  
6 individuals to serve on this most important commission.

7           As you know, we drafted the regulations, they  
8 are, as we believe, consistent with the initiative itself,  
9 but as I indicated a few minutes ago, we are very  
10 interested in hearing your comments and your thoughts.  
11 And the ultimate goal is for California, for us to create  
12 a commission that reflects the diversity of our state but  
13 also has individuals who are fully qualified and adept in  
14 being able to draw these districts and make good decisions  
15 as far as the maps for the legislative districts as well  
16 as well as the Board of Equalization districts.

17           As you saw as you walked in, the hearing today is  
18 going to be videotaped, so it will be available. We will  
19 be able to review your comments, not only written comments  
20 that you provide today but certainly watch the video. And  
21 all of the comments that are provided will be posted on  
22 our website, and that's currently BSA.ca.gov, and we have  
23 a redistricting link, navigation link on that website.

24           We will be creating a new website, we are in the  
25 process of doing so, but at this point in time continue to

1 check in the Bureau of State Audits' website for the  
2 comments that we receive today. We will be posting those  
3 responses to those comments, et cetera.

4           With that, I just wanted, again, to thank you for  
5 being engaged in the process and ask your continued  
6 support and continued efforts in helping us reach out to  
7 all Californians, all 17 million voters to keep them  
8 engaged in this most important process.

9           With that I'd like to introduce our panel, my  
10 attorneys in my office who have worked very diligently on  
11 these regs, and they're very excited to hear what your  
12 comments are on the regulations today.

13           To my immediate left is Janis Burnett. To her  
14 left is Steven Russo. Next to Steven is Sharon Reilly, my  
15 chief counsel. And to her left is Stefanie  
16 Ramirez-Ridgeway.

17           So Sharon will be laying out a few of the ground  
18 rules. As you are aware, you came in, we're taking people  
19 in the sign-in order, but Sharon has a few other logistics  
20 she'd like to talk about.

21           I'm going to stay and listen to comments for a  
22 little while, 15, 20 minutes or so, but I certainly will  
23 be reviewing the comments via the videotape and very  
24 interested in hearing what your thoughts are during this  
25 hearing today.

1           So with that, I'll turn it over to Sharon Reilly.

2           MS. REILLY: Can you hear me? Can you hear?

3 Now, can you hear? Okay. Thank you.

4           Again, I'd like to welcome everybody. We're  
5 really excited to see you all here and we're really  
6 looking forward to hearing your comments.

7           We are going to be taking comments in sign-in  
8 order. If you haven't done so and you would like to make  
9 comments, Dan Claypool there in the back is next to a  
10 table, and he can add you to our list.

11           Also, we have some information packets available.  
12 If you haven't picked one up, you can raise your hand, and  
13 we can get that to you, or they're also over there with  
14 Dan Claypool.

15           Just a little logistics. Today we are here to  
16 talk about the regulations themselves and not the merits  
17 of Proposition 11. And also, our role is limited to the  
18 formation of the commission, so we're asking you to please  
19 limit your comments to the regulations and the formation  
20 of the commission.

21           We've worked really hard, our legal team here and  
22 others in the office have worked really hard to come up  
23 with this packet of regulations, but we realize we can't  
24 think of everything, and that's why we're looking forward  
25 to hearing your comments.

1           Also, we are under tight timelines. We are going  
2 to try to -- to the extent that we do amend the  
3 regulations, we're going to try to turn that around in a  
4 couple-week period, so the more specific you can be in  
5 your comments will help us meet those timelines. And  
6 also, please keep in mind that we do have to act within  
7 the confines of the proposition, so that's something when  
8 we're listening to your comments that we're going to keep  
9 in mind. We may ask you questions about your comments to  
10 make sure that we fully understand them.

11           Today is the deadline for turning in written  
12 comments. We have cards available. If you have not  
13 prepared written comments already, we do have cards  
14 available with Mr. Claypool in the back, but we will need  
15 to receive them by the end of the day. We do plan to  
16 carefully review and consider all comments.

17           And as I said earlier, we are trying to turn  
18 around, if we do amend them, we are trying to turn it  
19 around in a two-week period. We plan to have any amended  
20 regulations up on our website by September 28th, and then  
21 we'll have another 15-day comment period.

22           Does anybody else on the team have anything to  
23 add?

24           Okay. Well, with that, we can start our hearing.

25           And I would just like to remind everybody when



1 they come up to the microphone, if you could please state  
2 your name for the record, we would appreciate it.

3           The first person we have signed up today is  
4 Jim Wright.

5           Jim.

6           MR. WRIGHT: Good morning. I'm Jim Wright. I'm  
7 a voter from San Jose. I previously submitted detailed  
8 written comments to Mr. Claypool and Ms. Brumley, the  
9 team, containing some concerns and suggestions about the  
10 proposed regulations and the draft application form. My  
11 purpose here is to inform both the audience and others  
12 about some of the arguments that I've made and to  
13 reinforce those arguments as best I can.

14           Regarding Regulation 60804, appointment to  
15 federal or state office, I believe that anyone who has  
16 been seriously considered for appointment to a federal or  
17 state office should be excluded from consideration for the  
18 panel and that they are tainted by the political process  
19 because of their consideration. Furthermore, all  
20 employees of the State of California serve at the pleasure  
21 of the Governor and the legislature and should also be  
22 excluded.

23           Moving on to Regulation 60813 --

24           MS. RAMIREZ-RIDGEWAY: Actually, just for the  
25 record --

1 MR. WRIGHT: Pardon me? You have a question?

2 MS. RAMIREZ-RIDGEWAY: Just for the record, I'd  
3 like to let you know that that's not true of the Bureau of  
4 State Audits employees. We serve at the pleasure of the  
5 State Auditor and we're independent from both the  
6 legislature and the governor's office.

7 MR. WRIGHT: I didn't know that, thank you.

8 Regarding 60813, a person employed by a  
9 consulting firm who in turn applies their services to  
10 affect the decisions and direction of any political party  
11 or process or election should be excluded. They are  
12 active on behalf of their client, irrespective of their  
13 personal beliefs, another possible exclusion.

14 60815, federal office. I think it should be  
15 construed to include the entire executive branch of the  
16 federal government. This must include anyone who  
17 consults, staffs, volunteers for a candidate for  
18 presidential or congressional election. Active  
19 participation on behalf of a political party or candidate  
20 is to me a clear conflict of interest with the intent of  
21 the Voters Act.

22 Now we come to an interest thing. 60824,  
23 randomly draw. I went ahead and tried to follow the  
24 directions in the regulations about taking a ball and  
25 affixing a label to it and then using that in the bingo

1 machine. Well, they don't stick very well, even good  
2 labels. They don't lay close to the surface of the ball.  
3 They're going to gum up the machine. Even if you use  
4 small labels, they don't stick very well, and they're  
5 going to gum up the machine. What I suggest instead is  
6 that you write the numbers on the ball. And keep in mind  
7 that "16" and "91" are easily construed until you  
8 underline the "6" or the "9."

9           The outreach program, 60840, I had hoped you had  
10 included in your agenda for today a brief discussion about  
11 what is planned for the outreach effort. I did meet a  
12 couple of gentlemen outside who told me that they were  
13 involved in it. Perhaps you could provide us with a  
14 little more information. It's important that we reach the  
15 people that need to be reached in order to form a  
16 commission that completely maps California.

17           In the application review section, 60848, 60850,  
18 and 60852, when someone is removed from the pool of 120 or  
19 the pool of 60, it would be very nice if they would be  
20 told why they're being removed. Now, that's important to  
21 the person's feeling good about themselves.

22           Moving on to the draft application form. I  
23 compliment the team on constructing a very nice and  
24 reasonable series of questions to collect the information  
25 from each applicant, there are, however, a few areas that

1 I think need some enhancement to avoid some technical  
2 problems and to prove validity of the data being  
3 collected.

4           Would there be any value, for example, of  
5 collecting a photo of the individual, a head, shoulders  
6 alone might be enough, but it would help to validate  
7 things at a later time. Just a suggestion.

8           In capturing the email address for the first  
9 time, a mechanism for validating that email address may be  
10 important to future activities. A handshake with the  
11 user, through sending an email to that address, containing  
12 a report-back link would accomplish that purpose. I know  
13 this sounds complicated, but many commercial sites perform  
14 just exactly this task.

15           For the convenience of the user on a password-  
16 protected site, there should be a means for changing one's  
17 own password, perhaps you've already included that, and  
18 resetting the password and/or retrieving a lost or  
19 forgotten password. We need to be sure the person that's  
20 doing the work, making the application, is truly the  
21 person we think it is.

22           Applicant identification information should also  
23 include any preferred prefix; miss, mrs., mr., director,  
24 the reverend, and the suffix, third, fourth, junior,  
25 Ph.D., whatever happens to be of importance to the

1 individual.

2           You asked for best time to contact. And that  
3 boils down to a very few choices, morning, afternoon,  
4 evening, weekends, any time. It would be better than  
5 having them put down a time period. Might be enough.

6           For household income information, you should  
7 clearly indicate that the gross value of the household  
8 income is what you want and the value you report on your  
9 most recent income tax return would be appropriate. In  
10 order to verify that information, you may want to collect  
11 the taxpayer I.D. number, their social security number.  
12 That would allow you to check with the Franchise Tax  
13 Board, the IRS to validate it if necessary.

14           And then perhaps you need to add a question to  
15 address whether the applicant is an employee or appointee  
16 of the federal government. We've handled the state  
17 government, but not the federal government. However, that  
18 would be collected through the employment history.

19           On the supplemental application form, in  
20 employment history, "retired" is a valid current  
21 employment status. I'm retired. There's no way for me to  
22 indicate that on there.

23           Under criminal history, "none" is a valid  
24 response. And there's no way to differentiate that from  
25 the lack of response.

1 Under financial contributions, again, "none" is a  
2 valid response. And there's no way to indicate that, and  
3 you can't tell the difference between that and non  
4 response.

5 For immediate family information, the leading  
6 paragraph is ambiguous. It mentions categories below, and  
7 then there's one list of categories which is also used as  
8 the qualification for a special relationship. I think  
9 something was missed there. And perhaps you wanted to  
10 indicate the relationships within the family that are of  
11 most interest, children, parents, siblings.

12 A model letter of recommendation should be  
13 provided. Most important is a proper and complete  
14 identification of the author of such letters. And having  
15 a standard form or format for those to be provided in  
16 would probably ease the task of reviewing the letters.

17 Is it your intent -- let me ask you a question.  
18 Is it your intent that the applicant should collect their  
19 own letters of recommendation and then submit them to you,  
20 or would they be sent directly in?

21 MR. RUSSO: The regulation doesn't deal with it,  
22 but what we contemplated was that both options would be  
23 available; that is to say the applicant can gather all the  
24 letters of recommendation and send them in, and that way  
25 the applicant knows for sure that they've gone in, but we

1 also understand that that may be difficult with certain  
2 folks who are providing recommendation, so that the person  
3 writing the letter of recommendation can send it in on his  
4 or her own and that the applicant then simply has to trust  
5 that the person did what he or she committed to do in  
6 terms of sending in that letter of recommendation.

7 MR. WRIGHT: Thank you, Steve. You addressed my  
8 biggest concern; and that is I as an applicant want to  
9 make sure that my letters of recommendation arrived.  
10 Thank you.

11 Also, can there be more than three letters of  
12 recommendation submitted? You request three; what if  
13 there's five? Big deal? No big deal?

14 MR. RUSSO: At this point we contemplated there  
15 would just be three, largely because we will be -- in the  
16 event that we receive a lot of applications, we want to  
17 make sure that all of the material submitted get a  
18 thorough review. And so someone submitted 500 letters of  
19 recommendation probably wouldn't be very helpful in the  
20 first place, and it would be a huge burden on the time of  
21 the Applicant Review Panel.

22 MR. WRIGHT: One thing I didn't write down, but I  
23 thought of it also, do your letters of recommendation need  
24 to be from people within the state or California or may  
25 they be from anyone that I have perhaps worked with across

1 the country over many years?

2 MR. RUSSO: Anyone. The idea is that we want to  
3 know about the person and his or her qualifications. We  
4 could have an applicant who spent many, many years in  
5 another state and developed a great deal of valuable  
6 experience in that other state, and we don't want to  
7 disqualify that person or have that experience not count  
8 just because it was in another state.

9 MR. WRIGHT: Please, in the regulations mention  
10 these things so that people are aware of the options that  
11 are available to them.

12 And I don't know if you want to cover this part  
13 yet. I have several suggestions regarding regulations  
14 that could be established for the commission itself once  
15 it's formed.

16 MS. REILLY: As I said at the outset, today our  
17 purpose is to talk about the formation of the commission.  
18 And I'm sure at a later time you'll have an opportunity.

19 MR. WRIGHT: Okay. Well, you have my suggestions  
20 in front of you?

21 MS. REILLY: We do. And we'll certainly hand  
22 them over to the commission.

23 MR. WRIGHT: Thank you, Sharon. That's all I  
24 have. Thank you very much.

25 MS. REILLY: Thank you very much.



1 Do any of the panel members have questions?

2 MR. RUSSO: I have one question.

3 In your comments you focused a lot on the issue  
4 of whether folks who work for the federal government or  
5 are appointed to a federal office should be disqualified  
6 from serving on the commission. And as you know, we've  
7 drafted the regulations to open up the application process  
8 to people who have experience working for the federal  
9 government unless it's somehow connected to California  
10 service, congressional office in California for example.

11 My question for you is what do you see as being  
12 the connection here? What is it about serving for the  
13 federal government that you see has an impact on a  
14 person's ability to serve as a commissioner drawing the  
15 district lines for legislative and Board of Equalization  
16 districts?

17 MR. WRIGHT: The Act is very clear in specifying  
18 that this process should be transparent and untainted by  
19 politics. It is of my opinion that the federal  
20 government, all branches, all areas of federal government,  
21 are suffused with a very heavy overload of politics. So  
22 if we are to truly have a transparent process for the  
23 commission, people who have been associated with a  
24 highly-political environment need to be excluded.

25 Now, I realize there are individuals who clearly

1 can set those things aside, and there are people with the  
2 DEA, for example, who are as apolitical as they come  
3 perhaps, but you've got to look at it as a general class  
4 of people, okay; within that class there are large numbers  
5 of people who are very active in the political  
6 environment. And how do you sort them out from the rest  
7 of them? Okay? That's my concern.

8           We want it to be a transparent process, I very  
9 clearly want to see it become a transparent process, and  
10 any taint of political involvement, political party  
11 involvement would destroy that.

12           MS. REILLY: Do you see a distinction between  
13 management or people who, for example, would have more of  
14 an opportunity to have contact with the governor's office  
15 or the legislature and rank and file employees?

16           MR. WRIGHT: I would expect rank and file people  
17 to be less active politically and the management people to  
18 be more active politically. My opinion.

19           Any other questions?

20           MS. REILLY: Okay. Thank you.

21           MR. WRIGHT: Thank you very much, folks.

22           MS. REILLY: Okay. Next up on our list we have  
23 the California Forward working group. And as you come up,  
24 please identify yourselves for the record.

25           MS. KOPELL: My name is Malka Kopell, good

1 morning, and I'm from California Forward. California  
2 Forward is a bipartisan public interest organization whose  
3 mission is to improve the quality of life for all  
4 Californians by creating more responsive, representative,  
5 and cost-effective government.

6           As many of you know, California Forward was a  
7 strong supporter of Prop 11, but even though it is now  
8 law, we do not consider our work done until the Voters  
9 FIRST Act is implemented and the citizens redistricting  
10 commission has successfully completed its work. The first  
11 important step in that implementation is an accessible  
12 application process that reaches out to all Californians  
13 and a thoughtful selection process that results in a  
14 qualified and diverse group of commission members. To  
15 that end, we thank you for allowing us the opportunity to  
16 provide input on these regulations.

17           Today I'm speaking not only for California  
18 Forward, but I am one of many who are representing a group  
19 of organizations who have been working collaboratively  
20 over the past several months to help facilitate the  
21 implementation of the Voters First Act. The members of  
22 this group include the League of Women Voters of  
23 California, California Common Cause, California State  
24 NAACP, the National Association of Latino Elected and  
25 Appointed Officials Educational Fund, the California Voter

1 Foundation, the Center for Governmental Studies, the Asian  
2 Pacific American Legal Center, and the Rose Institute for  
3 State and Local Government.

4           Our working group has spent the last month and a  
5 half closely reviewing and discussing the proposed  
6 regulations. We were impressed by the thoroughness shown  
7 by your staff in developing these regulations, and we  
8 applaud your intent to facilitate the smooth  
9 implementation of the Act by filling in some of the  
10 details. We also appreciate your willingness to listen to  
11 our input and the input of other interested organizations  
12 and individuals during the interested persons meetings  
13 earlier this year. That willingness to listen to the  
14 public is apparent in your detailed and thoughtful  
15 response.

16           We did, however, want to bring some items to your  
17 attention. Some of these items reflect concerns that we  
18 share and suggestions for ways to address those concerns,  
19 and others are suggestions for clarifying language. We've  
20 put our thoughts into writing and just submitted them to  
21 you today. We'd also like to communicate our thoughts  
22 orally, and to do that the various members of the group  
23 will present the jointly-agreed upon points as they come  
24 up to the podium. Some members of the group may present  
25 additional points as well. These are points that the

1 group as a whole did not have the time to get to or that  
2 we did not reach a final consensus on, or in some cases  
3 may just reflect the position of the member organization  
4 itself, but that will be clear in the presentation.

5           And I'm going to start by bringing up a couple of  
6 points.

7           The first is regarding Section 60847, Phase II  
8 application. We suggest that information required of an  
9 applicant should be limited to those questions directly  
10 relevant to a determination of whether an applicant is  
11 qualified. Asking for information relating to an  
12 applicant's involvement with professional, social,  
13 political, and community organizations and causes is  
14 understandable, since presumably those experiences can  
15 help demonstrate an applicant's appreciation for diversity  
16 or possession of relevant analytical skills. But  
17 narrowing the scope of information sought from the  
18 applicant may help ensure that that information is  
19 relevant to a determination of whether an applicant is  
20 qualified and may make it easier for the applicant. As  
21 such, we suggest a revision to Section 60847 to only seek  
22 information that the applicant deems relevant to service  
23 on the commission and satisfying the qualifications  
24 specified in the Voters FIRST Act.

25           Also, we believe that requiring disclosure of

1 financial contributions made to any of the above  
2 organizations and causes may unduly intrude on an  
3 applicant's privacy and is not likely to obtain much more  
4 relevant information than by excluding it.

5           Additionally, disclosure of financial  
6 contributions to organizations and causes would  
7 undoubtedly be burdensome, in particular for those persons  
8 who have made several contributions over the relevant time  
9 period, and you are asking for information on an  
10 applicant's involvement with those causes.

11           Nonprofit organizations, while being required to  
12 disclose to the IRS the names and addresses of persons  
13 making large donations, are not required to disclose that  
14 information to the public, and many organizations seeking  
15 to protect their donors from harassment or undue attention  
16 keep that information confidential. So we suggest to  
17 delete the reference to financial contributions, but we  
18 still think that that will still allow the Applicant  
19 Review Panel to obtain relevant information that will  
20 allow adequate review of the applicant's qualifications.

21           My second point is regarding the Phase III  
22 interviews. The regulations as currently written don't  
23 make it clear if the interviews will be videotaped and  
24 posted on a rolling basis or after all are completed. So  
25 we wanted to ask that the videotaped interviews not be

1 made public until after all the interviews have taken  
2 place. If they are posted on a rolling basis, those who  
3 are interviewed later could possibly view the interviews  
4 of those that came before them and enjoy an unfair  
5 advantage.

6 Those are my two points, and I will defer to the  
7 other members of the working group.

8 Thank you.

9 MS. REILLY: Does anybody on the panel have  
10 questions for Malka?

11 MR. RUSSO: I have a question.

12 In your suggestion that we leave it up to the  
13 applicant to decide what information to share about past  
14 associations, activities and so forth, aren't we creating  
15 a situation where someone can, by his or her application,  
16 look like the greatest candidate in the world, an  
17 absolutely impartial candidate, and yet if the person  
18 revealed more about himself or herself we could find out  
19 things about that person that may be negative?

20 In other words, to quote an outrageous example,  
21 let's say someone who on his application shows that he was  
22 involved in some very civic-minded organizations and so  
23 forth, yet at some point during the relevant period was  
24 involved with a very racist organization, for example. If  
25 we leave it up to the applicant, the applicant may --

1 would probably not want to share that with us, and yet if  
2 we pry more into what all of that person's associations  
3 were, what that person's activities were, then that might  
4 provide us with a basis upon which -- or they are the  
5 basis upon which to exclude a person either because of  
6 some improper -- some questionable associations or because  
7 the person was not fully candid and honest about what that  
8 person's been doing?

9 MS. KOPELL: You make a good point. I think some  
10 members of the group may want to speak to that.

11 I think the reason that we brought it up was that  
12 if it's left absolutely open, there just -- it may be so  
13 much information that an applicant may be discouraged from  
14 applying. And so perhaps there's some way in the  
15 application you can strike a more careful balance; but I  
16 think your point is well taken. We don't want the  
17 applicant to exclude information, but we want to encourage  
18 applicants to apply without feeling like it's -- their  
19 whole life is going to be -- it's going to take their  
20 whole life to fill out the application.

21 MR. RUSSO: Thank you.

22 MS. KOPELL: Good point though.

23 MS. REILLY: Thank you.

24 Did you have a question?

25 MS. RAMIREZ-RIDGEWAY: You know, my only question



1 relates to the rolling interview posting versus waiting  
2 until the end.

3 All of the interviews will be open to the public  
4 under Bagley-Keene, so I'm not sure how I understand the  
5 benefit to withholding those videos from the rest of the  
6 public when someone could easily attend the interview and  
7 hear the questions and answers.

8 MS. KOPELL: That is true, but it's not all the  
9 people who apply -- I suspect not all the people who make  
10 the final interview process are going to be able to travel  
11 in person.

12 MS. RAMIREZ-RIDGEWAY: So only those who could  
13 travel would have the advantage.

14 MS. KOPELL: Right. So that's also -- could be  
15 an unequal advantage.

16 MS. RAMIREZ-RIDGEWAY: Would it not benefit those  
17 who couldn't travel to have this equal footing and be able  
18 to see the videos?

19 MS. KOPELL: Well, see that's why we -- well,  
20 that is true, it could, but if they can't see -- if the  
21 person goes first in the process and is not able to see  
22 the other interviews, then it would be -- then it would be  
23 unfair. So that's true.

24 MS. REILLY: Any other questions?

25 Okay. Thank you.

1           MR. JOHNSON: Hello. My name is Douglas Johnson.  
2 I'm with the Rose Institute of the State and Local  
3 Government, one of the signers of the California Forward  
4 letter. And I just want to briefly hit a couple of fairly  
5 technical points. And these are covered in our letter,  
6 and I'll have a couple other points that aren't.

7           The first is 60818, the definition "most  
8 qualified applicants." The language as it's written, it  
9 appears to allow flexibility for -- in the last five years  
10 for an applicant to change between declined to state and a  
11 party and back and forth. It's clear they can't change  
12 parties, but it's not clear they can't go to declined to  
13 state and back, and so we have some suggested language to  
14 clarify that.

15           There's also a couple of timing points in 60846.  
16 It appears that information coming in from the public late  
17 in one phase, if it's too late, it would be ignored; there  
18 are other sections of that that say if it's late in the  
19 phase, consider it in the next phase. So there's just a  
20 resolution of that conflict.

21           One other more substantive issue, and I think  
22 others may mention this as well, in 60826, the definition  
23 of "relevant analytical skills," it talks about experience  
24 with complicated statistical analysis, with complicated  
25 software. And we think those are a little too exclusive,

1 they would exclude too many people for a couple reasons.

2           One, the type of software that's used in  
3 redistricting is really expensive. I know the leading  
4 software right now is \$10,000 a copy, so that's really an  
5 economic barrier. And with the statistical analysis,  
6 really you need experts for this. You would not expect  
7 anyone coming off the street to have this kind of  
8 background, it's very specialized. So there's really no  
9 realistic way for someone to apply claiming to be an  
10 expert in racial block voting and voting rights  
11 statistical analysis. So I think the language in there is  
12 a little too limiting, and we have some suggested language  
13 for that.

14           One other point that's not in the letter, this is  
15 speaking as Rose Institute, but it will save us time by  
16 coming all at once, in the application, this is all also  
17 fairly generic, and I think the others would agree, but we  
18 didn't cover it.

19           At the end there is a section on activities after  
20 the essays. My suspicion, looking at this from the  
21 viewpoint of an applicant, is the relevant would have  
22 already been included in the essays. And my suggestion is  
23 rather than have people get confused about where to put  
24 things, just make that final section other information  
25 that the applicant might feel is relevant. It would also

1 eliminate confusion over something that doesn't quite fit  
2 into the given box.

3           So there's more, obviously, in the letter.

4 Again, thank you. This is great starting effort, and you  
5 guys did clearly put a lot of work in that paid off.

6           MS. REILLY: Thank you.

7           Do any of the panel members have a question? No?

8           Okay. Thank you.

9           MR. LEE: Good morning. I'm Eugene Lee, and I'm  
10 the voting rights project director at the Asian Pacific  
11 American Legal Center, which is a nonprofit organization  
12 based in Los Angeles.

13           I first wanted to start by thanking your office  
14 for the amount of time and effort you put into preparing  
15 these regulations. I think that they clearly reflect a  
16 product of a lot of really good thinking and a lot of  
17 time. So thank you.

18           I've been asked to present three points that are  
19 in the working group letter. And I'm going to go a little  
20 bit out of order. I'm going to start with point number  
21 10, which talks about our recommendation for the  
22 definition of "diversity" contained in Section 60814.

23           Our recommendation there is that the diversity  
24 definition should be revised to more closely mirror the  
25 statutory language in Proposition 11. From our

1 recollection of the interested persons meeting as well as  
2 our review of the transcripts from those meetings earlier  
3 this year, it was clear to us that various stakeholders  
4 urged the BSA to make the application process one that is  
5 open to all individuals regardless of economic status and  
6 to remove barriers that may prevent individuals from  
7 lower-income backgrounds from participating. And we  
8 commend the BSA for taking that into account and doing  
9 things such as not requiring applicants to travel to  
10 interviews at their own expense and not requiring them to  
11 demonstrate skills or experiences that are available only  
12 to folks with disposable income. So we commend the BSA  
13 for drafting regulations that reflect this.

14           We have some recommendations that some of my  
15 colleagues will talk about for improving that, but for the  
16 most part we think the regs do a fairly good job of making  
17 sure that there are not these barriers in place. But we  
18 would draw a distinction between removing barriers for  
19 folks regardless of economic status on the other hand, and  
20 then on the other hand, including economic diversity in  
21 the definition of "diversity" in Section 60814. So this  
22 definition is used by the ARP when it's carrying out  
23 Sections 60848 and 60850 when it considers the composition  
24 of the applicant pool and whether it reflects the  
25 diversity of the State of California.

1           We think that the intent is good, but this could  
2 result in some unintended consequences. When the ARP is  
3 trying to balance various aspects of diversity contained  
4 in the diversity definition, it's got a fairly difficult  
5 task on its hands, and we think that the addition of  
6 economic diversity to those different aspects of diversity  
7 could make a balancing task more difficult in a way that  
8 undermines achieving the other aspects of diversity.

9           So our recommendation for 60814 is to have the  
10 language more closely reflect what's in the statutory  
11 language in Proposition 11 by striking out the word  
12 "economic" from that definition. And our recommended  
13 language is in the appendix to our letter.

14           The second point that I wanted to address is our  
15 recommendation in point number 25. So it's just a general  
16 recommendation, we don't have a specific set of language  
17 to recommend, but it's a general recommendation saying  
18 that if the Auditor establishes additional reduction  
19 phases, so additional phases where the applicant pool is  
20 reduced from the initial batch of applications received,  
21 if the State Auditor does create such an additional  
22 reduction phase, it should apply the same requirements  
23 that the ARP has to follow in Section 60848 and 60850.

24           So right now the Auditor, one looks at the  
25 Phase II and Phase III reduction periods, it's got to

1 follow certain provisions, and so we would recommend that  
2 if there is an additional stage, that those same  
3 provisions be applicable.

4           The last point I wanted to make with regard to  
5 the working group letter is our recommendation in point  
6 number 1. So we have proposed revisions for the  
7 definition of "state office" in 60828 as well as the  
8 definition of "appointed to federal or state office" in  
9 60804.

10           So let me start with the first, the definition of  
11 "state office." Our recommendation is to revise the  
12 language for clarity and also to make it consistent with  
13 previous interpretations of state law. So our  
14 understanding is that the California attorney general in  
15 previous opinions has opined that appointees to advisory  
16 bodies are not state officers because they do not exercise  
17 the state's sovereign power. So we recommend that to be  
18 consistent with these previous interpretations, state  
19 office should explicitly exclude anyone who has been  
20 appointed to an advisory body.

21           Our other recommendation is that we think it's a  
22 little bit vague about whether appointees to city and  
23 county and special district bodies would be covered under  
24 this definition. We think that it's clear under Prop 11  
25 that appointees to those local bodies are not meant to be

1 included in the definition of "state office," and we would  
2 recommend that the definition clearly say that local  
3 appointees are not included.

4           We have a recommendation for the definition of  
5 "appointed to federal or state office," which is to  
6 include employments by the Board of Equalization. And the  
7 rationale there is that the commission is going to draw  
8 Board of Equalization lines. Persons who receive  
9 appointments from the Board of Equalization are arguably  
10 beholden to the appointing authority on the Board of  
11 Equalization, and there could be a conflict of interest if  
12 those folks serve on commissions. So we recommend that  
13 appointments by the Board of Equalization also be included  
14 in addition to appointments by the Governor and  
15 legislative members.

16           We also recommend that the regulations be revised  
17 to make it clear that the Auditor will publish a list of  
18 which appointed federal and state offices are covered by  
19 the definition of 60804. We think this will help the  
20 ability of potential applicants to determine whether their  
21 appointments fall within the scope of exclusions under  
22 Proposition 11.

23           I also wanted to mention that the organizations  
24 participating in this working group have -- they have had  
25 a very robust discussion about whether the scope of



1 appointed to federal or state office should be narrowed.  
2 The group was not able to reach consensus on this about  
3 whether it should be narrowed, and if so, how it should be  
4 narrowed. The discussion has focused in part on whether  
5 appointments to compensated positions should be excluded  
6 from service on the commission but not other appointed  
7 positions.

8           So I wanted to mention that this is one area  
9 where the group does not have consensus, but because it's  
10 one of the more significant issues, we think we wanted to  
11 highlight it and let you know that various members of the  
12 group will be presenting their own individual viewpoints.

13           So I'd like to do that now. I'm no longer  
14 presenting points in the working group letter, but instead  
15 speaking on behalf of my organization as well as the  
16 Mexican-American Legal Defense and Educational Fund and  
17 NALEO Educational Fund, so we've provided you with a  
18 separate letter outlining six points, and I'd like to talk  
19 about three of those points.

20           So the first point I wanted to talk about is the  
21 recommendation we make in point number 2 in this  
22 three-group letter. So our perspective is that the  
23 definition of "appointed to federal or state office"  
24 potentially excludes a very large number of individuals  
25 who we think are unlikely to be beholden or perceived to

1 be beholden to their appointing authority. And we think  
2 that Section 60804 should be revised to avoid overbreadth.

3           So we think that in terms of judging whether  
4 someone can be reasonably considered to be beholden or  
5 perceived to be beholden can be judged by looking at  
6 whether the appointee is salaried, receives a salary  
7 compensation. We think this is a fair measure. It also  
8 provides a measure that is clear and easy to administer.

9           In contrast is that appointees who receive only a  
10 per diem are not reasonably beholden or can be perceived  
11 to be beholden to their appointing authority. Someone who  
12 receives a per diem simply does not get enough of a  
13 financial benefit to justify the time and effort of  
14 serving in their appointed position. They could spend the  
15 same time and effort engaging in other opportunities which  
16 provide a regular salary or are otherwise more financially  
17 lucrative.

18           By its nature, per diem compensation is not  
19 regular, it's not as dependable as getting a salary. So  
20 we think getting a per diem does not provide enough of a  
21 financial benefit to make the appointee beholden to their  
22 appointing authority. I think the same rationale applies  
23 to appointees who receive only reimbursement for travel  
24 expenses.

25           So our recommendation is to limit the definition

1 of "appointed to federal or state office" to include only  
2 appointees to salaried positions.

3           You may hear some arguments that if the BSA were  
4 to narrow the definitions in this manner, that would  
5 constitute impermissible legislating. We would disagree.  
6 We think -- as I mentioned at the outset, we think that  
7 it's important to narrow this definition to avoid  
8 overbreadth. We think the BSA has the responsibility and  
9 duty to interpret Prop 11 in a manner that avoids conflict  
10 with other legal considerations, and we don't think doing  
11 so constitutes impermissible legislating.

12           We'd also just mention that individuals  
13 from California's historically underrepresented diverse  
14 communities seek seats on commissions and boards. And if  
15 we were to unduly exclude those appointees from serving on  
16 the commission, that would be a conflict with Prop 11's  
17 intent that the selection produce a commission that  
18 reflects the state's diversity. So our suggested revision  
19 is in the appendix to this letter.

20           The second point I wanted to address out of this  
21 three-group letter is in point 5. Generally speaking, we  
22 think that the proposed regulations should be revised to  
23 place a greater emphasis on the Federal Voting Rights Act  
24 and the role of the Voting Rights Act in assuring that  
25 diverse communities have equal electoral opportunities.

1           We think that a close reading of Prop 11  
2 indicates that the drafters wanted the commission to  
3 really pay attention to the role of the Voting Rights Act  
4 when they're drawing the district lines. Prop 11 makes  
5 Voting Rights Act compliance supreme over the other  
6 mandated criteria, and Voting Rights Act comes second only  
7 to the population quality.

8           In addition, the commission, when it's hiring its  
9 legal counsel must hire legal counsel who have  
10 demonstrated experience and expertise in enforcing and  
11 implementing the Voting Rights Act. So if one meets those  
12 two provisions, to us it's clear that the commission was  
13 intended to pay very close attention to the Voting Rights  
14 Act.

15           So we have several recommendations for the  
16 regulations to reflect this intent. And we would also  
17 want to frame the intent in a proper way. So we think  
18 that the -- we think that Prop 11 is intended to have a  
19 selection process that results in a diverse commission,  
20 also a commission that understands needs and interests of  
21 diverse communities; but going one step further, that the  
22 commissioners understand how redistricting affects whether  
23 elected representatives respond to the needs of diverse  
24 communities.

25           We think that the regs do a fairly decent job of

1 getting at the first two points, promoting a selection  
2 process that results in a diverse commission, and also a  
3 selection process that results in a commission that  
4 understands the diverse needs of communities; but where we  
5 think some improvements could be made is having a  
6 commission that understands how redistricting impacts  
7 whether elected representatives serve those diverse needs.

8           So we have two recommendations. In Section  
9 60805, which talks about the definition of "appreciation  
10 for California's diverse demographics and geography," we  
11 think that this could be expanded to include whether  
12 applicants have an understanding of the fact that  
13 California's diverse communities have historically faced  
14 an uphill battle in gaining fair representation and an  
15 understanding of how the placement of district boundaries  
16 affects whether these diverse communities have equal  
17 electoral opportunities, and also a general awareness of  
18 the role of the Voting Rights Act in ensuring equal and  
19 electoral opportunities.

20           We're not suggesting that applicants need to  
21 demonstrate expertise with the Voting Rights Act, but at a  
22 minimum, we think they should have a general awareness of  
23 the role of the Voting Rights Act in redistricting. So we  
24 have a suggested provision to that, which is in the  
25 appendix.

1           The other suggestion with regard to this point is  
2 with regard to Section 60834, which specifies the support  
3 that the BSA must provide to the Applicant Review Panel.

4           We recommend that in addition to the other types  
5 of support that are specified, the Bureau also -- that  
6 there should be a provision that the Bureau provide the  
7 Applicant Review Panel with training on the Voting Rights  
8 Act and issues of minority vote dilution. So obviously  
9 the members of the Applicant Review Panel are not going to  
10 draw maps themselves, but they do need to have a basic  
11 understanding of the Voting Rights Act in order to assess  
12 whether applicants understand how redistricting affects  
13 the quality of representation for California's diverse  
14 communities.

15           I should have noted this at the beginning. The  
16 recommendations that we're making in this three-group  
17 letter are in addition to the revisions that are being  
18 proposed in the working group letter. There aren't any  
19 areas of conflict in terms of the actual revisions being  
20 proposed in the working group letter.

21           And then another point I'd like to make is in  
22 recommendation 6 in the three-group letter, we think that  
23 the regs should be revised so that the random draw of the  
24 eight applicants doesn't result in a situation that may  
25 contravene Prop 11's intent to have a selection process

1 that produces a commission which is reasonably  
2 representative of the state's diversity.

3           So because this is a random draw, arguably  
4 Prop 11 contemplates and permits the possibility that all  
5 eight of the randomly-drawn commissioners would be from  
6 the same racial or ethnic group, but at the same time, if  
7 you look at other provisions of Prop 11, specifically the  
8 constitutional language added by Prop 11, that language is  
9 very clear that Prop 11's intent is to have a selection  
10 process which produces a reasonably representative  
11 commission.

12           And we think that in order to harmonize these two  
13 provisions, Section 60853, which outlines the random-draw  
14 requirement, should be revised so that the Auditor would  
15 conduct a second random draw, basically a redraw in the  
16 event that all eight commissioners were of the same racial  
17 or ethnic background. We think this would help avoid a  
18 result that goes against Prop 11's intent for the  
19 selection process to result in a reasonably representative  
20 commission.

21           So those are the three recommendations that I  
22 wanted to highlight in the three-group letter submitted by  
23 my organization, MALDF, and the NALEO Educational Fund.  
24 And that's what I have to present for now. And I'd be  
25 happy to answer any questions.

1 MS. REILLY: When you're talking about the  
2 statute or the -- yeah, the statute being overbroad as far  
3 as people who are appointed to positions but they're  
4 non-salaried, do you mean that in a First Amendment sense?

5 MR. LEE: Yes.

6 MS. REILLY: Okay.

7 Do you have more questions?

8 MR. RUSSO: I have some questions, sure.

9 In your comments you mentioned that in terms of  
10 how we define "diversity," that we should be more in  
11 conformity with Prop 11; but I'm looking at Section 8252  
12 point -- hold on a second, 8252 at the very end of it in  
13 subdivision G, and there -- that's the one place in the  
14 Act where we find "diversity" defined. And in that  
15 section it's talking about the commission reflecting the  
16 state's diversity, but there it says, "Diversity,  
17 including, but not limited to, racial, ethnic, geographic,  
18 and gender diversity." And so looking at this, I submit  
19 that it suggests that perhaps "diversity" means more than  
20 just those specific things that are listed, but that  
21 somehow in drafting these regulations we should be looking  
22 to other factors than racial and ethnic and geographic and  
23 gender diversity in order to define "diversity."

24 So my question to you is, aren't we more  
25 consistent with Prop 11 by expanding what "diversity"



1 means by including other categories, since this says,  
2 "including but not limited to," rather than departing from  
3 what Prop 11 provides?

4           MR. LEE: I may have to let some of my colleagues  
5 chime in on this who are more intimately involved with the  
6 drafting of Prop 11, but my understanding is that the  
7 phrase "including but not limited to" was added not  
8 because -- the primary concern wasn't about the actually  
9 listed aspects of diversity, but rather that phrase was  
10 included because the drafters were looking at efforts to  
11 pass the initiative and what it might take to include a  
12 broad coalition of organizations supporting the  
13 initiative. And so they added that language not wanting  
14 to seem exclusionary of other aspects of diversity.

15           But I don't -- and again, I'll let other  
16 colleagues chime in who are more involved in actually  
17 drafting the initiative, but my understanding is that the  
18 intent was to focus on these aspects of diversity as the  
19 primary aspects that should be taken into account during  
20 the selection process.

21           I would also say that the five words you're  
22 pointing out, "including but not limited to," are  
23 important to consider, but I think the overriding  
24 consideration is the constitutional language in Prop 11,  
25 which talks about the intent of the initiative to produce

1 a selection process that's reasonably representative of  
2 the state's diversity.

3           And our argument is that by making the Applicant  
4 Review Panel's job harder by forcing them to consider  
5 additional aspects of diversity, that threatens the  
6 ability of the selection process to achieve the diversity  
7 aspects that are actually listed in the initiative. And  
8 for that reason, we think that it would be more consistent  
9 with the intent to limit this to the diversity aspects  
10 listed in the initiative.

11           MR. RUSSO: Another question that I have for you  
12 is where you're drawing the line here in your comments  
13 between someone who is appointed but only receives a per  
14 diem as opposed to receiving a salary. And in your  
15 comment, I'm -- what I'm interpreting that to mean is that  
16 you think what gives rise to the conflict of interest is  
17 not the appointment or being in a position that the  
18 Governor or the member of the legislature likes you so  
19 much or has a certain relationship with you that you're  
20 appointed, but what see as giving rise to the conflict is  
21 the fact that a person is making a certain salary; is that  
22 correct?

23           MR. LEE: We think that having a financial  
24 benefit that's regular and dependable is a fair way of  
25 assessing whether one is beholden to their appointing

1 authority. They're afraid of displeasing their appointing  
2 authority because they don't want to lose their salary.

3 MR. RUSSO: Okay. Let's say that person is  
4 appointed for a fixed term and so the person, therefore,  
5 regardless of whether the person behaves in a manner that  
6 pleases the appointing authority or not, that that  
7 person's salary is going to be fixed the same for that  
8 period of time. Are you saying that that person, because  
9 his salary can't be increased or decreased, that person  
10 doesn't have a conflict of interest?

11 MR. LEE: Well, that person would still be  
12 serving at the pleasure of the appointing authority, could  
13 be removed by the appointing authority, and would feel  
14 that their actions on that commission may need to satisfy  
15 the appointing authority in order not to lose his or her  
16 salary.

17 MR. RUSSO: What if the person can only be  
18 removed for cause?

19 MR. LEE: Well, that's a fair point, but I think  
20 we should keep in mind that we're not going to come up  
21 with a perfect definition of what -- what -- not a perfect  
22 definition for when someone is beholden or could be  
23 perceived to be beholden, and we would argue that we  
24 should err on the side of inclusion versus exclusion,  
25 particularly when the application process contemplates

1 that there will be other opportunities for applicants with  
2 a conflict of interest to be removed from the applicant  
3 pool.

4           So, for example, when the Applicant Review Panel  
5 is judging whether an applicant has the ability to be  
6 impartial, that is an opportunity for someone who has a  
7 clear conflict of interest who doesn't fall within the  
8 appointed to office definition to be taken out.  
9 Additionally, the application process that the State  
10 Auditor has -- that the State Auditor is contemplating  
11 allows members of the public to comment on applicants. So  
12 if it's clear that an applicant wasn't excluded by the  
13 appointed office definition but still has a conflict of  
14 interest, members of the public can comment on that. And  
15 then lastly, the four legislative leaders have the ability  
16 to strike people who are clear political ringers.

17           MS. REILLY: I have an additional question.

18           You're suggesting that we place greater emphasis  
19 on the Voting Rights Act in the regulations. Before I ask  
20 the question, I wanted to let you know that we had already  
21 made an internal decision that we're going to be providing  
22 some pretty intensive training to the Applicant Review  
23 Panel members, and included in that would be the Voting  
24 Rights Act.

25           But getting back to my question, and you might

1 not be the right person to ask it, but why wasn't the --  
2 why isn't this part of the consensus groups'  
3 recommendation?

4 MR. LEE: Oh, sure, that's a good question. I  
5 think that my colleagues all agree that we put a lot of  
6 time in discussing various points that are in the working  
7 group letter, and there are a lot of points, 25 points.  
8 Part of it was just an issue of time. There are actually  
9 other points that are not listed in the working group  
10 letter that the working group had identified as issues  
11 they wanted to discuss, but we just didn't -- we just  
12 didn't have time to get to them, and there was no time to  
13 get to these issues identified in the letters submitted by  
14 APALC, MALDF, and NALEO Educational Fund.

15 And then another reason was that some of the  
16 issues that are presented in this three-group letter were  
17 actually issues that came to us recently within the past  
18 week, and so there wasn't time to bring it up within the  
19 larger working group.

20 So that's really the only reason. And I'm going  
21 to leave it to my colleagues to chime in on whether they  
22 agree or disagree with that.

23 MS. REILLY: I'm just trying to get a sense of  
24 whether your recommendations are controversial in any  
25 sense or if there's any sort of disagreement out there

1 with that recommendation.

2 MR. LEE: Sure. I would like to say that our  
3 recommendations are consistent with the intent of the  
4 working group, but as I mentioned, because of time reasons  
5 we didn't have a chance to discuss them within the larger  
6 working group.

7 The only exception would be our recommendation  
8 for the definition of "appointed to state or federal  
9 office." As I mentioned, our working group has diverse  
10 perspectives on that point. But the other recommendations  
11 I would like to say are consistent with the intent of what  
12 the working group wanted to do.

13 MS. REILLY: Okay. Do the panel members have any  
14 more questions for Eugene?

15 Thank you very much.

16 MR. LEE: Thank you.

17 MS. GOLD: Good morning. I'm Rosalind Gold. I'm  
18 senior director of Policy Research and Advocacy for the  
19 National Association of Latino Elected and Appointed  
20 Officials, that's NALEO Educational Fund. And I very much  
21 want to thank this panel for the opportunity to testify  
22 this morning.

23 Our mission at the NALEO Educational Fund is to  
24 empower Latinos to participate fully in the American  
25 political process from citizenship to public service. So

1 the issue of restricting and the issue of how this  
2 commission -- the application process, how the commissions  
3 are selected very much go to the core of the mission.

4           I want to echo the sentiments of many of the  
5 people who have come up in thanking you all for the  
6 thought and the care that you put into coming up with  
7 these regulations. We think the proposal is very much a  
8 great step in the right direction of creating a  
9 transparent, efficient, and accessible application  
10 process, one that ensures that you'll have qualified folks  
11 on the commission and one that enhances the opportunity to  
12 make sure that commission is diverse.

13           And we were one of the signatories to the working  
14 group's letter because we believe the comments in the  
15 working group letter will help us even -- bring us even  
16 closer to that goal. So the first thing that I'm going to  
17 do is start off with comments with respect to the working  
18 group letter.

19           And first of all, I wanted to talk about the  
20 Phase I and Phase II application periods. We would just  
21 urge the BSA to post very clearly what are the timelines  
22 for most of those application periods, make it known to  
23 the public, put it on the website. We think the clearer,  
24 the more information that applicants have about what  
25 exactly the timeline is, the better they'll be able to

1 prepare.

2           You know, with respect to the Phase II  
3 application, folks need to get information about their  
4 employment history, about what they want to put in their  
5 essays, they're going to have to arrange for people to  
6 send in recommendations letters. The more notice folks  
7 have about what the timing is, the better prepared they  
8 are, the better applications you're going to get, the more  
9 complete applications you're going to get. And when you  
10 establish those timelines, to the extent possible, and we  
11 do understand some of the constraints that face you, if  
12 you can stick with them, that would be great. And also,  
13 just do some thinking about whether the time that you've  
14 allotted for the phases, and in particular Phase II is  
15 sufficient for applicants to gather that information.

16           The second comment I wanted to make goes to the  
17 amount of notice that is given to people who make it to  
18 the interview process. The regulations currently  
19 contemplate five days. We would urge you to extend that  
20 to seven days.

21           People who get that notice of being interviewed  
22 are going to, if they're employed outside the home, going  
23 to need to make arrangements to take time off, maybe find  
24 a replacement, if they have family commitments or family  
25 obligations, they're going to need to make arrangements



1 for someone to take care of those. We hope that you can,  
2 you know, just give folks a bit more notice so that they  
3 can make the arrangements to come up to Sacramento to be  
4 interviewed.

5           We do commend you for specifically indicating  
6 that you will reimburse the costs of people who are  
7 brought up to interview. We think that will go very far  
8 towards helping to eliminate economic barriers to service  
9 on the commission.

10           We were also signatories to the letter that the  
11 Asian Pacific American Legal Center and the  
12 Mexican-American Legal Defense and Educational Fund  
13 signed, and I want to now talk about the issues in my role  
14 as a signatory to that three-organization letter.

15           And the first issue that I wanted to bring up is  
16 with respect to the provisions that create a conflict of  
17 interest if you have made contributions to a local  
18 candidate and those contributions are in excess of \$2000  
19 for any one of the last ten years.

20           We would urge you to actually create an exemption  
21 or create a clarification that if you have self-financed  
22 your campaign as a local candidate, that that does not  
23 constitute a contribution for the purpose of the conflict  
24 of interest regulations. And here's why: We do not  
25 believe that the drafters intended to completely eliminate

1 local office holders, like school board members or city  
2 council members, from serving on the commission. If the  
3 intention was to disqualify those people, it would have  
4 been done so in the provision that disqualifies candidates  
5 for state or federal office.

6           So if you consider contributions that people make  
7 to their own local campaigns as a contribution that would  
8 trigger the conflict of interest regulations, you end up  
9 with a very sort of anomalous situation where a candidate  
10 for a school board, city council, county office who  
11 accepted all of their contributions from outside sources,  
12 outside donors, and arguably would be more beholden to  
13 special interest, would not run afoul of the  
14 contributions' limit, where somebody who financed by using  
15 their own resources, mortgaging their home, would be  
16 running afoul if the amounts were high enough.

17           And in underrepresented communities, we know that  
18 many people who are serving at the local level have a  
19 commitment, strong commitment to public service, often  
20 have to resort to the self-financing, they do it at  
21 incredible personal sacrifice, and we feel that these are  
22 not the kinds of folks who should be conflicted out merely  
23 because they self-financed their campaigns. So that's one  
24 of the issues we wanted to talk about.

25           We also wanted to talk about amplifying a bit on

1 the concept of the amount of time for the Phase II  
2 application. Again, this is just coming from the  
3 three-group letter. We would argue that there should  
4 actually be a specific amount of time specified and a  
5 minimum, a floor put on that of at least 35 days.

6           For us, it is not only an issue of giving  
7 applicants sufficient time to collect the materials,  
8 collect the information, gets the letters of  
9 recommendation, which may not be in their control, but  
10 also there are many of us who are going to be doing  
11 outreach to people to encourage underrepresented and  
12 diverse members of communities to serve on the commission.  
13 And we're going to want to target our outreach to the  
14 people who made it through Phase I. We're certainly going  
15 to be doing outreach before Phase I, but we're going to  
16 really want to intensify our efforts to the folks who made  
17 that first cut. Having a minimum amount of time of about  
18 35 days would make it much more feasible for us to be  
19 effective in our outreach.

20           The third issue I wanted to bring up as part of  
21 the three-group letter has to do with the phrase "social  
22 and political causes" as an indicator of the types of  
23 things you need to set aside with respect to your ability  
24 to be impartial. And this is in 60800A3.

25           We would argue that when looking at whether or

1 not somebody has the ability to be impartial, their  
2 support or opposition for social or political causes  
3 should not be taken into account. We have a great deal of  
4 concern about how vague and broad that phrase is. That  
5 could encompass virtually any type of group that someone  
6 had been involved in or been a part of, you know, a  
7 workers' rights group, an immigrant rights group, again,  
8 the types of civic engagements that people from our  
9 communities would tend to be involved in.

10           We don't feel that people should be disqualified  
11 from service on the commission just because of their  
12 involvement in the group, and we feel that including it in  
13 the definition of how you decide whether somebody is  
14 impartial or not could lead the Applicant Review Panel to  
15 do exactly that. We feel there's other protections  
16 against making sure people don't have improper biases.  
17 For example, 60800A2 has, you know, you look at with  
18 respect to ability to be impartial whether there are  
19 biases for or against any individual groups or graphical  
20 areas.

21           So again, we feel if the phrase "social or  
22 political causes" is eliminated from 60800A3, it will make  
23 it more clear and specific and will not deter or prevent  
24 very qualified people from serving on the application  
25 merely because of their civic engagements.

1           I have one final point, and this time I'm going  
2 to take off my hat, both as a working -- the working group  
3 letter and the civil rights group letter. And this is  
4 just a very, very technical matter that I'm bringing up in  
5 my own right. This is in Section 60819, the definition of  
6 what is "paid congressional staff."

7           Under that section, you're congressional staff if  
8 you're paid by the Congress of the United States. We  
9 actually did some research into what determines whether  
10 you're congressional staff and whether you're paid by  
11 Congress or whether you're paid by the U.S. Treasury or  
12 the U.S. government. We don't have the answer. We would  
13 just urge you to take a look at that. If it is indeed the  
14 Congress and you got it right, that's great, because we  
15 ran into so much confusion trying to specify that, we  
16 would just ask you to take one more look.

17           And again, thank you so much for the opportunity.  
18 And I'll be very happy to any answer my questions you  
19 have.

20           MS. REILLY: Thank you. Do any of the panel  
21 members have questions?

22           Okay. Thank you very much.

23           MS. SCHAFER: Good morning. I'm Trudy Schafer  
24 representing the League of Women Voters of California.  
25 And I too would like to thank you very much for all the

1 thorough, thoughtful work that you have done working on  
2 these regulations, and especially on the public input, the  
3 way you have sought public input and the way you have  
4 responded to it.

5           The League of Women Voters was dedicated to the  
6 passage of Proposition 11 and we are committed to doing  
7 whatever we can to see that it is successfully implemented  
8 to the benefit of all Californians. And we commend you  
9 for the work you are doing, and we look forward to  
10 continuing in support of this whole process.

11           As you've heard, we participated in this review,  
12 extensive review of the draft in collaboration with a  
13 number of other organizations concerned with civil rights  
14 and governance. And our group's letter detailing those  
15 suggestions and concerns is something that we endorse  
16 entirely. And then I am going to comment on one or two of  
17 the points in that.

18           It's essential, of course, that a diverse set of  
19 qualified Californians be motivated to apply to serve on  
20 the independent redistricting commission. We believe that  
21 broad representative public participation is critical, and  
22 thus our group has a number of recommendations that are  
23 aimed at making the application process actually inviting  
24 to all Californians. And we applaud what you have done on  
25 it, and as I say, our letter does include some suggestions

1 for actually strengthening those aspects.

2 I would like to comment on a few concerns that we  
3 have about aspects of that process. We believe that there  
4 must be a balance between what the public should know  
5 about an applicant's background. And, of course, we all  
6 are very anxious to be sure that this is as transparent as  
7 possible and appropriate a process, but there also needs  
8 to be protection of applicants' privacy.

9 We believe that certain information directly  
10 related to an applicant's residence, birth date, family  
11 members, and personal finances should not be available to  
12 the public so that applicants are protected from the very  
13 real possibility of identity theft, other criminal  
14 activities, and harassing behavior. We're concerned that  
15 some people may not apply if they are unsure whether their  
16 personal and private information could be released  
17 publicly.

18 With respect to regulation Section 60842F, the  
19 language as currently drafted does not specify clearly  
20 enough exactly which information will not be posted on the  
21 BSA's website or otherwise publicly available. And we  
22 think it leaves more than is necessary to the BSA's  
23 discretion, which could confuse or cause uncertainty on  
24 behalf of some potential applicants.

25 In the appendix to our group's letter we suggest

1 new language for that section, 60842F, which clarifies  
2 which information will not be released, creates a separate  
3 category which uses the wording you had for the discretion  
4 that the BSA should have as to certain times of  
5 information that would not be posted or otherwise  
6 disclosed.

7           A related item is regarding Section 60847, where  
8 you've already heard our belief that information required  
9 of an applicant should be limited to those questions that  
10 are directly relevant to a determination of whether the  
11 applicant is qualified. Our group recommends adding  
12 language that makes clear that intent, and in addition we  
13 feel the disclosure of financial contributions to the  
14 organizations and causes, professional, social, political,  
15 community, and so forth, could unduly intrude on an  
16 applicant's privacy and that that information is not  
17 likely to provide much relevant information that is not  
18 otherwise available from the direct question of an  
19 applicant's involvement in such organizations.

20           In keeping with the goal of creating a commission  
21 that is truly reflective of the diversity of California's  
22 population, our group, as you know, suggests a variety of  
23 improvements to the draft regulations. For example,  
24 several of the recommendations in our letter are concerned  
25 with the aspects of the application process that are aimed



1 at encouraging applicants with a wide range of relevant --  
2 who have a wider range of relevant experience and  
3 strengths. And we want to just emphasize the fact that  
4 that kind of encouragement is extremely important.

5           Finally, as you heard from Eugene Lee, we  
6 definitely support revising the proposed definition of  
7 "state office" in Section 60828 for clarity and to reflect  
8 previous interpretations of state law. Our group believes  
9 that the definition of "state office" as given in the  
10 draft regulations is too broad and would disqualify many  
11 applicants. As a group, we've agreed that service on  
12 advisory boards should not disqualify an applicant.

13           In addition, to achieve greater consistency with  
14 the intent of Proposition 11 and to facilitate the ability  
15 of applicants to determine their eligibility for the  
16 commission, so they know whether it's worth putting in an  
17 application, the proposed definition of "appointed to  
18 federal or state office" in Section 60804 should be  
19 revised to include appointments by the Board of  
20 Equalization and to require the BSA to publish a list of  
21 appointed and state offices that would be covered by the  
22 regulation. We should think that be very helpful.

23           We do now, speaking for the League of Women  
24 Voters of California, have some comments about this  
25 balance of exactly how much that the breadth of that

1 regulating should be or should not be made more narrow.  
2 We feel that the definition of "appointed to federal or  
3 state office" should cover appointments to compensated  
4 positions, and we would suggest that that should include  
5 salaried and per diem.

6           We're trying to reach a balance between not  
7 capturing every possible person who is on a commission  
8 who, as you would put it, may well not be beholden to an  
9 appointed -- appointing officer. On the other hand, we do  
10 believe that there are other reasons for serving on -- for  
11 valuing an appointment other than simply compensation, and  
12 we want to get at that best balance between excluding too  
13 many people and not excluding enough. And so our best  
14 take on it at this point is that it should include some  
15 reference to salary and compensation, but we do not want  
16 it to be too broad in that way. You asked a couple of  
17 questions about that, and I don't have really good answers  
18 about that, but I'm certainly willing to entertain an  
19 answer.

20           And then speaking for the League, but this is  
21 also one of those questions that we just didn't have time  
22 to research, there -- it was brought up in a  
23 community-property state like California, would there be a  
24 danger of, in the application where contributions are  
25 being listed, and the initiative of course says no

1 contributions more than \$2,000 per year to political  
2 candidates, is there a danger that someone who jointly  
3 made a \$2,000 or more contribution would split that number  
4 in half and therefore not end up having to report at all?  
5 And as I say, I'm sorry that we were not able to research  
6 that thoroughly, but we'd like to ask you to look into it.

7           Once again, we thank you for the opportunity to  
8 raise these points, both on behalf of our entire  
9 collaborative group and a couple that are directly from  
10 the League of Women Voters, and we definitely appreciate  
11 the work you are doing.

12           Thank you.

13           MS. REILLY: Thank you. I have a question. It's  
14 more kind of a technical question.

15           But you're suggesting that we specify in the  
16 regulations that the application materials are public  
17 records subject to the California Public Records Act, but  
18 that would already be the case. So I'm wondering what  
19 your thought is in actually adding this language into the  
20 regulation?

21           MS. SCHAFER: I might have to defer to some of  
22 our group members. My feeling is that it is one of those  
23 things that is probably best repeated for the benefit of  
24 the applicants. So many of these things, and especially  
25 the crafting of the application itself, you want to make

1 it very clear to the applicants what the relevant laws  
2 are, what protections they have, what things they may want  
3 to consider. And that, I think, is simply the answer.

4 MS. REILLY: Okay. Do any of the other panel  
5 members have a question?

6 MR. RUSSO: I have a question.

7 I thought I understood your position, but then I  
8 got confused, so I just want to make sure I do understand  
9 it.

10 That what you're saying is is that a person would  
11 have a disqualifying conflict of interest if the person  
12 receives a salary or if the person receives a per diem,  
13 but if the person receives no salary or per diem, then the  
14 person would be okay?

15 MS. SCHAFER: That's our best compromise at this  
16 point. We feel there definitely are people who don't  
17 receive a salary and get rather little monetary  
18 compensation who nevertheless have a significant vested  
19 interest in the person who appointed them and in the whole  
20 political scheme that might make them less suitable to be  
21 on the commission.

22 We are trying to draw a balance between the most  
23 narrow reading you could make of the initiative and the  
24 real considerations that many of our other groups have  
25 brought up.

1           MR. RUSSO: Okay. But your position then is that  
2 the mere appointment would not create the conflict of  
3 interest, that is to say that a member of the legislature  
4 or the Governor thought so highly of this individual that  
5 the individual gets appointed, it's merely the fact that  
6 some money is being exchanged?

7           MS. SCHAFER: In working with our group, that has  
8 been the general tendency that we have gone to. We have  
9 not felt comfortable with just leaving it as strong as  
10 salaried, to insert the word "salaried," so the answer  
11 needs to be that, yes, our answer to you is that, but we  
12 also believe this is a very difficult question that you  
13 have to deal with.

14           MR. RUSSO: Okay. On another point that you  
15 mentioned, the issue of disclosing contributions, of  
16 course we in the State of California, the disclosure of  
17 contributions is kind of the keystone to the Political  
18 Reform Act and to a lot of the good government concepts.  
19 So I guess I'm a bit puzzled by saying that contributions  
20 to organizations, you think that would not provide us with  
21 valuable information; but aren't we saying essentially  
22 where your money goes, that kind of tells us where your  
23 heart is?

24           MS. SCHAFER: I think you heard some examples  
25 from others that have spoken, and also our letter talks

1 about how broad that can be, and those are contributions  
2 to organizations, not the contributions that are covered  
3 by the Political Reform Act.

4           And just as an aside of that, I think that  
5 perhaps consulting the regulations and the reporting  
6 requirements, the actual forms used and so forth may shed  
7 light on how to word things on the application form.

8           But to go back to the organizations and causes,  
9 the fact is that I don't think that you would get that  
10 much more information from -- information about  
11 contributions than you would get from the mere fact of  
12 someone's involvement. We've got such a range of  
13 situations, from people who will never give much  
14 monetarily but can be very involved, and that would show  
15 in their applications, to people who are more able to give  
16 larger contributions but for whom that shouldn't be such a  
17 determining factor, it's a more casual thing.

18           We had some discussion in our group and felt that  
19 if you're really looking at the involvement of someone in  
20 those causes, how they describe it, what they consider  
21 relevant to bring up as the strength of their involvement  
22 will tell you an awful lot.

23           MR. RUSSO: Should we include something, this is  
24 if you -- have you committed more than a certain number of  
25 hours to a particular organization? Would that tell us

1 anything?

2 MS. SCHAFER: I see where you're going, and I --  
3 possibly. The other thing that we're balancing is making  
4 the fact, the act of applying not be a super difficult  
5 burden on people, and so to the extent that I open up this  
6 application form and I think, oh, my gosh, I'm going to  
7 have to do so much accounting of my time over these last  
8 ten years that I'm going to throw it aside, we want to be  
9 sure we avoid that kind of problem. So I'm hesitant to  
10 give you a solid answer there.

11 MR. RUSSO: Thank you.

12 MS. SCHAFER: Thank you.

13 MS. REILLY: Thank you.

14 MR. CRESSMAN: Good morning. My name is Derek  
15 Cressman. I am Common Cause's western states regional  
16 director of state operations, and I too want to start by  
17 commending the Bureau for carrying out this series of  
18 hearings that you have done before and after the issuance  
19 of regulations to hear from the public.

20 In drafting California's Voters FIRST, it was  
21 always our goal at Common Cause to create a process that  
22 would be open and transparent to the public and responsive  
23 to California's changing demographics and ultimately to  
24 restore our public's trust in government. And from  
25 everything that we've seen from the BSA's efforts so far,

1 we commend you for staying true to that intent of the  
2 initiative. You've been thoughtful in soliciting advice  
3 from experts that were balanced with input from the  
4 public, and you've been very thorough in pulling together  
5 regulations to implement the commission selection process,  
6 which is the critical first step in ensuring the success  
7 of the California Voters FIRST Act.

8 I want to talk briefly about four points, the  
9 first three of which are just elaborating on some of the  
10 points in the working group's letter, and the fourth point  
11 being a concern of Common Cause's alone.

12 First one is related to Point 5 in our joint  
13 letter dealing with Section 60805. And that's where it  
14 proposes the definition of the appreciation for diversity  
15 criteria for selecting commissioners. And there was a  
16 question about this earlier.

17 The definition states that an applicant may  
18 demonstrate an appreciation for diversity by showing,  
19 quote, "an understanding that California's population  
20 consists of individuals sharing certain demographic  
21 characteristics that may relate to their voting  
22 preferences." And the use of the phrase "that may relate  
23 to their voting preferences" narrows the meaning  
24 significantly and excludes the full possible range of  
25 experience from a potential applicant. So a qualified



1 applicant might appreciate California's diverse  
2 demographics and geography in a manner that does not  
3 relate to individuals' voting preferences.

4           For example, you can imagine a very qualified  
5 applicant who is a demographer who studies California's  
6 fast-growing youth population. Her work might not  
7 specifically demonstrate an understanding of the shared  
8 ethnicity or income level of the youth translating into  
9 voting preferences since people under 18 do not vote. But  
10 she might be a very qualified applicant who knows about  
11 California's youth and particularly its impacts on  
12 California's changing demographics and might be a valuable  
13 member to the commission for that reason. So we would  
14 propose this alternate definition instead.

15           An understanding that California's population  
16 consists of individuals sharing certain demographic  
17 characteristics including, but not limited to, race,  
18 ethnicity, gender, income level, age, language, and level  
19 of education, and that these groups of individuals may  
20 share social and economic interests, benefit from common  
21 representation, share voting preferences, and other issues  
22 of actual mutual concern. And that might also address  
23 some of Mr. Russo's questions about how to deal with the  
24 including, but not limited to, slightly longer list of  
25 things to think about there.

1           Second point, and this is related to Point 11 in  
2 our joint letter dealing with Section 60840, which  
3 describes the BSA's outreach program to ensure a large  
4 pool of diverse and qualified applicants applies for the  
5 commission. We understand that the scope and breadth of  
6 the outreach program will be dependent upon funding, but  
7 we recommend that the outreach efforts reach into local  
8 communities in addition to statewide efforts that the  
9 regulations describe. We recognize and applaud the BSA's  
10 intent to use community partners to assist with that local  
11 outreach, and we recommend language changes to emphasize a  
12 collaborative effort to create materials and provide  
13 expert advice.

14           As you know, a number of our organizations with  
15 significant experience in the redistricting efforts in the  
16 past will be working to get together to produce joint  
17 materials to use in outreach efforts conducted by  
18 nonprofit, nonpartisan community organizations, and we'd  
19 like to ensure that there's an open door to work with the  
20 BSA to create accurate and helpful educational materials  
21 and educational efforts.

22           So to that end, we would suggest this language  
23 for Section 60840 subsections 3 and 4: 3, identifying  
24 community partners, requesting that they assist in  
25 recruiting qualified applicants, and supporting them in

1 that effort with advice and materials. And in 4, creating  
2 and distributing public service announcements and print  
3 advertisements regarding the application process for  
4 placement in regional, local, and ethnic media.

5           Third point that's related to Point 12 in the  
6 working group letter is that the BSA should ensure that  
7 adequate resources are available for persons filling out  
8 the application form. We recommend that the BSA provide  
9 instructional and resource materials with the application  
10 form that help applicants determine their eligibility to  
11 serve on the commission, and this might take the form of  
12 links to and instructions for navigating state and federal  
13 campaign finance websites to make sure that people can  
14 look up and verify possible conflicts arising out of  
15 financial contributions for themselves or relatives if you  
16 can't remember, for instance, and the BSA should also make  
17 a telephone hotline available so that potential applicants  
18 can call to receive advice on questions of eligibility.  
19 And we hope that the BSA will articulate a commitment to  
20 ensure availability of such resources, either in revised  
21 regulations or documents accompanying the application  
22 form.

23           And then our fourth point, as has been talked  
24 about a little bit in our group discussions, several  
25 organizations have raised concerns about the BSA's

1 proposed definition of "state office" in Section 60828.  
2 And we, as has been raised, we had agreement on some of  
3 these points, such as recommending that the "state office"  
4 definition be revised to exclude advisory commissions or  
5 similar bodies, and we also agree that the definition  
6 should be clarified to indicate that appointees to city,  
7 county, or local district bodies may serve on the  
8 commission.

9           There's been a lot of productive discussions  
10 around this issue of salaried, per diem, and whatnot, and  
11 whether that needs to be further narrowed. And as one of  
12 the organizations that helped to draft the California  
13 Voters FIRST Act, Common Cause crafted this language  
14 broadly to conflict out people who are appointed to  
15 federal and state offices such as boards and commissions.

16           In our view, the news has been filled with recent  
17 examples of people who have been appointed to these  
18 commissions because of relationships they have with the  
19 appointor or because they're committed to vote a certain  
20 way on a commission, so, for example, Governor's  
21 appointments to the Citizens Salary Commission or  
22 legislature's appointments to the Stem Cell Research  
23 Commission. And so one idea to deal with has been that  
24 the word "salary" be added to the definition of appointed  
25 offices conflicted out.

1           And based on research that's been done by the  
2 Center for Governmental Studies, Common Cause is concerned  
3 that that definition that tries to parse appointees out by  
4 what or how much they are paid makes distinctions that do  
5 not really accurately sort out the commissions -- or  
6 applicants that are less likely to have conflicts. So  
7 trying to create a definition based on compensation that  
8 also more closely tracks those commissions and boards with  
9 conflicts may be overly complicated.

10           The Center for Governmental Studies found that  
11 the number of salaried commission appointments is very  
12 small; by comparison, it appears that well over half of  
13 the commissioners or board members that are appointed by  
14 the Governor receive some form of compensation called a  
15 per diem, often \$100 a day. There appears to be no  
16 particular correlation between which commissions or boards  
17 are salaried or paid per diem or not compensated at all  
18 and what decision-making powers they have.

19           And just a small sampling shows that full-time  
20 salaried commissioners are receiving salaries in excess of  
21 \$100,000 are found in the Public Utilities Commission,  
22 Water Resources Commission, Energy Commission, and the  
23 Fair Political Practices Commission for the chair, the  
24 Stem Cell Committee, for the chair and vice chair. And  
25 part-time salaried positions of less than \$100,000 or

1 roughly 40- to 50,000 are found in the Air Resources Board  
2 and the Personnel Board.

3           But some examples of commissioners who receive a  
4 per diem of \$100 are on the Stem Cell Committee for  
5 commission members, the Coastal Commission, the Teachers  
6 Retirement Board, Public Employees Retirement Board, New  
7 Motor Vehicle Board, High-Speed Rail Commission,  
8 California Transportation Commission, and the trustees of  
9 the California State University system.

10           And then some examples of commissioners that  
11 receive no per diem or salary and are reimbursed only for  
12 travel expenses include the Asian and Pacific Islander  
13 Affairs, Native American Heritage Commission, Tobacco  
14 Education and Oversight Commission, and the University of  
15 California Regents.

16           So Common Cause believes that the BSA should  
17 avoid carve outs that are based simply on whether an  
18 appointee is salaried or not because it deviates from the  
19 intent of Proposition 11 and does not accurately really  
20 capture the commissions where there might be likely  
21 conflicts.

22           We believe that there are a significant number of  
23 potential applicants that will meet both the diversity and  
24 qualification requirements and who will not be conflicted  
25 out by the appointed state office exclusion, so there may

1 be no need to do that.

2 MS. REILLY: So does anybody on the panel have  
3 questions?

4 Thank you very much.

5 MR. CRESSMAN: Thank you.

6 MR. WALTON: My name is Sam Walton, and I'm here  
7 on behalf the National Association for the Advancement of  
8 Colored People, NAACP.

9 I'd like to start by first saying the work that  
10 the Bureau has done to date has been very, very,  
11 impressive. And I believe the process as being on the  
12 website has made it open and accessible to individuals and  
13 it's been very useful for our organization. So I'd like  
14 to commend you on that.

15 Secondly, I'm here in two capacities. First, I'm  
16 here as a member of the working group. And I also want to  
17 commend the working group for the work they've done. We  
18 put -- there have been many, many hours of discussions  
19 based on the fact that you guys provided information, made  
20 it possible for other individuals to grab that information  
21 and have some internal discussions, and that has been  
22 very, very useful.

23 You know, I feel like the coalition has  
24 discussed many of -- the working groups has discussed many  
25 of the very, very critical details. We've been very

1 thoughtful in the way we've gone about doing it, and we've  
2 been able to put that together in some kind of summary or  
3 package and then provide that to you. So I'm standing  
4 here today feeling like our points of view have been  
5 presented and they've been thoroughly discussed. So the  
6 letter that was presented by the working group is one that  
7 we stand behind 100 percent.

8           Then there are just a couple of small things that  
9 I want to point out. One is as it relates to 60805.  
10 There is some discussion about how one goes about  
11 demonstrating their appreciation. And you articulate that  
12 one can do that through occupation, academic, and life  
13 experiences. We'd like to propose that you include in  
14 that volunteer experiences as well.

15           The other thing is that one of the statements as  
16 it relates to subsection 2, in that subsection we suggest  
17 that -- currently the language reads, "recognition that  
18 California benefits by having meaningful participation in  
19 the electoral process by registered voters of all  
20 demographic characteristics and residing in all geographic  
21 locations." We would like to recommend that you expand  
22 that registered voters to include all people, all persons.

23           And then the last point I'd like to make relates  
24 to subsection B4. And in that section we indicate that  
25 one can demonstrate their sensitivity by being involved in



1 both local and -- in the local area as well as experiences  
2 with demographic groups. We would like to propose that  
3 one be able to demonstrate their appreciation by one of  
4 the two as opposed to the language which says there must  
5 be both.

6           And then the final point is, yes, in subsection  
7 B2, we would like to recommend language that would -- a  
8 couple of words that can be added at the end of the  
9 sentence where it says -- after "electoral process," we  
10 would recommend that we include "and improving  
11 representation."

12           And that then concludes any comments that we have  
13 on behalf of the group letter.

14           And then I'd like to make one final statement on  
15 behalf of the NAACP. In the proposed regs, as I said, I  
16 believe that the Bureau has been very thorough in its  
17 analysis and has done an excellent job in laying out kind  
18 of how we should approach this. And I believe that the  
19 Bureau has been very thoughtful as to how we include  
20 diversity and balance as we go through the process.

21           The one thing that we would like to recommend is  
22 that the regulations tend to be silent as it relates to  
23 the formulation of the Applicant Review Panel, and that we  
24 would like to recommend that there be some language that  
25 uses the same principles of diversity that you have so

1 eloquently articulated throughout the materials that you  
2 have provided thus far.

3           And that concludes our testimony.

4           MS. REILLY: I have a question.

5           You said that you would recommend us not  
6 requiring all of the requirements. Were you referring to  
7 60805A? This is going back to the appreciation for  
8 California's diverse demographics and geography.

9           MR. WALTON: Say that again.

10           MS. REILLY: At one point you stated that we're  
11 setting forth requirements, but you thought that we should  
12 not -- that it would be sufficient for an individual to  
13 meet one of them rather than all of them, and I wasn't  
14 sure exactly where you were --

15           MR. WALTON: Oh, that would be subsection B4.

16           MS. REILLY: B4. Okay.

17           And are you referring to --

18           MR. WALTON: Let's see. Oh, no, I listed it as  
19 4; there's no subsection B4. In my notes I have 4. It's  
20 subsection B.

21           And in subsection B, we have -- let's see, where  
22 is that -- different backgrounds and from -- yeah. In  
23 subsection B, the number one example or the first example  
24 in subsection B currently states, "working on a project,"  
25 in other words this is how they can demonstrate it, "by

1 working on a project of statewide or local concern  
2 affecting Californians of different backgrounds and from  
3 different areas." So this suggests that they're joined  
4 together. You can demonstrate it if you have both of  
5 these, but perhaps you can't demonstrate if you don't have  
6 both of them.

7 MS. REILLY: Okay. I understand now.

8 Do any of the other panel members have questions?

9 Thank you.

10 MR. WALTON: Thank you.

11 MR. REYES: Good afternoon. I think it's  
12 afternoon. Can't tell from this darkness. My name is  
13 Steve Reyes, and I am an attorney with Kaufman Legal Group  
14 that has been working for some time with you folks that  
15 have been involved in various stages of Prop 11, including  
16 these suggestions for revision of the regulations.

17 And the point I have here is fairly simple and  
18 quick. And it's with respect to the Phase II process in  
19 60847, particularly with the criminal history language.

20 And on one hand, the language in the regulation  
21 just broadly asks for or seeks information regarding an  
22 applicant's criminal history. I think, again, echoing  
23 some of the earlier comments, that fairly broad request  
24 could deter some applicants from wanting to pursue this if  
25 it will include everything under the sun. I should note

1 that your draft application does limit it to felony  
2 convictions, which is great, and I think reflecting that  
3 also in the regulations will help increase that confidence  
4 that it only will be in the final version so restricted.

5 I think also our suggested language includes some  
6 additional points to help clarify, that include guilty  
7 pleas as well and not just felony convictions. Not being  
8 a trial or criminal attorney, I think that that still  
9 works and will help you get at other things that  
10 necessarily don't flow from strictly criminal convictions.

11 The final thing I'll say is with respect to  
12 Eugene and the MALDF letter and the NALEO letter with  
13 respect to the training on the BRA issues, I think that's  
14 particularly important. In previous, prior to my position  
15 here with Kaufman Legal Group, I was an attorney with  
16 MALDF and was intimately involved with the redistricting  
17 process and going out to communities from Calexico all the  
18 way up to Antioch and meeting with people, giving that  
19 instruction. Letting them know what the process was all  
20 about was extremely helpful to help focus them.

21 Similarly, I think giving the ARP a sense of what  
22 the end result is supposed to be and what these  
23 commissioners will be facing will help them be that much  
24 better at selecting and refining the applicant pool to  
25 those very best applicants.

1 MS. REILLY: Thank you.

2 Does anybody have questions from the panel?

3 Thank you very much.

4 MS. ALEXANDER: Hi there. I'm Kim Alexander with  
5 the California Voter Foundation and the last member to  
6 speak from the California Forward convened working group.

7 California Voter Foundation is a nonprofit,  
8 nonpartisan, 501c3 organization advancing the responsible  
9 use of technology to improve the democratic process. We  
10 are online at [www.CalVoter.org](http://www.CalVoter.org), and our site does offer a  
11 section on redistricting reform including links to your  
12 resources, which are extremely helpful.

13 I'd like to speak to a couple of points made in  
14 the group letter, and then I'll address some comments that  
15 represent the California Voter Foundation's opinions on  
16 its own. These will go in sequential order of the  
17 regulation numbers, but it jumps around in the listing of  
18 items in the letter, so hopefully it will be easier to  
19 follow long.

20 First is the regulation number 60819, the  
21 definition of "paid congressional legislative or Board of  
22 Equalization staff." This is item 3 in our letter. The  
23 current language appears to assume that all congressional  
24 and legislative staff are receiving compensation from the  
25 Congress of the United States only, and we suggest adding

1 the phrase "or the State of California" to this  
2 regulation.

3           Next is 60821, the definition of "political  
4 party." This is item number 4 in our letter. This  
5 definition should be clarified. As it's currently  
6 drafted, the definition includes only those parties that  
7 make campaign expenditures to support candidates for  
8 elected public office; however, not all qualified  
9 political parties in California may actually make campaign  
10 expenditures. For example, the Peace and Freedom Party  
11 appears to be an example of that. So we, therefore, are  
12 suggesting the phrase, "or recognized as qualified by the  
13 Secretary of State" to this definition to ensure that it  
14 covers all operating political parties regardless of  
15 whether they make campaign expenditures.

16           Next we have 60824, number 19 in our letter.  
17 Improvements can be made to the definition for "randomly  
18 draw." We applaud the State Auditor's definition for the  
19 "randomly draw" definition and believe that the process as  
20 generally described in the regulation will result in a  
21 successful random selection process. However, the  
22 description can be further improved with two simple  
23 changes.

24           The first is to add the word "immediately" at the  
25 beginning of 60824B to clarify that there will not be a

1 significant gap in time between the assigning of numbers  
2 to final applicants and the selection of those applicants.  
3 Such a time gap can lead to an actual or perceived  
4 opportunity for mischief that can easily be avoided by  
5 requiring the assigning of numbers to happen immediately  
6 prior to the drawing.

7           It is also important that it not be possible for  
8 the person making the random selections to know what  
9 number specific applicants have been assigned. If numbers  
10 are assigned sequentially to an alphabetical list, then it  
11 will be possible for the selector and everyone else to  
12 know what number specific applicants have been assigned  
13 since the names of the final pools of applicants will be  
14 public. For this reason, we suggest adding the phrase "in  
15 random order" in the same section when describing how  
16 applicants' names and numbers will be assigned and  
17 recorded.

18           Next is 60833, number 21, removal of panel  
19 members appears to have a typographical error. 60833A3  
20 currently makes a reference to 60833 and we suggest  
21 changing this reference to 60832.

22           Number 14 on our letter applies to 60842 and  
23 60844. Applicants who unintentionally submit two  
24 applications should not be disqualified. Because the  
25 application process is online, it is likely that

1 applicants will need technical assistance. Some may  
2 accidentally submit an application more than once. We  
3 suggest adding the word "intentionally" in 60842C1 and  
4 60844A1, so that applicants who accidentally submit their  
5 application more than once are not disqualified nor led to  
6 believe that doing so could disqualify them.

7           Number 24 on our letter applies to 60848 and  
8 60850. The regulation should be revised to provide that  
9 declined-to-vote state voters will be represented in the  
10 non-major party subpool when the applicant pool is reduced  
11 to 120 persons in Phase II and 60 persons in Phase III of  
12 the application process.

13           The language of Proposition 11 suggests that  
14 so-called independents, voters who are not registered with  
15 any political party, also known as declined-to-state  
16 voters will have a role on the new redistricting  
17 commission. For example, the findings and purpose  
18 language of Prop 11 states that "This reform will ensure  
19 full participation of independent voters. This reform  
20 requires support from democrats, republicans and  
21 independents for approval of new redistricting plans."

22           Of the approximately 4.2 million Californians  
23 currently registered to vote with neither of the two major  
24 political parties, 82 percent are registered as declined  
25 to state. Accordingly, we believe the regulation should



1 be revised to require the Applicant Review Panel to give  
2 some consideration to whether the non-major party  
3 applicant pool includes declined-to-state voters when the  
4 applicant pool is reduced during Phases II and III.  
5 Without such considerations, it is possible that  
6 declined-to-state voters may be underrepresented in the  
7 non-major party applicant pool which in turn would  
8 increase the likelihood that declined-to-state voters  
9 would not be represented on the commission at all.

10           Please see our suggested revisions to Sections  
11 60848 and 60850 in the appendix, which reads, "The panel  
12 shall also consider whether the composition of a subpool  
13 specified in subdivision B3 of this section is reflective  
14 of the state's population of voters who are not registered  
15 with either of the two largest political parties in  
16 California, including voters registered as declined to  
17 state and voters registered with parties other than the  
18 two largest parties."

19           Next we have in 60848, item 22 on our letter,  
20 each member of the Applicant Review Panel shall review  
21 each application to ensure a full review and provide the  
22 opportunity for redundant evaluation. As the proposed  
23 regulations are unclear on this point, we suggest a  
24 revision to 60848 in the appendix to require each member  
25 to review each application. Doing so will help reduce the

1 appearance of possible bias in the panel's judgment on  
2 subjective aspects of the application process.

3           Next on 60853, number 20 in our letter, we  
4 suggest adding language to the regulations that restates  
5 the final process for selecting the first eight  
6 commissioners. In 60853, the draft regulations discuss  
7 the strike-out process for legislative leaders to remove  
8 applicants from the final pool and also how the Auditor's  
9 office shall proceed if the strike-outs do not happen by  
10 the deadline stated in Proposition 11. However, both  
11 60853A and B describe these final stages as applying to  
12 all applicants as a group rather than applicants comprised  
13 of three subpools.

14           To avoid confusion, we suggest adding language to  
15 60853A that simply restates the process for making the  
16 final selections from the three subpools as it was written  
17 in the initiative itself.

18           Number 9, this is not a particular regulation,  
19 but we want to encourage the Applicant Review Panel to  
20 fact check as much as possible to verify the accuracy and  
21 honesty of the applications, particularly regarding  
22 conflict-of-interest-related statements. We applaud the  
23 intent of the Bureau of State Audits' staff to check  
24 accuracy of applications as much as possible to best  
25 maximize the time and resources of the Bureau as well as

1 to minimize inconvenience to applicants and applicants'  
2 family members, employers, et cetera. We also believe it  
3 might make the most sense to focus fact-checking activity  
4 later in the process after the size of the applicant pool  
5 has been somewhat reduced.

6           So that concludes my comments on behalf of the  
7 working group. I also have comments representing the  
8 California Voter Foundation's views, particularly on the  
9 state office issue I'd like to share with you.

10           I wish to express concerns with how "state  
11 office" and "appointed to state office" are defined in the  
12 draft regulations, specifically 60804 and 60828, and  
13 suggest ways these definitions can be improved in order to  
14 maximize the applicant pool and more easily verify which  
15 applicants are qualified to serve on the commission.

16           The "state office" definitions are extremely  
17 important because they dictate who is eligible and who is  
18 ineligible from applying to serve on the citizens'  
19 redistricting commission. While most of the Proposition  
20 11 provisions and restrictions are clearly spelled out,  
21 the provision in question is one that requires  
22 interpretation.

23           Section 8252 of the measure states that an  
24 individual's ineligible for applying to serve on the  
25 commission if within the ten years immediately preceding

1 the date of the application, the applicant or a member of  
2 his or her immediate family has, quote, "been appointed  
3 to, elected to, or have been a candidate for federal or  
4 state office." How expansively or narrowly this  
5 prohibition is defined is open to interpretation, as is  
6 noted in the State Auditor's Memorandum number 2.

7           The California Voter Foundation believes that on  
8 its face the language appears to be describing state  
9 elective office, since only these types of offices are the  
10 kinds that someone could be a candidate for or be elected  
11 to. And in this interpretation, the idea of appointing  
12 someone is taken to mean appointed to fill a vacancy for  
13 an elective office. However, the State Auditor has  
14 interpreted the term "state office" to apply, rather, that  
15 every state office, agency, department, division, bureau,  
16 board, and commission within the government of the State  
17 of California.

18           We believe this interpretation of the definition  
19 of "state office" is overly broad and applying it would do  
20 a disservice to the initiative by unnecessarily limiting  
21 the number of qualified applicants. When one considers  
22 that this prohibition would apply to not just every  
23 current appointee but anyone ever appointed in the past  
24 ten years along with their immediate family members as  
25 broadly defined by the initiative to include parents,

1 siblings, and in-laws, the draft definition would  
2 effectively bar potentially hundreds of thousands of  
3 people from applying to serve on the commission.

4           Furthermore, many citizens who serve on boards  
5 and commissions do so on a voluntary basis. They receive  
6 some meager per diem or stipend, but for the most part,  
7 board and commission appointees are providing volunteer  
8 services to the State of California and are likely to be  
9 the very kinds of people who would be interested in  
10 serving on the Citizens' Compensation Commission.

11           The philosophical question that the State Auditor  
12 needs to consider is whether to create a narrow funnel on  
13 the front end of the application process that dramatically  
14 restricts applicants in such a fashion in order to  
15 effectively preclude any possibility of a political  
16 insider or crony from applying and serving on the  
17 commission, or whether to have a wide funnel on the front  
18 end and rely on other provisions of the initiative to weed  
19 out any applicants who have a potential partisan or  
20 political agenda.

21           It is the view of the California Voter Foundation  
22 that there are many others opportunities in the applicant  
23 selection process to review applicants for the ability to  
24 be impartial. Indeed, it is one of just three qualities  
25 that determine whether an applicant is qualified to serve

1 on the commission or not. CVF believes that it is better  
2 to allow a wide funnel at the beginning of the application  
3 process and rely on the work of the Applicant Review  
4 Panel, the public comment process, and the legislative  
5 strikes process to weed out any applicants with a partisan  
6 or political agenda.

7           To place such a narrow funnel on the front end of  
8 the application process will do a disservice to the  
9 initiative in that it will wipe out large numbers of  
10 potential applicants who otherwise may be highly qualified  
11 to serve on the commission and would be inclined to do so.  
12 Specifically, CVF suggests revising 60828 to read as  
13 follows: "State office means every state elective office  
14 within the government of the State of California."

15           Another definition related to "state office" is  
16 the definition for the term "appointed to federal or state  
17 office," for which a definition is also included in the  
18 draft regulations and is also open to interpretation as is  
19 noted in Memorandum number 2. The initiative does not  
20 specify to which appointing authority this restriction  
21 applies. The State Auditor has drafted regulations that  
22 would include all appointments made by the Governor and  
23 the legislature; however, the initiative states several  
24 times and very clearly that its purpose is to shape  
25 political districts free from legislative influence.

1           For example, in the findings and purpose under D,  
2 it says, "The reform takes redistricting out of the  
3 partisan battles of the legislature." Section 3.3 of the  
4 initiative says, "The selection process is designed to  
5 produce a citizens redistricting commission that is  
6 independent from legislative influence." Based on these  
7 facts, the California Voter Foundation believes it is  
8 the -- if the definition of "state office" remains as  
9 currently drafted, it should be applied to appointments  
10 made by the legislature and not those made by the  
11 Governor. Or if you keep the Governor's appointees on the  
12 prohibited list, consider limiting it to only those that  
13 require senate confirmation.

14           Yet another way the definition of "appointed to  
15 state office" could be narrowed is to include only  
16 salaried appointments in the restriction; and you've heard  
17 many comments to this effect today. The basis for this  
18 approach is simple. Someone who has been appointed to a  
19 paid, salaried position from a legislator or Board of  
20 Equalization member is beholden to their appointee for  
21 their livelihood and may be perceived as owing a debt or  
22 favor to that person.

23           The advantage of this approach is that it would  
24 be easy for the applicant, the public, and the Applicant  
25 Review Panel to verify whether an applicant is indeed

1 qualified to serve since whether a person is on the State  
2 of California payroll is a matter of public record, and in  
3 fact, anyone can go to the Sacramento Bee's website and  
4 look up state worker pay rates if they want to verify  
5 someone's application.

6           Thus, we suggest four ways to narrow the  
7 definition for the "state office and appointed to state  
8 office" that would greatly expand the number of people who  
9 would be eligible to apply for the new commission.

10           Number one, define "state office" as "state  
11 elective office"; number two, remove "appointment made by  
12 the state governor from the list of prohibited appointees;  
13 number 3, include only those appointments made by the  
14 Governor that require senate confirmation; and number  
15 four, only include "salaried employees" in the definition.

16           One additional suggestion is to change the word  
17 limit in 60847 relating to the Phase II application from  
18 250 words to 500, as 250 words may unnecessarily restrict  
19 an applicant's abilities to adequately express their  
20 qualifications to serve on the commission.

21           I'm happy to be able to now or later to answer  
22 any of your questions. Thank you.

23           MS. REILLY: Do any of the panel members have  
24 questions?

25           MR. RUSSO: I have a question.



1           To give the conflict of interest provision  
2 regarding appointment to state office, your meaning, don't  
3 we have a problem here in that it says "been appointed to,  
4 elected to, or have been a candidate for federal or state  
5 office"? If it was intended to be just elective state  
6 office, why wouldn't it say "elective state office" as we  
7 see later in the initiative the term "elective public  
8 office" is used presumably to distinguish it from a  
9 non-elective office?

10           MS. ALEXANDER: That's a great question, and we  
11 were not involved in drafting the initiative, but my guess  
12 is that the reason why it's not stated there is because it  
13 would appear redundant because it says in the beginning of  
14 that phrase, "elected to, appointed to, or a candidate for  
15 state office." It seems to me that those three  
16 activities, elected, appointed, or a candidate for, are  
17 all talking about this phrase "state office" and,  
18 therefore, only state offices where those kinds of verbs  
19 could apply are covered in that definition. So I think it  
20 would be awkward to have written "appointed to, a  
21 candidate for, or elected to an elective state office,"  
22 AND I think it maybe would have been clearer, and we  
23 wouldn't be having to have this discussion right now.

24           But when I first read the initiative, on its  
25 face, because those three terms were all grouped together,

1 I took it to mean, oh, they mean someone appointed to fill  
2 an elective state office, because you can't run for an  
3 appointed office, you -- well, actually you can be a  
4 candidate for an appointed office, and this actually  
5 raises an important issue someone brought up to me, which  
6 is the way that this definition is currently worded,  
7 anyone who has ever submitted their name to be considered  
8 for any appointed position would technically be a  
9 candidate for a state office because they would be putting  
10 their name forward, if you read it that way.

11           So I think whatever you guys decide to do on  
12 this, and I know that this is a confusing issue for all of  
13 us, but I think the consensus is that we want a bright  
14 mind, we want someone that's verifiable, we don't want  
15 confusion. Personally, California Voter Foundation wants  
16 a wide funnel at the front end of this process, because  
17 ultimately we want you to be able to choose from a vast  
18 number of qualified applicants. And when you consider  
19 that ten-year time frame and extension to immediate family  
20 as broadly defined by this initiative, we are talking  
21 about hundreds of thousands of people, the very kinds of  
22 people who would be inclined to want to serve on this  
23 commission.

24           So I think that -- I trust the Applicant Review  
25 Panel, the public comment process, and the legislative

1 strikes process to protect the selection process, insulate  
2 it from a political insider getting through all the way to  
3 that stage and that we don't need to put such a tight  
4 funnel at the front end to prevent people from applying.

5 MR. RUSSO: On a smaller point, the issue that  
6 you raised about what if someone submits two applications,  
7 and you want us to put into the regulation essentially an  
8 out for someone who accidentally submits an application so  
9 that we would only eliminate somebody who intentionally  
10 submits two applications, how would you suggest we make  
11 that determination as the Bureau when we receive two  
12 applications from the same person to know whether we are  
13 dealing with somebody who intentionally versus  
14 accidentally submitted two applications?

15 MS. ALEXANDER: That's a great question. I would  
16 imagine your technical staff may be able to help with  
17 that. I mean, this happens all the time with online  
18 applications, people doing online procedures. I'm sure  
19 you've done it. I've done it. I've taken a survey online  
20 and accidentally hit the send button twice, and they got  
21 it twice.

22 So I'm not sure what the technical solution is,  
23 maybe, you know, you could have a note on the online form,  
24 if you accidentally send this in twice, please contact us,  
25 email us, let us know. We're just concerned that without

1 that kind of language in there, people are already going  
2 to be intimidated, some people, from doing an online  
3 application in the first place, and we want to make sure  
4 that they're not dissuaded into thinking that they're not  
5 going to be able to technically get it right.

6 MR. RUSSO: Okay.

7 MS. REILLY: Any more questions?

8 Thank you very much.

9 The next person we have on our sign-in in order  
10 is Peter, and I can't quite read the last name, Van Meter,  
11 I think.

12 MR. VAN METER: I'm Peter Van Meter from  
13 Sausalito. Thank you for giving us the opportunity to  
14 come up and speak to you today.

15 I'm going to address a couple of points. I've  
16 given you written comments that go into a lot of other  
17 things, but I'll just leave my comments to a couple of big  
18 ones today.

19 The main theme that I want to address is the  
20 ultimate makeup of the commission. So when the 14 members  
21 are revealed to the public, what will they see and what  
22 will be their perception of that commission.

23 I use the phrase here that in a perfect world  
24 this will be a group of people that no one ever heard of,  
25 and that is not necessarily to be literately taken, but

1 it's to think of a group of highly-qualified citizens that  
2 represent the diversity and characteristics of the state,  
3 the demographics, the geographic diversity, all the  
4 factors that are in the proposed regulations regarding  
5 that mix of people that are representing the people of  
6 California, but that are, in effect, ordinary citizens and  
7 have the skills and qualifications to complete the duties  
8 of the commission. But the opposing makeup might be a  
9 panel that would end up being a group of highly-known  
10 advocates, activists that come from the representative  
11 communities of the state that satisfy those diversity  
12 requirements, but which can be perceived by the public to  
13 have preconceived agendas that they want to advance while  
14 sitting on the commission.

15           And this is kind of a tricky thing. How do you,  
16 in effect, design it so you end up with a group of people  
17 that are highly qualified but which do not have the  
18 perception of the public of a specific agenda that they  
19 want to advance in the redistricting process?

20           One of the things is to consider how do you deal  
21 with the question of recommendations that are made? Do  
22 the ordinary citizens have access to so-called profile  
23 recommenders? In other words, is it going to be a  
24 question of the Applicant Review Panel considering who are  
25 the people that are making recommendations, as an example,

1 as to the validity of -- validating the qualifications of  
2 the applicant? And I'm not suggesting that this can be  
3 written into the exact language of the regulations, I'm  
4 merely trying to point out the basic philosophy of how  
5 they're designed.

6           In looking at specific language that can address  
7 this point, we go to Section 60805B where the individuals  
8 are expected to demonstrate their appreciation for the  
9 geographic and demographic diversity of the state. As  
10 it's drafted right now in the three subsections there,  
11 language specifically talks about working on statewide  
12 projects, studying voter behavior, or done statewide  
13 consensus building. And I would suggest that these  
14 examples be brought forward as a way of demonstrating  
15 their capability would vastly limit your pool of  
16 applicants because there's going to be the vast majority  
17 of highly-qualified citizens who, in fact, have never  
18 engaged in those three kinds of example activities.

19           So specifically I'm suggesting that those phrases  
20 be modified. That the first two be, in effect, deleted,  
21 and as someone mentioned earlier, the one about working on  
22 consensus building be reoriented to emphasize local  
23 activities as well as regional and state activity. What I  
24 would put as the number one criteria in this demonstration  
25 that the person is familiar with California diversity,

1 backgrounds, geographic areas, the rest of those criteria  
2 through their life experience, and that your applications,  
3 which has the opportunity for people to explain that on  
4 their behalf, emphasize that point.

5           Another issue then comes up is the idea that  
6 certain community partners, which I agree should be  
7 brought in the process to encourage applicants, may  
8 include those with very high-profile advocacy positions.  
9 Now, that's not necessarily a bad thing because they may  
10 bring forth what I would call the ordinary citizen out  
11 from their outreach efforts, but I would be concerned if  
12 the main role of those organizations is to, in effect,  
13 bring forth their leadership of those partner  
14 organizations to be members of the commission. Because  
15 again, perception of the public at the end of the day is  
16 going to make a huge difference here.

17           In my view, the people who voted for Proposition  
18 11 had the vision that these would be, in effect, ordinary  
19 citizens that had the technical skills, once they  
20 represent that diversity, when you look at the total panel  
21 together, that would have the technical skills to actually  
22 engage in the process of ending up drawing the maps, and  
23 would not be a group of highly-politicized advocates.

24           The second point I want to make is regarding the  
25 skill set that is needed in order to actually effectively

1 do this map drawing process. There's another aspect of  
2 this besides just looking at whether areas are urban,  
3 rural, et cetera, and I call this the ability for the  
4 applicant to demonstrate what I call a sense of place. In  
5 other words, natural terrain features, rivers, the  
6 San Francisco Bay, mountains, et cetera, in a  
7 one-dimensional may look like contiguous regions, can  
8 actually have a tremendous effect, those natural factors.  
9 Manmade features can have exactly the same effect. Large  
10 swaths of industrial sections that are in the middle of  
11 two residential neighborhoods, highways, you know,  
12 transportation arteries, things of this type. So I think  
13 what you'll see in my written comments is a number of  
14 areas we can put in, in effect, demonstration of an  
15 appreciation of the effective natural terrain and manmade  
16 features, neighborhoods, and communities of interest.

17           Finally, in terms of going back to the -- this  
18 potential activist situation in the application itself,  
19 someone mentioned about putting 500 words into the essays.  
20 I agree with that point, to balance out the final point,  
21 which actually already had a 500-word requirement of  
22 listing the activities, because again, to me, that seemed  
23 to be an overemphasis on the activities of the person as  
24 opposed to giving adequate text to identify their skill  
25 sets.



1 Any questions?

2 MS. REILLY: Thank you very much for your  
3 comments.

4 MR. VAN METER: Thank you.

5 MS. REILLY: The next person I have on the list,  
6 and I can't quite make out the last name again, is Bob  
7 Appeloo? Is there a Bob who wanted to testify, or  
8 comment?

9 No?

10 Okay. Then the next name I have is Jim  
11 Vanderveen. Is there a Jim Vanderveen here?

12 Okay. The next person I have Ethan Jones.

13 MR. JONES: I don't want to testify.

14 MS. REILLY: Okay. Thank you.

15 Kathleen Sanders?

16 Corrine Fishman?

17 Derek Cressman?

18 MR. CRESSMAN: I testified already.

19 MS. REILLY: Okay. That's right. You did.

20 Darren Cheson?

21 MR. CHESON: I thought that was the -- no.

22 MS. REILLY: Then we have Joan Hancock.

23 Christopher Maricle?

24 MR. MARICLE: Yes.

25 Good afternoon. My name is Christopher Maricle,

1 and I live in Lodi, California. And I can't say I  
2 represent a workgroup, except Sarah and Nick and my wife  
3 would probably tell me I probably don't. So I just have a  
4 few comments this morning.

5           First of all, I want to thank you for the  
6 opportunity to publicly comment. In the last election  
7 this was actually the most important issue for me, because  
8 I think it has tremendous capacity to change the way we do  
9 government in California.

10           I want to -- I have a couple -- three quick  
11 questions or comments.

12           And the first is in Section 60818 with regard to  
13 the requirement for continuous registration with a  
14 political party for the previous five years. And I don't  
15 know if this is actually in the Act itself or if it's part  
16 of the proposed regulations, but I think it narrows the  
17 group of people substantially who might apply who might  
18 have switched political parties. And I think that's a  
19 problem, because I think it presumes a motive. People  
20 switch for various and sundry reasons, and it seems there  
21 is sufficient thoughtfulness in the vetting process after  
22 the fact to filter out anything that might be a problem  
23 because of that.

24           There have been several comments about the  
25 conflict of interest issues with regard to appointments

1 and the suggestion that salary might be a basis for, you  
2 know, the bright line. As a citizen who has been fairly  
3 nonpolitical, except that I vote on a regular basis, I  
4 would argue the opposite. I think that the previous  
5 comments before me that the perception of the public would  
6 be that an appointment in and of itself is a benefit and  
7 that it's a recognition of someone who has status and  
8 influence in the eyes of people like the Governor. So  
9 regardless of whether they have any financial benefit, the  
10 perception of the public will be that that person has a  
11 bias and an agenda because they are beholden to someone  
12 for the appointment, which is in itself a benefit.

13           And then finally, with regard to the skills, I  
14 want to echo some of the comments. I think that it's  
15 unclear, I think, in the language I've been able to read  
16 so far, it's unclear how much staff will be available to  
17 this commission. And so that is the balance of the degree  
18 to which they'll need technical expertise.

19           But I agree with the comments regarding, you  
20 know, the use of statistical software, which is pretty  
21 expensive and pretty unavailable to most people. And I  
22 think so what we're really balancing here is, you know, a  
23 group of people who have a certain degree of technical  
24 skill but who I think primarily will be applying  
25 principles of fairness and principles of reason. And, you

1 know, it's a value-levels discussion in many, many ways.  
2 They need to be able to understand the data, but I don't  
3 think the commission itself will be conducting the  
4 analysis of the data. I'm sure that will be done by  
5 professional staff at some level.

6           So an application process that overly emphasizes  
7 the requirements of that level of expertise may narrow the  
8 band for people who can do the higher-order thinking and  
9 the values-level thinking.

10           And those are my comments. Thank you very much  
11 for the opportunity. Do you have any questions for me?

12           MS. REILLY: Do we have any questions?

13           Thank you very much.

14           MR. MARICLE: Thank you.

15           MS. REILLY: Okay. The next name we have on our  
16 list is Gary Darling?

17           And then Sam Paredes. Is there a Sam who would  
18 like to testify?

19           MR. PAREDES: Yes.

20           MS. REILLY: Okay, great.

21           MR. PAREDES: Good afternoon. My name is Sam  
22 Paredes. I represent a group of folks out in California  
23 who are very interested in the political process. A group  
24 called "Gun Owners of California." We're a political  
25 action committee active in elections, in all kinds of

1 activities related to government.

2           And I wanted to come up here and comment to make  
3 the recommendation that there is a high level of distrust,  
4 if you will, or skepticism from the outside viewing in as  
5 we go through a process as complicated and as important as  
6 this. And I would think that anything that the  
7 commission, that the commission -- particularly the  
8 Auditor's office and the selection panel does to avoid any  
9 sort of possible criticism would be immensely important.  
10 This is groundbreaking for California, and we're pretty  
11 excited about this.

12           One recommendation that we would make is that  
13 when the applications are sent to the Application Review  
14 Panel to take a look at them and to do the preliminary  
15 culling out and, you know, evaluations, that the staff  
16 people who are tasked with doing that don't get to see the  
17 names. You're not really looking at the names, you're  
18 actually looking at the qualifications. And we don't know  
19 what the inclinations are of the staff people; and that's  
20 not to be disparaging about anybody who works for the  
21 Auditor's office and who participates in this process, but  
22 if the names are redacted until they actually make it to  
23 the point to where, the next step, where obviously you're  
24 going to know who they are when you invite them for an  
25 interview and sit down and talk with them, that that

1 aspect of not having staff people deal with the names  
2 would be an important issue that we think would eliminate  
3 a lot of potential criticism.

4           The State of California and the voters gave the  
5 State Auditor an immense responsibility, probably one that  
6 the Auditor didn't necessarily want, but that's what it  
7 has, and the honor and respect has gone to the Auditor,  
8 and anything that the Auditor would do to reinforce the  
9 fact that, hey, this is clean slate, this is fairness,  
10 staff people, the responsibility ultimately lies on the  
11 Auditor herself, and we're going to make sure that even  
12 our staff people are beyond criticism and reproach.

13           And making something as simple as that and not  
14 revealing the names and really making it on the  
15 qualifications as they make it through the cuts,  
16 obviously, again, you will know who they are, you will be  
17 to interview them and make all of the decisions, and when  
18 push comes to shove and the members of the legislature get  
19 to make their, you know, selection or removals, it will be  
20 obvious as to who they are. But that's a recommendation.  
21 I think it's pretty important from our perspective.

22           We're -- we've always been rather skeptical at  
23 the workings of bureaucracy because bureaucracy for us in  
24 our organization has come back to bite us time and time  
25 again, and that's why we're politically active. So

1 recommendation. I will submit this in writing and hope  
2 that you will consider them seriously.

3 Thank you.

4 MS. REILLY: Thank you.

5 Do we have any questions? No?

6 Thank you.

7 MS. RAMIREZ-RIDGEWAY: The one thing you want to  
8 keep in mind for purposes of submitting your written  
9 comment though is that we do need to get it today. So be  
10 sure and fill out a card.

11 Thank you.

12 MS. REILLY: Is there anyone else that would like  
13 to make comments at this time? Feel free to come up.

14 We are going to stick to our agenda because we  
15 realize that people might be wandering in because we did  
16 post the notice for 10:00 to 4:00 today. At one o'clock  
17 we had scheduled a lunch break, so we will be taking that  
18 and resuming after that, but as far as I can see right  
19 now, there is not anybody else who is interested in  
20 commenting. So if you want to stick around and hang out  
21 with us, that's fine; if you have other things to do,  
22 please feel free to go on your merry way.

23 And just to let you know, that we will be posting  
24 this video online and the transcripts once we get them so  
25 you don't feel like -- you don't need to feel like you're

1 going to miss anything.

2 (Comment from audience member not at microphone.)

3 MS. REILLY: At the end of this? Probably not,  
4 because we will be posting the video on our website, and  
5 we will be -- the revisions, to the extent we make them,  
6 will be up on our website so everybody will be fully  
7 informed.

8 MS. RAMIREZ-RIDGEWAY: We have to respond to the  
9 comments in writing, Mr. Wright, so you'll be able to see  
10 that as well.

11 MS. REILLY: Right.

12 We are going to take a brief recess until about  
13 12:50, and then at one o'clock we are going to have an  
14 hour lunch break.

15 (Recess.)

16 MS. REILLY: At this time we are reconvening, and  
17 we now adjourn for lunch. We will be back at two o'clock.

18 (Lunch recess.)

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1 AFTERNOON SESSION

2 MS. REILLY: It's two o'clock, and so we're going  
3 to open the hearing for additional public comment. Is  
4 there anybody here who would like to make comments?

5 Okay. Not seeing anybody who wants to make  
6 comment at this time, we will recess until somebody comes  
7 who would like to make comments.

8 (Recess.)

9 MS. REILLY: Okay. We're reconvening the hearing  
10 for public comment. Please remember to state your name  
11 for the record. Thank you.

12 MR. TARTAGIA: My name is Jeffrey Tartaglia, and I  
13 am newly aware to this -- the Sacramento Bee this morning  
14 made me aware of this hearing taking place. My background  
15 goes through serving on various duties and, shall we say,  
16 committees and other things.

17 So a comment, as you're going through coming up  
18 with these regulations and to the factor of your forming  
19 now something that has apparently never been done before  
20 as an independent committee, is a suggestion you may want  
21 to look at perhaps dealing with some grand jury  
22 correspondence, putting together, shall we say, an  
23 organization, a body.

24 Amador County, some thesis groups were done at  
25 the, shall we say, Sacramento University over here, I

1 believe 2004; but anyway, if you look under Amador County,  
2 someone suggestive of dealing with the training and  
3 programmings as you're putting this group together. Right  
4 now, you've just apparently -- this is for dealing with  
5 the regulations, particularly eliminating of interests,  
6 but at the same time you are now proposing of this, that  
7 of these regulations, that by that you are going to  
8 determine a body of people that you have given them no  
9 means by which they just come together and somehow they  
10 figure out how in the world do they form learning how to  
11 redistribute the State of California per census districts  
12 accounting.

13 I'm just making the comment here as a public  
14 comment that perhaps you need to in this regulation look  
15 at some guidelines that suggest to you how you work the  
16 group dynamics, not just conflict of interest, but the  
17 other part of group dynamics that make for a group, a  
18 body, to function, especially when you are forming  
19 something that is brand new, and that's what I'm treating  
20 this as, is being wanting an independent body not directed  
21 under one guidance rather. So you're forming something  
22 that is brand new.

23 And I just alert you to the fact, if you're not  
24 aware of it, that someone did a thesis paper in 2004  
25 directed at Amador County because their interest in

1 watching what Amador County was coming up with issues  
2 related to grand jury duties and functions, that perhaps  
3 there is a guide there that might be helpful in offering  
4 some direction and jurisdiction of getting the group  
5 dynamics of a body functioning.

6           How do you get a body of -- now you're proposing  
7 this large margin to deal with a state of, I believe, over  
8 30 million people, and you have a representative of --  
9 well, you've seen how well, shall we say, our legislature  
10 is working together, turning around and doing the best of  
11 making the decisions of how you acknowledge the  
12 distribution of people and represent people and as well  
13 turn around and give it where you're the guidance so that  
14 people that represent those interests are going to turn  
15 around and come up and be an intelligent body to govern  
16 and direct with certain issues.

17           That's mostly what my comment is about today, not  
18 any specifics of redistricting any more regulations  
19 through there, but suggesting that in this regard of  
20 regulation, that perhaps you also need to, again, as being  
21 the nebulous that that started out from the voters telling  
22 you that, hey, you know, apparently there's been a problem  
23 judging and a problem of seeing of how districts are  
24 formed to somebody's particular interest or whatever,  
25 that, please, we need to have people come up with and

1 decide that we don't want to represent any one interest,  
2 we want it to be as representative of what in the world  
3 the community has at large.

4           And that's my comments to you. Again, my name is  
5 Jeffrey Tartaglia, and I believe that that's something as a  
6 public comment that perhaps is a guidance and certainly of  
7 interest in watching and observing this process. And I  
8 will now pay attention more to what you guys perhaps  
9 continue and do with this and see what perhaps in December  
10 you come up with that offers further guidance involved  
11 with this.

12           MS. REILLY: Thank you.

13           Do any of the panel members have any questions?

14           Okay. Thank you very much.

15           Is there anybody else at this time who would like  
16 to provide public comments?

17           MR. PRUNER: Yes. Should I stand up here?

18           MS. REILLY: Yes, that would be best for the  
19 video.

20           MR. PRUNER: Panel members, thank you for taking  
21 this time to receive public comment. Let me --

22           MS. REILLY: Please state your full name.

23           MR. PRUNER: I'm sorry. My name is Mark Pruner.  
24 Last name spelled P-r-u-n-e-r. M-a-r-k is my first name.  
25 I live over in Yolo County.

1           Let me -- I have maybe six or seven comments, and  
2 if I could direct your attention to each page and ask if  
3 you have questions to the comments as we go along.

4           First comment on page 1, Section 60800A,  
5 subsection 2, reads in its current form, "biases for or  
6 against any individuals, groups, or geographical areas."  
7 I would request that you add in as a third element in that  
8 phrase, the term "economic interests," so that number 2,  
9 sub 2 reads "biases for or against any individuals,  
10 groups, economic interests, or geographical areas."

11           The reason -- there are two reasons for that  
12 suggested change. One is that -- one is that I think  
13 economic interests and their biases for or against  
14 economic interests goes to the heart of Prop 11 in what  
15 it's intended to address; secondly, the added language is  
16 consistent with regulation Section 60814, which does list  
17 economic interests as a criteria.

18           Second suggested change, also on page 1 in the  
19 same section, moving down to subsection B, and  
20 subsection 2, so it's 60800B2, b1 begins with a verb,  
21 "having"; I believe the verb "having" should also be added  
22 to the beginning of that phrase to make the two consistent  
23 in their syntax.

24           Second change in line 1 of sub 2 of sub B, sub 2  
25 currently reads "occupational, academic, or life

1 experiences." Seems to me that replacing the word "or"  
2 with the word "and" more closely addresses what I believe  
3 Prop 11 is designed to address in terms of achieving a  
4 panel or commission that has both occupational, academic,  
5 and life experiences, so that we again don't pick and  
6 choose between folks, folks who bring to the table all  
7 three of those characteristics, not just one the three  
8 characteristics listed.

9           Page 2, looking at Section -- by the way, I can  
10 stop here at the end of page 1. Any of you have any  
11 questions, comment? Am I full of baloney?

12           MS. RAMIREZ-RIDGEWAY: My question was simply  
13 whether in your last comment you're suggesting that  
14 qualified applicants would have a particular academic  
15 background. Our concern drafting these was that if we  
16 required both occupational, academic, and life  
17 experiences, that we may be eliminating people who hadn't  
18 worked or did not achieve a certain level of education.  
19 And we were trying to be as inclusive as possible.

20           MR. PRUNER: No, I don't think that's at all the  
21 case, because the key criteria is being placed -- in the  
22 way you structured the sentence, is you're asking for  
23 folks to be able to set aside their personal interests,  
24 political opinions, and group allegiances to achieve a  
25 broad objective, so that looking at occupational, academic

1 and life experiences really are qualifiers or they're  
2 pathways to the latter set, which is the most important.  
3 That's the way I understood the language is put together  
4 in any event.

5           If you want to add -- see, what your comment  
6 would tell me is that you might want to add a whole new  
7 subsection 3 then that asks for a broad section of folks  
8 that have occupational, academic, or life experiences,  
9 which, I don't know, seemed like another qualifier.

10           Does that make sense what I'm saying?

11           MS. RAMIREZ-RIDGEWAY: I think I understand your  
12 comment. I was just concerned that you didn't want to  
13 require people have a certain level of academic or  
14 occupational experience.

15           MR. PRUNER: Oh, no, no, not at all. Because it  
16 seems to me the commission ought to -- I think the policy  
17 statute is pretty clear, the commission ought to reflect  
18 broadly the people of the State of California.

19           MS. RAMIREZ-RIDGEWAY: Correct.

20           MR. PRUNER: I mean, that's a really important  
21 part of it. And we know that academics, for example,  
22 while they may have a high degree of academic interest in  
23 the subject matter, Prop 11, academics themselves are a  
24 fraction of a fraction of a fraction of the people of the  
25 State of California.

1           So looking at this language, it seemed to be  
2 partially slanted at least to give academics a leg up, you  
3 know, at least one of two academics being put in the  
4 commission, because they could say, well, nobody is an  
5 academic but me, therefore you should select me, whoever  
6 that person would be. My sense in reading Prop 11 is we  
7 didn't want to give anybody, academic or non, a leg up in  
8 the process.

9           Page 2, I had a little bit -- looking at 60805 --  
10 difficulty trying to understand what sub 1 and sub 2  
11 meant. It seemed to me both 1 and 2 had the effect of  
12 constricting the definition of the words "appreciation for  
13 California's diverse demographics and geography." So that  
14 it just seemed counterintuitive to me. So let me just  
15 suggest the wording here and see what you think.

16           In sub 1 -- so to be clear, it's Section 60805  
17 subsection A1, line 1, delete the word "sharing," and  
18 after the word "individuals," add the words "composed of a  
19 wide variety of certain demographic characteristics."  
20 That seems to be more expansive, and with that change  
21 broaden the focus of folks that would be part then of the  
22 commission.

23           The same change then also in 2. Subsection A2,  
24 line 2, deleting the word "distinct" and adding in its  
25 place "a wide variety," so that the sentence reads, "an



1 understanding of the people of California reside in many  
2 different localities with a wide variety of geographic  
3 characteristics," et cetera.

4 Are these comments consistent with what you're  
5 trying to achieve do you think?

6 MS. REILLY: We've actually received a number of  
7 comments on this particular regulation, and what we're  
8 going to need to do is take them all together and consider  
9 them. So at this point I'm not prepared to answer that  
10 question.

11 MR. PRUNER: Fair enough.

12 MS. REILLY: But we will be republishing -- if we  
13 do amend the regulation, they will be posted on our  
14 website again for another 15-day comment period.

15 MR. PRUNER: Very good. And do you show what you  
16 do with -- do you create an appendix of all the comments  
17 received so the folks can follow what comments were  
18 received and then either by line item, section, or  
19 subsection track what comments were utilized and which  
20 were not?

21 MS. REILLY: I don't think we've exactly  
22 determined what our format is going to be, but we are  
23 going to have all the comments up on our website, and if  
24 we have changes, revisions to the regulations, that would  
25 be on our website as well as a statement of reasons for

1 why we're making the changes. So we will be responding to  
2 every comment.

3 MR. PRUNER: I guess my request, I found it works  
4 best in reviewing public comments is to produce them in an  
5 annotated form so that you not just provide the rationale,  
6 but then there's the link to the comments that were made  
7 and people can just follow and track. That's helpful,  
8 rather than just having a long list.

9 Page 3 -- and I promise I'm not going to go  
10 through every single page. Page 3, looking still at  
11 Section 60805, it seemed to me that B2, which is the  
12 alternative way to -- I think you're trying to  
13 quantitatively say what it meant to meet the definition of  
14 having an appreciation of California's diverse  
15 demographics and geography, seemed to me that sub 2, that  
16 studying -- where you say, "studying the behavior of  
17 Californians in various areas of the state," goes back to  
18 my earlier comment that it seems drafted to ensure that  
19 one or more academics are on the commission.

20 And since academics are, again, that fraction of  
21 a fraction of a fraction of the people in the State of  
22 California, I thought those were the only people that  
23 might legitimately be able to say that they studied the  
24 voting behaviors. Frankly, who else does that but a few  
25 professors and a few institutions in California? So I

1 just feel that unfairly steers the population of the  
2 commission toward that one small group.

3           So my suggestion would be to delete 2. Number 3  
4 and 1 seem to me rather close and restating more or less  
5 the same thing. My suggestion in 1 is after the word "a,"  
6 the third word on line 1, so I'm looking, again, it's sub  
7 B1, "working on a," and then add the words "nonpolitical  
8 project of statewide or local concern" would be my  
9 suggestion to try to make the commission as nonpolitical  
10 as possible.

11           Then I would add a number 4 to that list. I'm  
12 debating about this, but let me just say this for  
13 consideration, and that is "living in two or more counties  
14 within the State of California," trying to seek somebody  
15 that has actually lived in different spots or different  
16 areas of the state, because we know that by living in  
17 different parts of the state, that's the primary way in  
18 which we honestly have an appreciation for the differences  
19 within the State of California.

20           Going over to page 4, Section 60809, I don't know  
21 if this is a consistency in the Act or not, I think it is,  
22 but I'm comparing 60809 with 60812. 60812 lists  
23 candidates for congressional, state, and local offices;  
24 60809 merely refers to candidates for federal or state  
25 offices.

1           May I ask a question? Is the phraseology in  
2 60809, does that come right out of Prop 11?

3           MR. RUSSO: Sorry. The phrase that we're  
4 defining is out of Prop 11.

5           MR. PRUNER: Okay.

6           MR. RUSSO: A campaign committee of a candidate  
7 for elected federal or state office, and we're simply  
8 defining that term.

9           MR. PRUNER: Well, my suggestion would be to add  
10 local -- political committees for local offices. So this  
11 language would be a new C. I'm not sure if you can do  
12 this, but let me just suggest it. New C to read, "As  
13 applied to a candidate for local office or any campaign  
14 committee of that candidate as defined in --" I'm sorry, I  
15 forget the section, I'm sorry, I don't have the section  
16 number off the top of my head. Seems to me if we're going  
17 to address candidates for local offices, that their  
18 campaign committees also ought to be elected, just for  
19 consistency.

20           And then on page 6, at 60818B, this is -- B  
21 appears to establish a floor requirement for voting in  
22 statewide elections. My understanding is that in order to  
23 be considered as a member of the commission, an individual  
24 must be registered with the same political party  
25 continuously for five years immediately preceding the time

1 of appointment. That's what it says in A above.

2           Since the redistricting commission will be  
3 charged with such an important responsibility, my request  
4 is to change B so that it reads "have voted in all of  
5 the --" "-- in all of the statewide general elections in  
6 the last five years immediately preceding their  
7 appointment," which would have the de facto effect of  
8 requiring full participation in the electoral process.

9           And the reason I think that's not too onerous is  
10 that absentee voting has now become so common that, and so  
11 easy to do that it's not unreasonable to ask all the  
12 commissioners to fully participate in at least the basic  
13 act of voting and the level that that requires of  
14 participation in the democratic process.

15           Page 13, 60835 sub C, this is the quorum  
16 requirement for the meeting of the panel. The language  
17 states that two members of the panel constitute a quorum.  
18 My request is all three members of the panel constitute  
19 the quorum. And the reason for that is that when the  
20 panel meets, that although there is another regulation  
21 that states that if an applicant being removed from the  
22 pool does require the concurrence of all three members,  
23 there are nonetheless other significant important items of  
24 business that should require a complete unanimity of  
25 agreement among the members. And I appreciate the

1 discussion that we had off camera that there are some,  
2 perhaps, minor things that need be handled if somebody's  
3 sick. I believe that could be handled by bylaw or other  
4 rule.

5           And before -- next set of suggestions is on 15.  
6 I don't have a particular place to put this. I just have  
7 it written on page 15. And that is to by regulation  
8 establish a standard of review using words to the effect  
9 of requiring the panel members to use their -- use  
10 reasoned, diligent, and informed judgment in the making --  
11 in their decision-making process, a reasoned, diligent,  
12 and informed judgment as they make their decisions.

13           I'd like to say that before getting up here I  
14 talked with a number of folks that are -- you both on the  
15 panel and in the audience that work with the Auditor  
16 General's office, and I just want to thank you very much  
17 for your effort. I know this is hard to do. You're  
18 trying to create something that's brand new that may or  
19 may not be -- I'm not aware this is anywhere else in the  
20 country, and what you write here will become a standard  
21 throughout the United States as folks tend to look at this  
22 and look to California. So thank you very much for your  
23 effort. You've been very kind to me in answering all my  
24 questions before coming up. Thank you very much.

25           MS. REILLY: Thank you.

1           And do any of the panel members have any further  
2 questions? No?

3           Thank you very much.

4           MR. PRUNER: Thank you.

5           MS. REILLY: Is there anybody else out there who  
6 would like to make public comments?

7           MR. DARLING: Good afternoon. My name is Gary  
8 Darling. I'm here today as a private citizen. And I have  
9 some very brief comments for you.

10           During the Davis administration, I served as the  
11 geographic information officer for California. And after  
12 many years of carving up this state cartographically in  
13 different ways, there are some pitfalls I wanted to  
14 quickly warn you about.

15           One is there's been some controversy about  
16 academic individuals, or individuals who have high levels  
17 of knowledge in geographic information systems and  
18 statistics. And you don't want to overload your panel  
19 with groups like that. On the other side, there is a  
20 significant, I think, unseen danger in that if you don't  
21 have high levels of expertise in statistics and in G.I.S.,  
22 a private consultant could very much effect the process,  
23 and I think that consultant could change things in subtle  
24 ways that would be unseen by practically everyone in the  
25 system, but could significantly affect outcomes.

1           Some things to watch for is the selection of data  
2 that goes into the process. If full intellectual property  
3 rights aren't available to all the data sets used in the  
4 production of this system, the consultant will create a  
5 set of intellectual property that could be property of the  
6 consultant, and that could then give quite a bit of an  
7 advantage to one party or the other, that would then  
8 subsequently by the exact parameters that were used in  
9 defining the ones that were drawn.

10           Just to try to do this mathematically, simply  
11 what happens when you optimize something, and imagine a  
12 quartz crystal and a piece of paper coming down on that  
13 quartz crystal. The place where the piece of paper would  
14 hit the crystal would be the optimal answer. It turns out  
15 that when you have a lot of parameters, it's often  
16 possible to change a very small thing and have a huge  
17 effect on the overall outcome. Because if the crystal was  
18 to touch the piece of paper on a face, every part of that  
19 face would be an equally optimal answer. It's often used  
20 by mathematical modelers to produce wildly different  
21 answers that appear the same. When you draw those as  
22 maps, you'll never know what hit you if you don't have  
23 someone in this process who fully understands the degree  
24 in which you can do that.

25           Now, there's a lot of ways of getting someone



1 into the process. One is making all of the data used in  
2 decision making a public domain object. In the end, what  
3 will probably happen is some software will be bought, and  
4 there is software for political redistricting, and if you  
5 have everyone have equal access to information, and public  
6 comments can help you with some of this, but it's still a  
7 concern.

8           A second class of concern is the State of  
9 California hiring process for consultants doesn't envision  
10 conflicts of interest of the type that might occur here.  
11 So you don't have any reasonable vetting process for one  
12 of the most important individuals in this whole system,  
13 that consultant, if they have ties to one party or  
14 another, can change everything, either for their own  
15 economic benefit or for other reasons. So there's a whole  
16 'nother layer of vetting that would need to be done here.  
17 And I'm not clear that the state's thought through how you  
18 do this. I'm sorry I don't have specific recommendations  
19 on how to do this, but I think it's a subtle problem that  
20 you guys will have to think through.

21           The last thing I'll say, in my own personal  
22 reading of this, the first time it came through, when I  
23 hit the letters of recommendations, it created quite a bit  
24 of concern for me. I thought about, well, what if I tried  
25 to become one of these members, who would I get, how would

1 I do it. It was very disquieting to think about, oh, do I  
2 pick a person who is important to the republicans,  
3 important to the democrats? I can do that because I've  
4 been a state-like figure, but it just seems like the wrong  
5 thing to ask, especially early in the process. I'm not  
6 certain that the information you get from that process  
7 would outweigh the detriment that you'd have in asking for  
8 it, and making it so very simple to tell who is aligned  
9 with who in the process.

10 With that, thank you very much for taking my  
11 comment.

12 MS. REILLY: Thank you.

13 Do any of the panel members have questions?

14 No?

15 Thank you very much.

16 Is there anybody else who would like to provide  
17 public comments at this time?

18 Seeing nobody who wants to make public comments,  
19 we will recess until we have another person who would like  
20 to make public comment. Thank you.

21 (Recess.)

22 MS. REILLY: We will now reconvene the hearing.

23 Seeing that there are no other individuals who  
24 would like to provide public comment and the hour of  
25 4:00 p.m. having arrived, we will now adjourn the hearing.

1                   (Thereupon the Bureau of State Audits  
2                   Public Hearing adjourned at 4:01 p.m.)  
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CERTIFICATE OF REPORTER

I, DIANA SASSEEN, a Certified Shorthand Reporter of the State of California do hereby certify:

That I am a disinterested person herein; that the foregoing Bureau of State Audits Public Hearing was reported in shorthand by me, Diana Sasseen, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of September, 2009.

DIANA SASSEEN

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