

**PUBLIC HEARING**  
**COMMISSION ON STATE MANDATES**



TIME: 9:30 a.m.  
DATE: Thursday, May 27, 2010  
PLACE: State Treasurer's Office  
915 Capitol Mall, Room 587  
Sacramento, California



**REPORTER'S TRANSCRIPT OF PROCEEDINGS**



Reported by:  
Daniel P. Feldhaus  
California Certified Shorthand Reporter #6949  
Registered Diplomate Reporter, Certified Realtime Reporter

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A P P E A R A N C E S

COMMISSIONERS PRESENT

CYNTHIA BRYANT  
*(Commission Chair)*  
Representative for ANA MATOSANTOS  
Director, State Department of Finance

CATHLEEN COX  
Acting Director  
Director, Office of Planning & Research

RICHARD CHIVARO  
Representative for JOHN CHIANG  
State Controller

FRANCISCO LUJANO  
Representative for BILL LOCKYER  
State Treasurer

J. STEVEN WORTHLEY  
Supervisor and Chairman of the Board  
County of Tulare



COMMISSION STAFF PRESENT

PAULA HIGASHI  
Executive Director  
*(Item 19 and 21)*

NANCY PATTON  
Assistant Executive Director  
*(Items 16, 16, 17, and 18)*

CAMILLE SHELTON  
Chief Legal Counsel  
*(Items 4, 5, and 20)*



A P P E A R A N C E S

PUBLIC TESTIMONY

**Appearing Re Items 4 & 5 (Investment Reports):**

For County of Los Angeles:

HASMIK YAGHOBYAN  
County of Los Angeles  
Department of Auditor-Controller  
500 West Temple Street, Suite 603  
Los Angeles, California 90012

For Department of Finance:

LORENA ROMERO  
Department of Finance  
915 L Street  
Sacramento, California 95814

For Controller's Office:

JILL KANEMASU  
Chief, Bureau of Payments  
Division of Accounting and Reporting  
State Controller's Office  
3301 C Street,  
Sacramento, California 95816

**Appearing Re Item 18 (Legislative Update):**

For California State Association of Counties:

ALLAN BURDICK  
California State Association of Counties  
SB 90 Service  
4320 Auburn Boulevard, Suite 2000  
Sacramento, California 95841

A P P E A R A N C E S

PUBLIC TESTIMONY

**Appearing Re Item 21 (Executive Director's Report):**

For California State Association of Counties:

ALLAN BURDICK  
California State Association of Counties

For Department of Finance:

JEFF CAROSONE  
Principal Program Budget Analyst  
Department of Finance  
915 L Street  
Sacramento, California 95814

**Appearing Re Public Comment:**

GINNY BRUMMELS  
(former employee of State Controller's Office)



ERRATA SHEET

<u>Page</u>	<u>Line</u>	<u>Correction</u>
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I N D E X

<u>Proceedings</u>	<u>Page</u>
I. Roll Call . . . . .	11
II. Approval of Minutes	
Item 1    March 26, 2010 . . . . .	11
Item 2    May 3, 2010 . . . . .	12
III. Proposed Consent Calendar	
( <i>Items 6, 7, 8, 9, 10, 11, 12, 13,</i> <i>14, 16, 17 and 19)</i> . . . . .	13
IV. Appeal of Executive Director Decisions Pursuant to California Code of Regulations Title 2, Section 1181(c)	
Item 3    Appeal of Executive Director's Decision ( <i>None</i> ) . . . . .	13
V. Hearings and Decisions on Test Claim and Statement of Decision, Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 7	
A. Test Claims	
Item 4 <i>Investment Reports:</i> 01-9635802-1-01 County of Los Angeles . . . . .	14
Item 5    Proposed Statement of <i>Investment Reports:</i> 01-9635802-1-01 (See Item 4 above) . . . . .	16

I N D E X

<u>Proceedings</u>	<u>Page</u>
VI. Hearings and Decisions on Test Claim and Statement of Decision, Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 7	
B. Dismissal of Proposed Amendment to Parameters and Guidelines	
Item 6* <i>Clean School Restrooms</i> 04-TC-01 Los Angeles Unified School District ( <i>Consent calendar item</i> ) . . . .	13
VII. Informational Hearing Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 8	
A. Proposed Parameters and Guidelines	
Item 7* <i>Academic Performance Index</i> 01-TC-22 San Juan Unified School District ( <i>Consent calendar item</i> ) . . . .	13
Item 8* <i>Crime Victims' Domestic Violence Incident Reports II</i> 02-TC-18 ( <i>Consent calendar item</i> ) . . . .	13
B. Proposed Amendments to Parameters and Guidelines State Controller's Office Request to Update Boilerplate Language	
Item 9* COUNTY PROGRAM Seriously Emotionally Disturbed Students, 05-PGA-42 ( <i>Consent calendar item</i> ) . . . .	13

I N D E X

Proceedings

Page

VII. Informational Hearing Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 8

B. Proposed Amendments to Parameters and Guidelines State Controller's Office Request to Update Boilerplate Language

Item 10\* SCHOOL PROGRAMS

A. *Annual Parent Notification*  
05-PGA-45  
(Consent calendar item) . . . . 13

B. *Notifications of Truancy*  
05-PGA-55  
(Consent calendar item) . . . . 13

C. *Notification to Teachers: Pupils Subject to Suspension or Expulsion*  
05-PGA-57  
(Consent calendar item) . . . . 13

D. *Pupil Suspensions, Expulsions, and Expulsion Appeals*  
05-PGA-65  
(Consent calendar item) . . . . 13

C. Dismissal of Withdrawn Requests to Amend Parameters and Guidelines

Item 11\* *Interdistrict Transfer Requests: Parent's Employment*  
01-PGA-10 (CSM 4445) . . . . 13

Item 12\* *Caregiver Affidavits to Establish Residence for School Attendance*  
01-PGA-03 (CSM 4497). . . . . 13



I N D E X

<u>Proceedings</u>	<u>Page</u>
VII. Informational Hearing Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 8	
D. Joint Request to Extend Term of Reasonable Reimbursement Methodology	
Item 13* <i>Firearm Hearings for Discharged Inpatients</i>	
07-RRM-01 (99-TC-11) . . . . .	13
E. Adoption of Commission Order to Initiate Rulemaking Pursuant to California Code of Regulations, Title 2, Article 8, Section 1189.2	
Item 14 General Cleanup Provisions . . .	17
VIII. Hearings on County Applications for Findings of Significant Financial Distress Pursuant to Welfare and Institutions Code Section 17000.6 And California Code of Regulations, Title 2, Article 6.5	
Item 15 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commissions or to a Hearing Officer ( <i>None</i> ) . . . . .	--
IX. Reports	
Item 16 Adoption of Strategic Plan . . .	19
Item 17 Update on Implementation of Recommendations from Bureau of State Audits October 15, 2009 Report 2009-501 . . . . .	20

I N D E X

<u>Proceedings</u>	<u>Page</u>
IX. Reports <i>continued</i>	
Item 18 Legislative Update . . . . .	21
Item 19 Working Group Proposal: Mandate Redetermination Process	24
Item 20 Chief Legal Counsel: Recent Decisions, Litigation Calendar .	37
Item 21 Executive Director: Workload, Budget, New Practices, 2010 Meeting Calendar, and Next Meeting and Scheduling Claims .	37
X. Public Comment (Resolution re Brummels) . . .	43
XI. Closed Executive Session . . . . .	--
XII. Report from Closed Executive Session . . . .	--
Adjournment . . . . .	47
Reporter's Certificate . . . . .	48

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**Commission on State Mandates – May 27, 2010**

1 BE IT REMEMBERED that on Thursday, May 27,  
2 2010, commencing at the hour of 9:35 a.m., thereof, at  
3 the State Treasurer's Office, 915 Capitol Mall, 5<sup>th</sup>  
4 Floor, Room 587, Sacramento, California, before me,  
5 DANIEL P. FELDHAUS, CSR #6949, RDR and CRR, the following  
6 proceedings were held:

7 --oOo--

8 CHAIR BRYANT: This meeting of the Commission  
9 on State Mandates will come to order.

10 Paula, will you call the roll?

11 MS. HIGASHI: Mr. Chivaro?

12 MEMBER CHIVARO: Here.

13 MS. HIGASHI: Ms. Cox?

14 MEMBER COX: Here.

15 MS. HIGASHI: Mr. Glaab is absent.

16 Mr. Lujano?

17 MEMBER LUJANO: Here.

18 MS. HIGASHI: Ms. Olsen is absent.

19 Mr. Worthley?

20 MEMBER WORTHLEY: Here.

21 MS. HIGASHI: Ms. Bryant?

22 CHAIR BRYANT: Here.

23 MS. HIGASHI: Item 1 is approval of the minutes  
24 of March 26<sup>th</sup>.

25 CHAIR BRYANT: Are there any objections or

**Commission on State Mandates – May 27, 2010**

1 corrections to the March 26<sup>th</sup> minutes?

2 MEMBER CHIVARO: Move approval.

3 CHAIR BRYANT: Is there a second?

4 MEMBER WORTHLEY: Second.

5 CHAIR BRYANT: We have a motion and a second.

6 All those in favor of adopting the minutes?

7 *(A chorus of "ayes" was heard.)*

8 CHAIR BRYANT: Any opposed?

9 *(No response)*

10 CHAIR BRYANT: Abstentions?

11 MEMBER COX: I need to abstain.

12 CHAIR BRYANT: The minutes are adopted.

13 MS. HIGASHI: Item 2, adoption of the minutes  
14 from May 3<sup>rd</sup>.

15 CHAIR BRYANT: Are there any objections or  
16 additions or corrections to the minutes of the May 3<sup>rd</sup>  
17 meeting?

18 MEMBER CHIVARO: Move approval.

19 CHAIR BRYANT: Is there a second?

20 MEMBER COX: Second.

21 CHAIR BRYANT: We have a motion and a second  
22 for adoption of the minutes.

23 All those in favor?

24 *(A chorus of "ayes" was heard.)*

25 CHAIR BRYANT: Any opposed or abstentions?

**Commission on State Mandates – May 27, 2010**

1                   (No response)

2                   CHAIR BRYANT:    The minutes are adopted.

3                   MS. HIGASHI:    We have no appeals under Item 3.

4                   And this brings us to the proposed Consent Calendar.

5                   On the proposed Consent Calendar, it should be  
6                   before you on green paper.

7                   Item 6, Item 7, Item 8, Item 9, Item 10 --  
8                   which consists of Parts A, B, C, D -- Item 11, Item 12,  
9                   and Item 13.

10                  We've taken two items off the proposed consent  
11                  calendar, the Strategic Plan and the rulemaking, for  
12                  technical discretion.

13                  CHAIR BRYANT:    Are there any objections to the  
14                  proposed Consent Calendar?

15                  MEMBER WORTHLEY:  Move approval, Madam Chair.

16                  CHAIR BRYANT:    Is there a second?

17                  MEMBER CHIVARO:  Second.

18                  CHAIR BRYANT:    It's been moved and seconded to  
19                  adopt the proposed consent calendar.

20                  All those in favor, signify by saying "aye."

21                  (A chorus of "ayes" was heard.)

22                  CHAIR BRYANT:    Any opposed or abstentions?

23                  (No response)

24                  CHAIR BRYANT:    The motion carried.

25                  MS. HIGASHI:    Thank you very much.

**Commission on State Mandates – May 27, 2010**

1                   This brings us to the hearing portion of our  
2 meeting.

3                   Will the parties and witnesses for Items 4 and  
4 5 please stand?

5                   *(Parties and witnesses stood up.)*

6                   MS. HIGASHI: Do you solemnly swear or affirm  
7 that the testimony which you are about to give is true  
8 and correct, based upon your personal knowledge,  
9 information, or belief?

10                  *(A chorus of "I do's" was heard.)*

11                  MS. HIGASHI: Thank you.

12                  This item will be presented by Chief Counsel  
13 Camille Shelton.

14                  MS. SHELTON: Item 4 is an incorrect-reduction  
15 claim filed by the County of Los Angeles on reimbursement  
16 claims for costs incurred in fiscal years 1996-97 and  
17 1997-98 on the *Investment Reports* program.

18                  The issues in dispute involve the State  
19 Controller's reduction of costs claimed following a desk  
20 audit of the salaries and benefits of county employees  
21 accumulating and compiling data necessary to render the  
22 quarterly report of investments and the costs claimed  
23 for investment software.

24                  For the reasons stated in the analysis, staff  
25 concludes that the State Controller's office incorrectly

1 reduced the costs claimed by the County of Los Angeles.  
2 However, the reimbursement claims filed by the County for  
3 salaries and benefits include daily investment activities  
4 and costs that are not reimbursable.

5 Staff recommends that the Commission adopt the  
6 analysis and remand the reimbursement claims back to the  
7 State Controller's office for further review and  
8 reinstatement of those costs that are eligible for  
9 reimbursement in accordance with the Commission's  
10 decision on this incorrect-reduction claim.

11 Will the parties and witnesses please state  
12 your names for the record?

13 MS. KANEMASU: Jill Kanemasu.

14 MS. YAGHOBYAN: Hasmik Yaghobyan on behalf of  
15 County of Los Angeles.

16 MS. ROMERO: Lorena Romero, Department of  
17 Finance.

18 CHAIR BRYANT: Go ahead.

19 MS. YAGHOBYAN: Thanks. I just want to thank  
20 the staff for their analysis, and we are concurring with  
21 their recommendations.

22 CHAIR BRYANT: Controller or Finance, do you  
23 have anything to add?

24 MS. ROMERO: Finance also concurs.

25 MS. KANEMASU: State Controller's office

**Commission on State Mandates – May 27, 2010**

1 concurs.

2 CHAIR BRYANT: Are there any questions or  
3 comments from the members?

4 *(No response)*

5 CHAIR BRYANT: Is there any additional  
6 discussion? Any public comment?

7 *(No response)*

8 CHAIR BRYANT: Is there a motion on this item?

9 MEMBER LUJANO: Move approval.

10 MEMBER CHIVARO: Second.

11 CHAIR BRYANT: We have a motion and a second.

12 All those in favor?

13 *(A chorus of "ayes" was heard.)*

14 CHAIR BRYANT: Any opposed?

15 *(No response)*

16 CHAIR BRYANT: Abstentions?

17 *(No response)*

18 CHAIR BRYANT:

19 MS. YAGHOBYAN: Thank you.

20 MS. HIGASHI: This brings us to the Proposed  
21 Statement of Decision, Item 5.

22 MS. SHELTON: Staff recommends that the  
23 Commission adopt the proposed Statement of Decision.

24 MEMBER WORTHLEY: Move approval, Madam Chair.

25 MEMBER CHIVARO: Second.



**Commission on State Mandates – May 27, 2010**

1 CHAIR BRYANT: There's been a motion and a  
2 second.

3 Is there any public comment?

4 *(No response)*

5 CHAIR BRYANT: All those in favor, say "aye."

6 *(A chorus of "ayes" was heard.)*

7 CHAIR BRYANT: Any opposed?

8 *(No response)*

9 CHAIR BRYANT: Abstentions?

10 *(No response)*

11 CHAIR BRYANT: The motion carries.

12 MS. HIGASHI: Thank you.

13 This brings us to Item 14. This will be  
14 presented by Ms. Patton.

15 MS. PATTON: Good morning.

16 Section 1189.2 of the Commission's regulations  
17 authorizes the Commission to adopt an order to initiate  
18 rulemaking. The purpose of the proposed regulations is  
19 to encourage the use of electronic filing, move all  
20 subvention claim matters to Article 7, and to make our  
21 procedures more efficient.

22 Following adoption of the order, staff will  
23 publish a notice of hearing and mail the notice and  
24 rulemaking package to all interested persons for public  
25 comment.

**Commission on State Mandates – May 27, 2010**

1           We removed this item from the consent calendar  
2 to revise the deadline for public comment from July 26<sup>th</sup>  
3 to July 30<sup>th</sup>, so that it coincides with the proposed date  
4 for public hearing.

5           Staff recommends that the Commission adopt the  
6 order to initiate rulemaking as revised.

7           CHAIR BRYANT: Thank you.

8           MS. HIGASHI: Let me just offer a  
9 clarification.

10           On the hearing date, throughout this agenda  
11 item on the timetable, we have two notes noted, July 29  
12 or 30; and it will be dependent on which date the  
13 Commission actually ends up picking later in the agenda.

14           CHAIR BRYANT: Okay.

15           Is there a motion?

16           MEMBER CHIVARO: Move approval.

17           MEMBER LUJANO: Second.

18           CHAIR BRYANT: We have a motion and a second.

19           Is there any public comment?

20           *(No response)*

21           CHAIR BRYANT: All those in favor, say "aye."

22           *(A chorus of "ayes" was heard.)*

23           CHAIR BRYANT: Any opposed or abstentions?

24           *(No response)*

25           CHAIR BRYANT: The motion carries.

**Commission on State Mandates – May 27, 2010**

1 MS. HIGASHI: This takes us to Item 16.

2 Ms. Patton will present adoption of the  
3 strategic plan.

4 CHAIR BRYANT: Item 15, we have no --

5 MS. HIGASHI: We have no SB 1033 applications.

6 MS. PATTON: On March 26<sup>th</sup>, the Commission  
7 adopted an interim strategic plan. Staff posted the  
8 interim plan on the Commission's Web site, issued it for  
9 a public comment, and solicited comments from Commission  
10 staff.

11 On May 10<sup>th</sup> and May 20<sup>th</sup>, Department of Finance  
12 and Commission staff submitted comments. No other  
13 comments were received. We made the changes proposed by  
14 the Department of Finance and Commission staff.

15 Upon request of the Chair, we have removed the  
16 proposed final strategic plan from the Consent Calendar  
17 to revise the language on the last goal regarding  
18 promotion of sustainability in the Commission's policies  
19 and procedures.

20 And the following language is suggested:

21 *"Actively promote sustainability in the*  
22 *Commission's policies and procedures to ensure*  
23 *that our practices are protective of the*  
24 *environment and human health and our energy*  
25 *and are energy and resource efficient."*

**Commission on State Mandates – May 27, 2010**

1           This is a broader statement than what we said  
2 before, which was about recycling and reduction of paper  
3 for the Commission, by putting things on the Commission's  
4 Web site.

5           MEMBER WORTHLEY: Go green.

6           MS. PATTON: Go green.

7           Staff recommends that the Commission adopt the  
8 final strategic plan with the revised language.

9           CHAIR BRYANT: Are there any questions or  
10 comments?

11           *(No response)*

12           CHAIR BRYANT: Any public comment on this item?

13           *(No response)*

14           CHAIR BRYANT: Do we have a motion?

15           MEMBER CHIVARO: Move approval.

16           MEMBER COX: Second.

17           CHAIR BRYANT: All those in favor, say "aye."

18           *(A chorus of "ayes" was heard.)*

19           CHAIR BRYANT: Any opposed or abstentions?

20           *(No response)*

21           CHAIR BRYANT: The motion carries.

22           MS. HIGASHI: Item 17, Ms. Patton, the BSA  
23 audit report.

24           MS. PATTON: I don't have anything to add to  
25 what is already in the binder, except to note that when

**Commission on State Mandates – May 27, 2010**

1 you adopted the Consent Calendar this morning, you  
2 adopted the last of the proposed amendments to the  
3 boilerplate, the P's & G's that the Bureau of State  
4 Audits has recommended that we implement. So we're done  
5 with those.

6 CHAIR BRYANT: Is that a big sigh of relief?

7 MS. HIGASHI: Then Item 18 is our Leg. Update.

8 MS. PATTON: We are currently tracking three  
9 bills, SB 894, which the Commission has a "support"  
10 position on; AB 2082, which we have an "unopposed, unless  
11 amend" position on; and before you this morning is our  
12 staff analysis on AB 349.

13 Under this bill, if the Governor's budget  
14 proposes to suspend state mandates, the Department of  
15 Finance would be required on or after January 1, 2012, to  
16 provide to the Legislature all proposed statutory changes  
17 necessary to repeal the mandates proposed for suspension,  
18 and to the extent practicable, identify each affected  
19 section of law.

20 We are recommending taking no position on this  
21 bill since it does not affect our responsibilities.

22 CHAIR BRYANT: Are we taking -- do we need to  
23 decide if we want to do that or...

24 MS. HIGASHI: Just by no action, you would not  
25 be taking a position.

**Commission on State Mandates – May 27, 2010**

1 CHAIR BRYANT: Okay.

2 MEMBER WORTHLEY: Just a question.

3 You know, creating a program involves expenses.  
4 Ceasing to operate a program may also incur expenses.

5 I don't know if anybody has considered whether  
6 or not that issue is in terms of cost.

7 And another problem, of course, is that when  
8 you have a program and you suspend the financial piece  
9 of it, it also puts the local governments in a bind,  
10 oftentimes, you know, whether or not to keep the program  
11 going because of those expenses that are incurred in  
12 creating it, or anticipating that the following year, the  
13 Legislature is going to come back and fund it, and then  
14 you have to restart it up again.

15 It just -- the whole system, really, is  
16 problematic for local government.

17 And I see someone here that's here that maybe  
18 can speak to that issue.

19 CHAIR BRYANT: Do you have a comment?

20 MR. BURDICK: Madam Chair and Members, Allan  
21 Burdick, staff to the CSAC League of Cities Advisory  
22 Committee on State Mandates, one of the strong supporters  
23 of AB 349.

24 I think the point that was raised by  
25 Mr. Worthley is very critical in terms of if these

1 mandates are not repealed, the additional costs and the  
2 legal issues that are raised for both state and local  
3 government as to whether these programs should be carried  
4 out.

5 It really makes no sense whatsoever to continue  
6 to have programs on the books which are suspended on a  
7 budget-by-budget year basis. And some of these mandates  
8 have been suspended for 18, 19 years, since the original  
9 statute was put in place back in 1991 to allow for  
10 suspension.

11 Currently, if a mandate is suspended, the  
12 language in the statute that governs that program does  
13 not change. So if you were to look up and say, "Have I  
14 got a requirement to comply with this," if you wanted  
15 to know and you looked at the Penal Code, Health and  
16 Welfare, whatever code it was, you would say, "Yes,  
17 you're required to do this."

18 Somewhere buried in that 800-page budget,  
19 there's a little line that has a zero after it, that  
20 says, "This is a reimbursable mandate that has been  
21 suspended."

22 Now, I think that the Commission should really  
23 look at the overall program and responsibility for that  
24 program and question this whole practice as to, you know,  
25 how it's being carried out and whether it's done.

**Commission on State Mandates – May 27, 2010**

1           And I think that this particular amendment is  
2 very consistent, as it should be, with saying: Let's try  
3 to be able to have a manageable program. Let's not have  
4 things out there that could incur costs on both state and  
5 locals; raise a series of questions as to -- legal  
6 questions -- as to whether things are suspended or not.  
7 So I would actually encourage the Commission to take  
8 another look at that and consider supporting this  
9 particular bill.

10           Thank you very much.

11           CHAIR BRYANT: Thank you.

12           Any other comments from Commission members?

13           MEMBER WORTHLEY: Just -- I appreciate the  
14 comment by Mr. Burdick.

15           I can see why we take no position because it  
16 really doesn't affect us as a commission. It affects the  
17 local governments that are impacted by this type of a  
18 rule. But I just want to call it to the attention of the  
19 Commission that this is problematic for local government.  
20 And I think Mr. Burdick has confirmed that.

21           CHAIR BRYANT: Thank you.

22           Next item?

23           MS. HIGASHI: Item 19. This is regarding the  
24 Working Group Proposal on the Mandate Redetermination  
25 Process.



**Commission on State Mandates – May 27, 2010**

1           This also was one of the recommendations in the  
2 BSA audit report that the Commission staff continue to  
3 work with the staff and the Legislature and state  
4 agencies and local governments regarding this process.

5           I've provided you with an update. And I just  
6 wanted to talk about some of the changes that had been  
7 made to the draft.

8           On May 12<sup>th</sup>, the expanded working group met,  
9 and that meeting included other legislative staff,  
10 representatives from the League of Cities, CSAC, and the  
11 CSAC SB-90 group.

12           Although school district representatives had  
13 been invited, none of them were able to attend that  
14 meeting.

15           After that meeting, we made some revisions to  
16 the draft that you saw at the last meeting. And  
17 basically, the revisions require the Commission to notify  
18 the Department of Finance, the LAO, the State Controller,  
19 and interested parties upon receipt of a complete  
20 request. And this is so everyone is placed on notice  
21 that one of these requests is pending.

22           The second requires the State Controller to  
23 notify eligible claimants that a complete request for  
24 mandate redetermination has been filed, noting that this  
25 notification may be included in the next claiming

1 instructions issued by the State Controller.

2 And this is obviously because of the fact that  
3 if it is a mandate that is currently being claimed, that  
4 if a request is filed to change that, so that that  
5 mandate would no longer be reimbursable, that it would  
6 be appropriate to notify the claimants so they would be  
7 aware of it.

8 And the other would be, if it's a denied  
9 mandate that would potentially become approved, it would  
10 also put claimants on notice to save their receipts or  
11 their documentation.

12 I've heard from the Deputy Controller, who is  
13 responsible for legislation, and he had let me know that  
14 they were fine with these changes.

15 The other are just some -- a few clarifying  
16 text edits that were made.

17 Since that date, the draft was submitted to  
18 Legislative Counsel. And this week, we got a draft back.  
19 And we are in the process of reviewing it and continuing  
20 to receive comment on it.

21 There are some technical issues that we need  
22 to address just in the drafting that references to  
23 Government Code 17514 were dropped off, and only  
24 references were made to 17556 in the Constitution. So  
25 it appears as if one of these redeterminations could only

1 be filed if you were trying to find no costs mandated by  
2 the State, and that was not the intention in the draft  
3 that the working group had provided.

4 Other issues that have come up for all of us,  
5 are just what happens if this does get enacted as  
6 trailer-bill language? And right now, it has been  
7 approved as placeholder language -- trailer-bill language  
8 by both houses. The Assembly subcommittee voted this  
9 week to approve it as placeholder language. And it's the  
10 draft that you have here that's gone to Leg. Counsel.

11 So there is a serious possibility that this  
12 will be enacted. We are still in the process of vetting  
13 it with all the parties, and no mention has been made of  
14 how the Commission is expected to really carry out this  
15 new responsibility if this is enacted. So it would be  
16 additional workload for us.

17 And at this time, there are no priorities set  
18 in the proposed statutes or any other changes to our  
19 program that would give us any clue as to where these  
20 would land in the queue, because we certainly have  
21 pending workload, still.

22 So if you have any questions, I'd be happy to  
23 take them or comments from the audience.

24 MEMBER COX: I have a question.

25 MEMBER WORTHLEY: Madam Chair?

**Commission on State Mandates – May 27, 2010**

1 CHAIR BRYANT: Cathleen?

2 MEMBER COX: The question I just have is that  
3 it is in recognition that you have received no direction  
4 or any sort of inkling about where this would lie in the  
5 priorities of the Commission.

6 What kind of proactive steps are you taking to  
7 kind of anticipate it either being at the top or being at  
8 the bottom or being, you know, at the top three? Or is  
9 it too premature, is it premature?

10 MS. HIGASHI: I think it's premature because we  
11 would -- at this point, we have statutory mandates for  
12 test claims. We do not have any for IRCs, we do not have  
13 any in this process.

14 MEMBER COX: Okay.

15 MEMBER WORTHLEY: Madam Chair?

16 CHAIR BRYANT: Mr. Worthley?

17 MS. HIGASHI: And so the test claims continue  
18 to be our top priority. And as we can fit them in, we  
19 are beginning to work on IRCs as well. But we do know  
20 that the Legislature is taking actions in budget  
21 subcommittees that are as if this process was a done  
22 deal.

23 In the analyses, they're already saying, "Well,  
24 we can amend this statute; and then after we amend this  
25 statute, do budget trailer-bill language. Then someone

1 can ask for a redetermination.”

2 And one of the sentences that was added, that  
3 you may recall is the one regarding having the  
4 Legislature through statute, may ask the Department of  
5 Finance to take advantage of this process and request a  
6 redetermination of a particular mandate. And so I  
7 presume that process would be used.

8 MEMBER WORTHLEY: A couple of comments.

9 One is that as I was looking through this, I  
10 looked under the definition of “subsequent change to the  
11 law.” I don’t see any term of materiality there.

12 Is that handled in some other fashion? In  
13 other words, some minor change that really has little or  
14 no financial change ought not to trigger this.

15 MS. HIGASHI: This is an issue that came up in  
16 the Assembly Budget Subcommittee. It was raised by the  
17 CSBA representative. And it was echoed by CSAC, as well  
18 as the League of Cities, as to, you know, what is the  
19 threshold.

20 For a test-claim filing, the threshold is  
21 \$1,000 per claimant.

22 For a filing a reimbursement claim, it is only  
23 \$1,000 per claimant.

24 And this is an issue that if you were to be  
25 consistent, you would say \$1,000; but to us, that seems

1       terribly low. So it seems like it should be a higher  
2       threshold. And we know that the next draft will probably  
3       identify what that threshold should be but, you know, we  
4       need to pick a number, and I'm not sure what that number  
5       should be.

6                 At one point, I know we were thinking, "Well,  
7       gee, if it's a local government claim, should it be  
8       \$1,000 per county plus \$1,000 per city or \$1,000 per  
9       school district?" You know, what should it be? Because  
10      we certainly don't want to go through this process if all  
11      it is, is \$1,000.

12                MEMBER WORTHLEY: And my other comment is --  
13      and maybe somewhat related to it -- when we think about a  
14      process or procedure, as I look at these statements of  
15      "Identification of all the following, if relevant" and  
16      are laid out here, putting more of the burden on the  
17      applicants and the responding parties and less on us --  
18      I realize we're the final determiner, but I feel  
19      oftentimes like we -- maybe there's a way to put more of  
20      this on them.

21                I mean, where it would hopefully come back to  
22      the Commission more as a consent item, where all parties  
23      have agreed upon the consequences of the action by the  
24      Legislature, and not really take staff time.

25                I know, I'm probably dreaming about that. But

1 from a conceptual standpoint, trying to put more of the  
2 burden on them and less on our staff would also go to the  
3 point of materiality. I mean, if they have to spend a  
4 lot of time and energy to get this accomplished, then  
5 they're going to take a look at the bottom line and say,  
6 "Is this really worth the effort to do it?"

7 MS. HIGASHI: And that's exactly what we have  
8 in subdivision (d) on page two. All of that detail is  
9 that the Commission's procedures shall specify that the  
10 requests that are filed shall contain at least the  
11 following elements and documents. So the burden is on  
12 the requester, whether it's Finance or whether it's a  
13 claimant. So it's not the Commission staff on a  
14 fact-finding expedition at the State Library.

15 MEMBER WORTHLEY: Right.

16 I think that would be helpful, you know,  
17 looking at the workload for us going forward, as a  
18 commission, putting as much of that burden as we can on  
19 those folks, and then they will have to use their own  
20 discretion whether or not to pursue something and then  
21 hopefully make the job less difficult for our staff

22 MS. HIGASHI: So that if this were enacted in  
23 the Commission's regulations, we would have to start a  
24 rulemaking package immediately, like in September or  
25 October to try to get this into effect, by the effective

1 date.

2 CHAIR BRYANT: Mr. Burdick?

3 MR. BURDICK: Yes, Allan Burdick again, Madam  
4 Chair and Members.

5 Just a quick comment, and that is to urge that  
6 the Commission continue to request that this matter be  
7 heard through the regular process and not as a trailer  
8 bill.

9 That I think the Commission -- I don't know  
10 whether it was a formal action or not, I remember at that  
11 time the Chair was Mr. Leahy last year who -- and I think  
12 the members joined in, that this is an important item and  
13 something to be done in a public hearing and with people  
14 really as a policy matter and not being handled by the  
15 budgeteers that are out there.

16 We appreciate locals are able to participate in  
17 this.

18 I don't think any of us, school boards, CSAC or  
19 the League working jointly together, every step of the  
20 way, would feel we are true partners in this at this  
21 point yet. We have had some opportunities. We don't  
22 feel that -- you know, we feel there's a lot of work left  
23 to be done in supporting that. But I would request that  
24 if that action was taken by the Commission in the past,  
25 or at least in that sense to be put forward again to both



1 the Governor and members of the Legislature, that this  
2 process should be handled through the regular legislative  
3 process through a bill and public hearing, and not be  
4 done by a trailer bill.

5 MS. HIGASHI: Could I just comment?

6 CHAIR BRYANT: Yes.

7 MS. HIGASHI: It's in conference. This item is  
8 in conference right now because both subcommittees  
9 approved the placeholder language.

10 MEMBER WORTHLEY: But what does that mean,  
11 Paula, as far as a request?

12 MS. HIGASHI: It means that they'll take it up  
13 in conference, is my understanding.

14 Jeff?

15 MEMBER WORTHLEY: Well, there will be no more  
16 further public process --

17 CHAIR BRYANT: No, if they took up -- if they  
18 both adopted this language, it's out of conference. It's  
19 identical.

20 Right, Jeff?

21 MS. HIGASHI: This placeholder language?  
22 Because I was told that it was placeholder language, that  
23 it could change in conference.

24 MR. CAROSONE: Right. Jeff Carosone,  
25 Department of Finance.

**Commission on State Mandates – May 27, 2010**

1 Both houses did adopt placeholder trailer-bill  
2 language to be worked out, but I haven't heard that it's  
3 going to be discussed in specific conference committee  
4 hearings.

5 MS. HIGASHI: Okay.

6 MR. CAROSONE: So both houses did take the same  
7 action, which would keep it out of conference. But they  
8 did leave open the possibility of continuing to tweak the  
9 language.

10 CHAIR BRYANT: I mean, I continue to be of a  
11 mind that it's not our role to tell the Legislature how  
12 to conduct its business.

13 And I sympathize with what you're saying, but  
14 I just don't know that we would take, necessarily -- I  
15 really wouldn't want to take an action -- I don't think  
16 it's up to us to make that plea at the Legislature.

17 MEMBER WORTHLEY: Madam Chair, I understand  
18 your response. But if we could lead the Legislature a  
19 little bit, so that it works better for our Commission,  
20 I'm all for it.

21 CHAIR BRYANT: If we could figure out how to  
22 lead the Legislature, we could rule the world.

23 MEMBER WORTHLEY: I understand.

24 But what I'm saying is to the extent -- and I  
25 think the comment made by Mr. Burdick is that a more

1 public approach is one that allows for the people who are  
2 affected by this -- these rules -- to be able to have  
3 their input. So the stakeholders have a greater input  
4 in what the final outcome is, and that would benefit us  
5 all, I believe.

6 MR. BURDICK: Can I just make a final comment?

7 The one impact it has, if it does get done  
8 again in trailer-bill language, is that chances are,  
9 we're off to court. And I have the feeling that your  
10 staff would be spending time on this issue as we go to  
11 court. So I'm trying to avoid -- I think the CSAC, the  
12 League, and CSBA are trying to avoid litigation.

13 A trailer bill, chances are we're heading for  
14 litigation. So that's the basis. And the only thing is  
15 referring back to last spring, the committees seemed to  
16 be at that point -- obviously, a different chair but the  
17 members and representatives the same -- as urging, you  
18 know, that this is very important, the kind of thing that  
19 needs to be done carefully, it has substantial impact on  
20 all parties, costs related to that as well, and,  
21 therefore, is not the kind of thing that should be done  
22 kind of behind closed doors.

23 Anyway --

24 MS. HIGASHI: Could I ask one question of the  
25 parties who are here?

1 Do the school districts' or cities' or  
2 counties' representatives have any suggestion as to what  
3 the minimal dollar threshold should be for triggering one  
4 of these redeterminations?

5 MR. BURDICK: We haven't really discussed that  
6 issue. And as far as I know, almost all of our  
7 discussions have been between the three parties. We try  
8 to keep CSAC, the League, and the school boards totally  
9 consistent, in lockstep. And as I say, the meeting they  
10 weren't able to attend with the LAO was a last-minute  
11 thing and we were going to represent them. If the  
12 meeting hadn't been adjourned so abruptly, we would have  
13 represented the school boards' interest at that point in  
14 time, but we didn't have a chance to do that.

15 But we have not dealt with that.

16 But I'll take it back and we'll try to deal  
17 with that issue. Because we are concerned about the  
18 standard issue of, you know, what standard do you have  
19 to reach in terms of in that first step to make a  
20 determination go forward. And, you know, should it be  
21 something like "clear and convincing" or greater than  
22 that? You know, I'll leave that to the attorneys.

23 CHAIR BRYANT: Okay, thank you.

24 Anything further on this?

25 MS. HIGASHI: No, that's it.

**Commission on State Mandates – May 27, 2010**

1 I will be preparing a memo for the working-  
2 group members identifying the changes that we think would  
3 be appropriate. And we'll also identify a place in the  
4 proposed language where a dollar amount could be inserted  
5 once that policy decision is made.

6 CHAIR BRYANT: Okay, thank you.

7 MS. HIGASHI: Item 20.

8 MS. SHELTON: Item 20 is just my Chief Legal  
9 Counsel's report identifying two lawsuits that are  
10 pending against the Commission.

11 The first one listed there is a recent filing  
12 by the Department of Finance challenging the *Graduation*  
13 *Requirements* parameters and guidelines amendment.

14 The second one is still the *BIPs* case, filed by  
15 the Department of Finance. And we have a pending hearing  
16 date of December 10<sup>th</sup>.

17 The other two cases on the back are listed just  
18 for information only. I've reported on those in the  
19 past, and they are still in the process of being briefed;  
20 and a hearing date has not been set.

21 CHAIR BRYANT: Okay. Are we going to have  
22 closed session? We don't need it today?

23 MS. HIGASHI: We don't need it.

24 CHAIR BRYANT: Okay, good.

25 MS. HIGASHI: Item 21 is my report.

**Commission on State Mandates – May 27, 2010**

1           As I noted earlier, we still have test claims  
2 pending. We have 46 test claims. And we still have  
3 incorrect-reduction claims pending. We now are down to  
4 156. So we'd like to let out a small cheer for that.

5           MS. PATTON: Paula, I hate to tell you, but  
6 there's a new one sitting on my desk, so...

7           CHAIR BRYANT: Back to 157.

8           MS. PATTON: We're back to 157.

9           MS. HIGASHI: I know.

10           Actually, and then Art had a filing, so we're  
11 not sure if that adds a count -- a test-claim count, too.  
12 So whatever. We are working.

13           And we're hopeful that at least by having the  
14 first incorrect-reduction claim on *Investment Reports*  
15 completed, that this will help us in reviewing the others  
16 that are still pending. We have them batched, according  
17 to who has filed them, different claimant representatives  
18 have filed them. And there are city claims and there are  
19 county claims. And we are going through all of them as  
20 we have time to see what we can do.

21           As is appropriate and as is requested, we are  
22 happy to schedule prehearing conferences or informal  
23 conferences to allow the claimants and their  
24 representatives to meet with State Controller's office  
25 staff, to see if we can perhaps expedite the process of

**Commission on State Mandates – May 27, 2010**

1 getting through these without having to require a  
2 separate staff analysis and statement of decision on each  
3 of the seventy- -- I think it's 72 pending.

4           Regarding the budget, we are now through with  
5 our budget subcommittee hearing process. And the  
6 Assembly subcommittee met this week. And what they did  
7 that is significant, I guess, is -- and I'm going to ask  
8 Jeff to correct me if I get this confused because I've  
9 gone to so many budget hearings that I'm not sure who did  
10 what anymore.

11           But the *In-Home Support Services* mandate, the  
12 \$475,000, was approved in both houses. So that would be  
13 an appropriation to cover the statewide cost estimate  
14 that the Commission adopted.

15           The *Mandate Reimbursement Process I and II*  
16 program was taken up this week as well. And the vote was  
17 to suspend the mandates. And it was also the same vote  
18 taken last week. So the proposed budget will be  
19 suspending *MRP I* and *MRP II*.

20           Open Meetings Act, Brown Act Reform, that will  
21 end up in conference. There was one vote taken to amend  
22 the statute. And yesterday's -- this week's vote was the  
23 opposite.

24           And then *Handicapped and Disabled Students I*  
25 *and II*, and *Seriously Emotionally Disturbed Pupils*, this

**Commission on State Mandates – May 27, 2010**

1 is a conference item as well. And it seems like that  
2 there are a number of subcommittees in both houses acting  
3 on it. So it's kind of confusing at this point in time  
4 as to what's going to happen.

5 One of the actions taken this week required the  
6 Department of Finance to actually prepare a report to  
7 propose alternative methods of delivering the services  
8 that would be more cost-effective. And so we're not sure  
9 where that will be. That's clearly a conference item.

10 Did I miss anything, Jeff?

11 MR. CAROSONE: I think you got it.

12 MS. HIGASHI: Okay.

13 In terms of what else is pending before you, we  
14 actually need to have you decide what date you would like  
15 to meet next. We still have this issue.

16 CHAIR BRYANT: The most controversial item ever  
17 to come before the Commission.

18 MS. HIGASHI: Ever.

19 And today, I came up with a new idea, but I  
20 won't mention it yet.

21 Okay, the June date is a placeholder date. We  
22 typically have not had a June meeting. But in case we  
23 need it, staff would recommend that it be the Thursday  
24 date.

25 CHAIR BRYANT: Any objections to Thursday,



**Commission on State Mandates – May 27, 2010**

1 June 24<sup>th</sup>, as a tentative date?

2 (A chorus of "noes" was heard.)

3 CHAIR BRYANT: Okay.

4 MS. HIGASHI: Okay, for the July date, staff  
5 recommends Thursday, July 29<sup>th</sup>.

6 MEMBER COX: I won't be here. But you'll go  
7 on.

8 CHAIR BRYANT: Send a designee.

9 MS. HIGASHI: Are you here on the 30<sup>th</sup>?

10 MEMBER COX: No.

11 MS. HIGASHI: Okay.

12 MEMBER CHIVARO: The 29<sup>th</sup> is fine.

13 MS. HIGASHI: Okay. Then for September,  
14 instead of it being September 23<sup>rd</sup>, we're recommending  
15 that that date be changed to September 30<sup>th</sup>.

16 It turns out that September 24<sup>th</sup> is the last  
17 Friday of the month, but the last Thursday of the month  
18 is September 30<sup>th</sup>.

19 CHAIR BRYANT: Okay.

20 MS. HIGASHI: October 28<sup>th</sup> is the Thursday date  
21 we recommend.

22 And then December: December 2<sup>nd</sup>.

23 MEMBER LUJANO: What was it for September?

24 MS. HIGASHI: September 30<sup>th</sup>. I moved it up a  
25 week.

**Commission on State Mandates – May 27, 2010**

1 CHAIR BRYANT: Okay, any objections?

2 MEMBER WORTHLEY: Madam Chair, no, I had raised  
3 the concern last time about interfering with the Air  
4 Quality Board that I sit on. But it's the third  
5 Thursday. And so by making sure these are in the final  
6 weeks of the months -- except for December, of course, it  
7 doesn't matter -- I don't have an issue with that. So  
8 these work for me.

9 CHAIR BRYANT: Good.

10 MS. HIGASHI: Okay.

11 CHAIR BRYANT: All right.

12 MS. HIGASHI: Wow, this is huge.

13 CHAIR BRYANT: That was the fastest we've ever  
14 done that.

15 MS. HIGASHI: Thank you.

16 On pages 4 and 5 of my report, we've identified  
17 the test claims, incorrect-reduction claims, and  
18 parameters and guidelines and statewide cost estimates  
19 that we are working on presently. And they will be  
20 scheduled for July and September.

21 The test claims that are pending are all -- the  
22 first three listed are huge.

23 The analysis for the first one is --

24 MS. SHELTON: Huge.

25 MS. HIGASHI: -- huge.

**Commission on State Mandates – May 27, 2010**

1 MS. SHELTON: Over 200 pages.

2 MS. HIGASHI: It's over 200 pages.

3 MS. SHELTON: It's huge.

4 MEMBER WORTHLEY: It's a novel.

5 MS. SHELTON: Hundreds of regulations piled, so...

6 MS. HIGASHI: So it's taking us quite a while.

7 MEMBER WORTHLEY: I hope you have a great

8 summer.

9 MS. HIGASHI: The second one, *Employment of*

10 *College Faculty and Instructors*, is not as huge because

11 it's limited in scope.

12 CEQA is moderate, but you've seen it before.

13 And then *School Bus Safety*, we're not sure yet.

14 So this is what it looks like.

15 Are there any questions?

16 (No response)

17 MS. HIGASHI: Any questions from the audience?

18 (No response)

19 MS. HIGASHI: So that's pretty much it.

20 I have nothing further to add, unless there are

21 questions.

22 CHAIR BRYANT: So is there any public comment

23 on items not on the agenda?

24 Paula?

25 MS. PATTON: I have public comment.

**Commission on State Mandates – May 27, 2010**

1 CHAIR BRYANT: You have something.

2 MS. PATTON: Well, I think everyone here knows  
3 Ginny Brummels from the State Controller's office. And  
4 Ginny has recently retired, so we wanted to honor her  
5 today.

6 Ginny and the staff of the Commission have been  
7 working together specifically on mandate issues about the  
8 last ten years.

9 She's just been invaluable -- you know, an  
10 invaluable help to us on her process, and I hope we've  
11 helped her on our process. Ginny and I have spent a lot  
12 of time together over the last ten years. And, you know,  
13 she's so busy at work, and especially when she's putting  
14 together the AB 3000 and that hideous deficiency report.  
15 But she decided, she still didn't have enough to do, so a  
16 couple years ago, she changed her whole life and became a  
17 marathoner, just in her spare time.

18 Anyway, Ginny, why don't you come up? We have  
19 a resolution that I'd like to read from the Commission.

20 *(Applause)*

21 MS. PATTON: *Whereas Ginny Brummels has*  
22 *distinguished herself as an outstanding State employee*  
23 *for 34 and a half years, 33 of those years serving the*  
24 *State Controller's office, beginning as the first female*  
25 *traveling auditor performing road-fund audits, and*

**Commission on State Mandates – May 27, 2010**

1     *retiring as manager of the Division of Accounting and*  
2     *Reporting, Local Reimbursement Section;*

3             *Whereas she provided over ten years of*  
4     *invaluable assistance and expertise to local governments*  
5     *and State agencies on the process of reimbursement of*  
6     *state-mandated programs and the funding for those*  
7     *programs;*

8             *Whereas she is recognized throughout the state*  
9     *and local governments for her leadership and knowledge of*  
10    *the mandates process;*

11            *Whereas is she has advised and influenced the*  
12    *Commission on State Mandates on significant issues*  
13    *involving parameters and guidelines, statewide cost*  
14    *estimates, and incorrect-reduction claims;*

15            *Whereas some members and staff of the*  
16    *Commission admire her courage for undertaking her new*  
17    *hobby of completing marathons;*

18            *Whereas other members and staff question her*  
19    *crazy new hobby of completing marathons;*

20            *Whereas Ginny Brummels is being honored by the*  
21    *members and staff of the Commission on State Mandates in*  
22    *appreciation of her outstanding dedication, leadership,*  
23    *and service to the State of California.*

24            *Now, therefore, be it resolved that the members*  
25    *and staff of the Commission on State Mandates warmly*

**Commission on State Mandates – May 27, 2010**

1     *congratulate Ginny Brummels upon her retirement and wish*  
2     *her continued success and minutes off her marathon mile.*

3             *(Applause)*

4             MS. BRUMMELS: Well, it has truly been an honor  
5     and a privilege to work with the Commission. I think the  
6     staff of the Commission are just a great resource for the  
7     Controller's office.

8             And, you know, it's interesting, sitting here  
9     today, listening to the topics of the mandates that are  
10    coming back around again for another round, like Open  
11    Meetings Act going into suspension possibly again in the  
12    mandate-reimbursement process. It's like a program is  
13    never done. And that's why I felt I probably should get  
14    out before we go into Round 5.

15            But it's been a good ten years. And I've  
16    enjoyed working with all of you.

17            CHAIR BRYANT: Thank you.

18            *(Applause)*

19            CHAIR BRYANT: Anything to add, anybody?

20            *(No response)*

21            CHAIR BRYANT: Okay, congratulations, and thank  
22    you for your service.

23            With no other business, we can entertain a  
24    motion to adjourn.

25            MEMBER CHIVARO: So moved.

**Commission on State Mandates – May 27, 2010**

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CHAIR BRYANT: Is there a second? All those in favor?

*(A chorus of "ayes" was heard.)*

CHAIR BRYANT: The meeting is adjourned.

*(Gavel sounded.)*

*(The meeting concluded at 10:15 a.m.)*

--oOo--

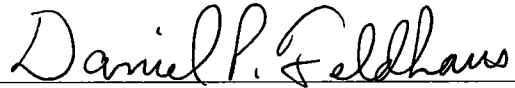
**REPORTER'S CERTIFICATE**

I hereby certify:

That the foregoing proceedings were duly reported by me at the time and place herein specified; and

That the proceedings were reported by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed into typewriting by computer-aided transcription.

In witness whereof, I have hereunto set my hand on June 18<sup>th</sup>, 2010.



---

Daniel P. Feldhaus  
California CSR #6949  
Registered Diplomate Reporter  
Certified Realtime Reporter