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CALIFORNIA STATE SENATE  
JOINT INFORMATIONAL HEARING  
ASSEMBLY RULES COMMITTEE  
AND  
SENATE ELECTIONS AND CONSTITUTIONAL AMENDMENTS COMMITTEE

INITIATIVE HEARING: PROPOSED INITIATIVE #1742  
LEGISLATURE: LEGISLATION and PROCEEDINGS  
WEDNESDAY, JUNE 15, 2016

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FILE NO.: AA0670D

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JOINT INFORMATIONAL HEARING  
ASSEMBLY RULES COMMITTEE  
AND  
SENATE ELECTIONS AND CONSTITUTIONAL AMENDMENTS COMMITTEE  
HEARING  
INITIATIVE HEARING: PROPOSED INITIATIVE #1742  
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SACRAMENTO, CALIFORNIA  
WEDNESDAY, JUNE 15, 2016

Transcript of proceedings taken on behalf of  
Redwood Pacific Public Affairs, California State Capitol,  
1315 10th Street, Hearing Room 437, Sacramento,  
California, commencing on Wednesday, June 15, 2016, at  
10:30 a.m., before Karen Challe, Certified Shorthand  
Reporter Number 8244.

//

1 APPEARANCES:

2  
3 Assembly Rules Committee:

4 ASSEMBLY MEMBER RICHARD S. GORDON, Chairman

5 ASSEMBLY MEMBER LING LING CHANG

6 ASSEMBLY MEMBER CHRIS R. HOLDEN

7 ASSEMBLY MEMBER KEN COOLEY

8 ASSEMBLY MEMBER MARIE WALDRON

9 Senate Elections and Constitutional Amendments Committee:

10 SENATOR BENJAMIN ALLEN, Co-Chairman

11 SENATOR JOEL ANDERSON

12 Presenters/Speakers:

13 FORMER SENATOR SAM BLAKESLEE

14 DR. CHARLES MUNGER

15 FRED SILVA, California Forward

16 TOM SCOTT, National Federation of Independent  
17 Business in California

18 JOHN COUPAL, Howard Jarvis Taxpayers Association

19 TERRY FRANK, Californians Aware

20 GAVIN BAKER, California Common Cause

21 LEE LAWRENCE, League of Women Voters

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SACRAMENTO, CALIFORNIA  
WEDNESDAY, JUNE 15, 2016  
10:30 A.M.

- - -

CHAIRMAN GORDON: Good morning and welcome.  
This is a joint informational hearing. The hearing on the  
Assembly side is being done by the Assembly Rules  
Committee. On the Senate side is being done by the Senate  
Elections and Constitutional Amendments Committee.

The purpose of today's hearing is to implement  
the terms of Senate Bill 1253, which was signed into law  
in 2014. That piece of legislation said the following:  
Each House shall assign the initiative measure to its  
appropriate committees. The appropriate committee shall  
hold joint public hearings on the subject of the measure  
not later than 131 days before the date of the election at  
which the measure is to be voted upon.

Today, this joint hearing is called for the  
purpose of receiving information as required by SB 1253 on  
the California Legislature Transparency Act, which is  
proposed for the November ballot. We will today receive a  
brief overview from the Legislative Analyst's Office. We  
will then allow the two initiative proponents, Sam  
Blasklee and Dr. Charles Munger, to present their measure  
to us. There will be an opportunity for member questions,

1 and there will be an opportunity for public comment. No  
2 action will be taken at today's hearing.

3 I would also remind members that currently in  
4 the State Senate there are two measures, SCA 14 and AB  
5 884, which present similar requirements as the initiative.  
6 But I want to admonish everyone that today we are not  
7 discussing SCA 14, and we are not discussing today AB 884.  
8 Those are currently, appropriately, in the Senate for  
9 discussion and possible vote.

10 And particularly for my colleagues in the  
11 Assembly, should either of those measures move forward,  
12 they would come out of the Senate and be considered at a  
13 future point in the Assembly.

14 So today, the focus of this hearing is strictly  
15 on the terms and conditions and the language of the  
16 California Legislature Transparency Act. And we welcome  
17 this opportunity to allow the proponents to present to us  
18 what their intentions are under this proposed act.

19 With that, I want to introduce the Co-Chair of  
20 this hearing, who is the Chair of the Senate Elections and  
21 Constitutional Amendment Committee. Senator Ben Allen.

22 CO-CHAIR ALLEN: Well, thank you, Mr. Chair.

23 I should just want to add that last week we had  
24 a hearing on those two measures that were mentioned by  
25 Assembly Member Gordon. And while this certainly, this is

1 a hearing on the proposed initiative, those two measures  
2 are very much a part of the context of this discussion.  
3 And there's a lot of negotiations, I understand, currently  
4 underway with the authors. And so this is part of this  
5 broader discussion that's happening between the  
6 Legislature and the authors, to see if we can come to some  
7 sort of mutually-agreeable solution.

8 That being said, this is also an opportunity for  
9 us to kind of hear publicly the issues that are being  
10 raised by the initiative, and flesh out some of the core  
11 concerns that the initiative authors have. And we'll  
12 see -- you know -- if you look at the Herwagon initiative,  
13 for example, that process has actually worked very,  
14 seemingly very well, where Mr. Herwagon came to the  
15 Legislature, brought a series of concerns that he had that  
16 were the impetus behind his measure, and then ultimately  
17 the Legislature's moving on, you know, the core issues  
18 that he was bringing forward. So you know, thus avoiding  
19 a costly legislative referendum ballot between all sides.  
20 So let's see if we can get that here.

21 And I'm looking forward to a good discussion.  
22 We had a good discussion last week. And you know, this is  
23 all part of this broader, fascinating negotiation that  
24 we're engaging in right now. So I appreciate the Chair's  
25 leadership on this, and I look forward to the discussion.

1           CHAIRMAN GORDON: Great. Thank you.

2           We'll begin then with an overview and fiscal  
3 evaluation from the Legislative Analyst's Office. And let  
4 me invite Ann Hollingshead, who is a fiscal and policy  
5 analyst with the ALO, forward for a presentation.

6           Welcome.

7           MS. HOLLINGSHEAD: Thank you, Chairs and Members  
8 of the Committee. Ann Hollingshead, Legislative Analyst's  
9 Office.

10           As the Co-Chair noted, we're going to provide  
11 some brief contextual remarks, just outlining an overview  
12 of what's included in the ballot measure today. But  
13 before I do so, I just wanted to briefly discuss our role,  
14 our office's role in these initiative hearings, because  
15 it's somewhat different than our office's role in sort of  
16 traditional budget hearings.

17           So I'm also going to speak from a handout that  
18 you should have in front of you. And I'll turn now to the  
19 first page.

20           Our office completes two types of analyses for  
21 every measure that qualifies for the ballot. The first is  
22 a fiscal analysis, which we conduct prior to signature  
23 collection. This is required by state law, and we do it  
24 along side the Department of Finance. A summary of this  
25 estimate is included in the petition that is circulated

1 for signatures.

2           The second kind of analysis that we conduct is  
3 after a measure receives sufficient signatures to qualify  
4 for the ballot. And for this analysis, we again conduct a  
5 non-partisan, unbiased analysis required by state law, and  
6 it includes a fiscal analysis and a description of the  
7 measure. This is included in the statewide voter  
8 information guide that is distributed to voters in  
9 California.

10           We are still in the process of preparing these  
11 materials, but we are able to offer comments and answer  
12 questions based on the analysis that we've conducted to  
13 date.

14           And I would also note that we do understand that  
15 there are ongoing conversations related to SCA 14 and AB  
16 844. But we have not completed an analyses of either of  
17 those measures, so it's unlikely we will be able to  
18 answers questions related directly to those.

19           I'm going to turn to the next page and outline  
20 provisions of the proposed initiative. The initiative  
21 amends the Constitution in two ways. The first is that  
22 the Legislature would have to wait 72 hours after posting  
23 a bill, including any amendments to that bill, on the  
24 internet before it would be able to pass that bill. This  
25 would include some exceptions for emergencies, such as

1 natural disasters.

2           The second major provision is that videos of all  
3 legislative public proceedings would be filmed and then  
4 placed on the internet within 24 hours of that meeting.  
5 These videos would have to be publicly accessible and  
6 downloadable for a minimum period of 20 years following  
7 the meeting.

8           There are a few other provisions associated with  
9 the initiative. First, members of the public would be  
10 able to film and broadcast any portion of any public  
11 legislative meeting. Second, it would amend State Statute  
12 to provide that the members of the public would be able to  
13 use videos of any public proceeding for any purpose, and  
14 without paying a fee to the State. And finally, any  
15 Legislative cost associated with this measure would come  
16 out of the Legislature's annual spending limit.

17           I'll just conclude with our fiscal effects  
18 analysis of the proposed initiative. We estimate that the  
19 quantifiable costs associated with the initiative are  
20 related to filming and storing videos of the public  
21 proceedings. This would include both one-time costs and  
22 ongoing costs. Our office has provided a range based on  
23 some assumptions about what is likely to happen. But  
24 these are not definitive, and they would change, depending  
25 on decisions made and in the implementation of the

1 measure.

2           The one-time cost would be about one to two  
3 million dollars per year. And this would be to buy  
4 equipment such as cameras in order to film all of the  
5 meetings. And then the ongoing cost would be about one  
6 million dollars per year. And this would be for staff and  
7 the archival storage needs for the videos.

8           That's the end of my prepared remarks, and I  
9 would be happy to take any questions.

10           CHAIRMAN GORDON: Are there any questions for  
11 the Legislative Analyst's Office?

12           Miss Waldron.

13           ASSEMBLY MEMBER WALDRON: Just a quick question  
14 regarding the cost. If -- you know, currently a lot of  
15 stuff is done digitally. It's not like the old time with  
16 tapes and storage and things like that.

17           MS. HOLLINGSHEAD: Sure.

18           ASSEMBLY MEMBER WALDRON: We're talking about  
19 buying cameras and equipment for some of the rooms that  
20 don't have cameras. How many cameras are we exactly  
21 talking about for one to two million dollars?

22           MS. HOLLINGSHEAD: So it doesn't just include  
23 cameras. It also includes some Capitol improvement needs  
24 that would need to likely use to change some facets of the  
25 buildings. For example, we would likely, the Legislature

1 likely need an additional control bay to operate the  
2 cameras. Perhaps one of the building rooms would need to  
3 be remodeled in order to include that control bay. There  
4 would also need to be mobile systems for field hearings.  
5 So those costs include those things as well.

6 ASSEMBLY MEMBER WALDRON: Is there any  
7 administrative or salary cost 'cause you might have to  
8 hire people to operate those.

9 MS. HOLLINGSHEAD: Yes. So the ongoing costs do  
10 include salary costs for the individuals that would  
11 operate the cameras.

12 ASSEMBLY MEMBER WALDRON: Okay. So that's --

13 MS. HOLLINGSHEAD: As well.

14 ASSEMBLY MEMBER WALDRON: -- the other ongoing  
15 cost of a million. So that's different from the  
16 purchasing.

17 MS. HOLLINGSHEAD: Correct.

18 ASSEMBLY MEMBER WALDRON: On-line storage for  
19 videos.

20 MS. HOLLINGSHEAD: That's correct.

21 ASSEMBLY MEMBER WALDRON: Okay. Thank you.

22 MS. HOLLINGSHEAD: You're welcome.

23 CHAIRMAN GORDON: Mr. Cooley.

24 ASSEMBLY MEMBER COOLEY: Just in the course of  
25 doing your analysis of fiscal effect, are you trying to

1 think about the issue of the requirement for 20-year  
2 retention availability? Technology even in the last  
3 20 years has greatly changed. And so I wonder if there is  
4 a long-tail liability, so to speak, that as technology  
5 changes, if technology changes, that there is a cost to be  
6 incurred out of our operating funds to go back to five,  
7 ten, 15 years and re- -- re-up old video to match changing  
8 technologies, because there is a requirement it has to be  
9 accessible for 20 years.

10 MS. HOLLINGSHEAD: Right.

11 ASSEMBLY MEMBER COOLEY: So we have to sort of  
12 keep whatever the cumulative store is aligned with what is  
13 the typical technology. And I'm sort of -- I can see that  
14 it is a public good. But I also see that as something  
15 that if it comes out of the Legislature's operating funds,  
16 one of my concerns, generally, is I think that the voters  
17 of California and the Citizens Redistricting Commission,  
18 in the top two, in the 12-year extension have actually  
19 done a series of changes in recent years that I think are  
20 going to enter the public benefit. We have longer term  
21 members, more middle-of-the-road members, trying to work  
22 issues through, a more engaged Legislative membership. I  
23 think the opportunity in front of California, which the  
24 voters have set up for us, is to strengthen the  
25 institution.

1           The former Speaker, the current Speaker,  
2 Mr. Gordon, you, yourself, instrumental in pushing  
3 oversight, which is the Legislature is really an oversight  
4 of the Executive Branch. This requires the work and the  
5 focus of our chairs, our vice chairs, our staff, folks  
6 that what is the Executive Branch doing so it's subject to  
7 accountability by this body. And I see that as an area  
8 where probably when you look at what the voters have done  
9 in recent years, this is where we can be more influential  
10 on the well-being of the State, so that the Executive  
11 Branch is held accountable to its co-Executive Branch of  
12 the Legislature.

13           But our operating funds can only go so far. And  
14 so I'm just very interested, as you analyze this, to think  
15 about this storage archival retrieval for decades, and is  
16 there an expense that's associated with it? Because that  
17 can come at the cost of us trying to do more collaborative  
18 oversight in our standing committees, which is the  
19 leadership that our current Speaker is very interested in.

20           So that's more of a cost dimension. Can you  
21 speak to that a little bit?

22           MS. HOLLINGSHEAD: Sure. So we did consider the  
23 archival cost for a long period of time. We did speak  
24 with the State Archivist as well in considering these  
25 costs. And as you note, there would be some uncertainty

1 of those costs going forward. The costs could go up.  
2 They could also go down over time. That is partly the  
3 reason that we provided a range or rough estimate of the  
4 cost going forward, because there is a high degree of  
5 uncertainty.

6 But we did base the archivable cost of what we  
7 have on what they would be today.

8 ASSEMBLY MEMBER COOLEY: All right. Okay. And  
9 I note I do know that that is sort of typical, that you  
10 will provide a range. So I'll look forward to seeing  
11 that. So thank you for that.

12 CHAIRMAN GORDON: Thank you.

13 Any further questions?

14 Mr. Anderson.

15 SENATOR ANDERSON: When you were considering the  
16 archiving costs, can you tell me the components that you  
17 looked at? Because I know that the cost of megs has gone  
18 down considerably, whether on the web or off the web, and  
19 so I'd be interested in an analysis.

20 MS. HOLLINGSHEAD: Sure. So according to  
21 Granicus, which is a firm that does some storage for -- at  
22 Cal Channel. They include some videos of Legislative  
23 hearings. Terabytes would cost about \$29,000 per year.  
24 That would be sort of at the low end of the estimates that  
25 we've seen. There is an effort in Texas to do something

1 similar to archiving a great deal of Legislative hearings  
2 and other public proceeding videos, and they estimated  
3 that the first year's cost of 183 terabytes, which is --  
4 you can think of many, many, many hours of videos, it's  
5 probably much more than we would incur over even a few  
6 years, is about \$156,000 a year.

7 SENATOR ANDERSON: Were you thinking that -- so  
8 what comes with that storage? Certainly there must be  
9 more than just storage. That must also give you the  
10 ability to retrieve it and other items. Because when I  
11 look at the cost at going -- mind you, this is pretty  
12 simplistic, but when I go to Costco and I look at what I  
13 can purchase there, these prices are just astronomical.  
14 So that what else comes with these prices? Because  
15 certainly the storage space is not this expensive.

16 MS. HOLLINGSHEAD: This does just include  
17 storage space cost. But it's sort of an enormous amount  
18 of data is the way that I would think about it. It's much  
19 more than you could purchase at a normal convenience store  
20 for.

21 SENATOR ANDERSON: Okay. Thank you.

22 CHAIRMAN GORDON: All right. If there are no  
23 further questions, thank you very much. And let me invite  
24 to the witness table Senator Sam Blakeslee and Dr.  
25 Charles Munger.

1           Gentlemen, welcome. The Senator knows,  
2 oftentimes Members must leave for other hearings, which is  
3 what I'm about to do. It is no indication of my desire  
4 not to hear what you have to say. And I hope to be back  
5 shortly. But Senator Allen will take over while I go  
6 present some bills in committee.

7           FORMER SENATOR BLAKESLEE: Sadly, you will miss  
8 the moment where I was going to thank you for all your  
9 hard work.

10          CO-CHAIRMAN ALLEN: Proceed.

11          FORMER SENATOR BLAKESLEE: Very good.

12          CO-CHAIR ALLEN: And thank you, Senator.

13          FORMER SENATOR BLAKESLEE: Thank you, Chair.  
14 Appreciate the opportunity to be with you today. And I do  
15 sincerely mean that I appreciate all the hard work by  
16 Assembly Member Gordon, in particular, Senator Wolk on  
17 this issue of transparency, and I will say their staff as  
18 well, Craig Reynolds, Al Grant, have been very helpful in  
19 many of these conversations.

20                 And I think I want to start off, as someone  
21 who's been in the building, and understands what life  
22 feels like on that side of the microphone, that these are  
23 complex issues. And staff has a lot of things they can  
24 potentially work on, and the fact they have reached out is  
25 something I appreciate.

1           Let me also say that by virtue of my being  
2 intimately involved with these issues, I feel a great deal  
3 of passion around them. Having served in the Assembly, I  
4 served as Vice Chair of Rules, as Miss Ling does today,  
5 Ling Ling Chang does today. And having served as Minority  
6 Leader and served in the Senate, I developed a great  
7 passion for this body and this institution. And when I  
8 left it four years ago, I wanted very much to remain  
9 engaged and seek ways to improve this body so that it  
10 could be all that it potentially could be.

11           And the issues we have been looking at, to help  
12 this Legislature move forward, are captured in this  
13 measure. And I would like to briefly describe some of the  
14 challenges, the problems we want to address, and Dr.  
15 Munger will describe some of the solutions, and the  
16 implementation of those policy solutions.

17           So first of all, what I found was very troubling  
18 as a member was to be sitting on the Floor and suddenly  
19 find -- and this is the time of year when these things  
20 happen, when the budget's moving, when you suddenly find  
21 measures that are literally in front of you, you have no  
22 time to analyze it, you have no time to read it, you have  
23 no time to call your constituents, you have no time to  
24 make sure that you know what is in that bill before you  
25 have to cast that fateful vote.

1           And oftentimes all you have to rely upon is the  
2     respective caucuses' recommendation. "Aye"  
3     recommendation. "No" recommendation. And you go into the  
4     Floor, there may be 50, 60, 70 bills that could get worked  
5     in a single day, and you have no choice but to vote what's  
6     in front of you without the information necessary. That  
7     is the gut and amend process that we want to put an end to  
8     once and for all. This should never happen to any  
9     legislator. Sure, I'm talking about the injustice to the  
10    legislator, but let's be frank. This is an injustice to  
11    the public. This is the people's House. This is where  
12    the people elect you to represent them. And how can you  
13    possibly do that if you can't talk to them before you cast  
14    a fateful vote on redevelopment, the fateful vote on the  
15    reserves for school board, a fateful vote on SB 202 that  
16    deals with a measure of whether or not initiatives will be  
17    heard in June or November.

18           These are examples of initiatives -- bills  
19    rather, that have gone forward that have huge moment and  
20    effect on this body, that weren't allowed to receive the  
21    kind of feedback from constituents that were necessary.

22           So first the problem is we as legislators, if I  
23    can include myself in that expansive "we," are not  
24    well-served by the gut and amend process. The public is  
25    not well-served. And I'll point out the press is not

1 well-served. Oftentimes the press, in doing their due  
2 diligence, will chase a matter down, they'll pick up the  
3 phone, they'll put people on the record, and they will  
4 discover things that, frankly, you or I or an average  
5 constituent would have no chance of uncovering except for  
6 the fact there was a journalist who was ready to go and  
7 make those phone calls, 'cause they had the bill in chief  
8 before them.

9           So the first issue we're really wanting to put  
10 an end to is this gut and amend process. There are other  
11 States that have found ways to solve these problems. And  
12 Dr. Munger will speak to them. And we think it's  
13 achievable. This Legislature has talked about it for  
14 years. And there are members who are engaged today who we  
15 know have supported the kind of solutions that we'll be  
16 presenting.

17           The number two area or problem we seek to  
18 address is what happens in committee. First was what  
19 happens on the Floor; second, what happens in the  
20 committee. For any of you who have served in local  
21 elected government, you're very familiar with the public  
22 access channel, just clicking away, following you. You  
23 know everything you do is on the record. You know  
24 everything you do is in the public eye. It's no surprise  
25 that the cameras are going to record for posterity what's

1 happening.

2           In this building, here we are, in many cases  
3 hundreds of miles away from our own constituents. They  
4 can't walk down to see us the way they see a city council  
5 member. They don't bump into you in the grocery store and  
6 talk to you about a potential bill. You're hundreds and  
7 hundreds of miles away from your constituents, and what is  
8 their ability to engage you or even see what's going on in  
9 committee.

10           Well, if they're wealthy enough, they can hire a  
11 lobbyist. But the last time I checked, we're not here to  
12 represent lobbyists. Potentially they can get on a bus if  
13 they can get a break from the job, and drive up I-5 and  
14 get to this building and sit out there and watch what's  
15 happening. Doesn't happen that frequently. So what's the  
16 only other fallback position? Well, fortunately we do  
17 have some video recordation. We have the Cal Channel. We  
18 have some ability for our constituents to see what happens  
19 in these committee meetings. That's the second problem we  
20 want to fix. I'll touch only briefly on this statement  
21 that "Oh, we have enough transparency. We record enough  
22 hearings." There are many, many hearings which are not  
23 heard. And some of those hearings that are not heard  
24 actually have great moment, even though there may not be a  
25 vote cast.

1           So for Example, on the Prop. 30 election of some  
2 years ago, there was an informational hearing, not unlike  
3 this. But when it came time to hear the arguments against  
4 Prop. 30 -- whichever side you're on, it's immaterial for  
5 the point of this discussion -- the cameras were not lit  
6 up.

7           And even last week, you saw in the Sacramento  
8 Bee there was another hearing just like this, where the  
9 camera started, and the cameras went off. And there were  
10 three different Chairs. The different Chairs said they  
11 didn't know who turned off the cameras. Rules said they  
12 didn't know who turned off the cameras. Leadership said  
13 they didn't know who turned off the cameras. And the  
14 final conclusion was it was Cal Channel that turned off  
15 the cameras. The article in question speaks to the condom  
16 bill in particular. It's a very interesting piece of  
17 writing, 'cause it really details that this is a problem  
18 that's happening today. And it's happening with very  
19 little justification.

20           The third and last problem I want to identify is  
21 what happens to those records that are created by virtue  
22 of video recordation and they're put in the public domain?  
23 You may not be aware of this, because you may not have  
24 encountered it, but did you know in fact it's a crime to  
25 use these videos, at least Assembly videos, for certain

1 purposes? So for certain First Amendment purposes, such  
2 as political speech or commercial use, it can be a crime  
3 up to six months in prison and a thousand dollar fine for  
4 daring to use this material that's in the public domain.

5 Now you would think "But no one's ever  
6 prosecuted anyone on that statute, so it's not really all  
7 that big a problem." Well actually it's in front of a  
8 Federal Court right now, because this has had a chilling  
9 effect on people being willing or able to use videos, and  
10 our own Attorney General is seeking to defend the Statute  
11 that makes it a crime to use videos. Fortunately, a  
12 Federal Judge has stated he's going to likely uphold a --  
13 establish an injunction, and the argumentation is moving  
14 very rapidly to support the concept that this is a  
15 violation of the First Amendment. But this is another  
16 problem. The third problem I want to identify.

17 So those are the problems we seek to identify.  
18 I'll now turn to Dr. Munger, who will describe the  
19 approach we've taken.

20 CO-CHAIR ALLEN: Thank you, Senator.

21 Dr. Munger.

22 DR. MUNGER: Thank you. Sam Blakeslee has  
23 outlined the problems that the California Transparency --  
24 California Legislature Transparency Act is to address. I  
25 will break my remarks into three sections, and increasing

1 order of detail. First, I will say our broad policy  
2 objectives and the particular means we've chosen to try to  
3 implement those objectives, and then as needed, I will get  
4 down to choices, specific language, legal aspects and so  
5 forth.

6 We note from the beginning that the whole act,  
7 the whole initiative consists of two short paragraphs to  
8 be added to the California Constitution and two lines in  
9 Statute. This really isn't all that much to go over.

10 Broad policy objectives. There are four. One,  
11 to ensure that no bill may pass out of the Assembly or out  
12 of the Senate without all of the members of the House  
13 passing the bill having had 72 hours to read the language  
14 of the bill, for citizens to read the bill and confer with  
15 those representatives, and for the members to prepare a  
16 thoughtful position of support or opposition or to draft  
17 amendments to offer to improve the bill.

18 Second policy position is to require that if any  
19 proceeding of this Legislature to which a member of the --  
20 which a member of the public has a right to attend, the  
21 Legislature make and post on the internet, an audio-visual  
22 recording that any person may see at will.

23 Three, to require that a person attending a  
24 proceeding of this Legislature, as a member of the public  
25 has a right to attend, has a right to their own recording

1 of what their eyes see and what their ears hear. Not the  
2 official recording where the camera may be in one  
3 direction or the other, but what they hear and what they  
4 see.

5 The last policy objective is to ensure that the  
6 recordings, by whomsoever made, may be freely copied,  
7 excerpted and shared so that the citizens have the widest  
8 access to the information and the widest ability to engage  
9 in a discussion of what the Legislature, of which they the  
10 people created, is doing and will do for them.

11 Now at this moment I would like to pause briefly  
12 and just ask, since our measure's been before the public  
13 and this body for over months, does any member present  
14 have any objection to these broad policies, that I may  
15 respond to those objections in the course of my remarks?

16 CO-CHAIRMAN ALLEN: I think one of the concerns  
17 we discussed last week was about kind of cost issues and  
18 trying to make sure that we don't have a chilling  
19 effect -- I know we discussed a little bit last week. But  
20 not have a chilling effect on hearings in the field. So I  
21 know that was one of the concerns that was there.

22 DR. MUNGER: Certainly. Is there another that I  
23 can address in the context of my remarks?

24 CO-CHAIRMAN ALLEN: And then I'm going to want  
25 to go through all the ambiguities that were cited by the

1 LAO.

2 DR. MUNGER: That's fine. And as I said, I will  
3 go through legal issues and so forth in the third section  
4 of my talk and I will issue the same --

5 CO-CHAIRMAN ALLEN: Fantastic.

6 DR. MUNGER: -- offer at that time.

7 ASSEMBLY MEMBER HOLDEN: Can I just also, so it  
8 was my understanding that this was supposed to be a  
9 listening discussion. And so I think it's really, my  
10 understanding is, at least for my purpose, is that I'm  
11 hearing the presentation, I'm taking some notes,  
12 formulating opinions. It may not be completely formulated  
13 in the context of your presentation, but it doesn't mean  
14 that I won't have questions later on.

15 So just because I don't have any now doesn't  
16 mean that -- I reserve the right to have them later.

17 DR. MUNGER: Certainly. I'm just -- this is a  
18 public hearing. We're here. You're my Legislature. This  
19 is your opportunity to ask me. I'm here.

20 All right. Now, it will not surprise this  
21 Legislature that a very large coalition supports these  
22 generally commonsense policies, and the California  
23 Legislature Transparency Act in particular. Specifically,  
24 the actual initiative has been formally endorsed by a wide  
25 range of organizations who are not usually found on the

1 same side of anything. But here they go. The League of  
2 Women Voters of California. The California State  
3 Conference of the NAACP. The California Common Cause.  
4 Californians Aware. The First Amendment Coalition.  
5 California Forward. The California Chamber of Commerce.  
6 The California Black Chamber of Customer. California  
7 Business Roundtable. The National Federation of  
8 Independent Business of California. La Raza Roundtable to  
9 California. The Latin Business Association of California.  
10 The Hispanic 100. The Howard Jarvis Taxpayers  
11 Association. The Small Business Action Committee. The  
12 Los Angeles Chamber of Commerce. The San Francisco  
13 Chamber of Commerce. The Fresno Chamber of Commerce. San  
14 Jose Silicon Valley Chapter of the NAACP. Monterey County  
15 Business Council. Valley Contractors' Exchange. The Art  
16 Street Institute.

17           And I will say that this measure has not even  
18 qualified for the ballot yet. It will qualify in days.  
19 But it's a remarkable coalition which has been assembled  
20 in support not only of the policies, but of the specific  
21 language and specific measure that we are bringing to the  
22 ballot.

23           So I will now proceed to the matters of the  
24 implementation. 72 hours notice. At present, the  
25 Constitution requires that a bill must be printed and

1 distributed to the members of the House of the Legislature  
2 before a vote to pass the bill out of that House may  
3 occur. We add to the Constitution a provision that the  
4 text of a bill must be posted on the internet, and that  
5 the House must wait 72 hours after all three of these  
6 requirements are met before it may vote on the bill.

7 That's where the public gets the right to know, to read  
8 the bill and confer with their representative, and the  
9 representative has 72 hours to read it.

10           There is an exception in case of an emergency so  
11 dire where delaying even that 72 hours would not be in the  
12 public interest. The Governor must declare the emergency.  
13 The Governor must certify to whichever House proposes to  
14 take up the bill that the passage of that particular bill  
15 is needed without waiting 72 hours in order to address  
16 that emergency, and then the House, by roll-call vote,  
17 requiring a two-thirds majority, must agree. Immediately  
18 after that, the vote to pass the bill in question may  
19 proceed. The two-thirds requirement to waive the notice  
20 is onerous, because for a bill to take effect instantly  
21 after passage, instead of having to wait to take effect  
22 until the following January 1, as is typical of ordinary  
23 Legislation, the bill must be crafted as an urgency  
24 statute, which itself requires a two-thirds vote.

25           If two-thirds of the House want to pass it, it's

1 a good idea to waive the notice requirement, two-thirds of  
2 the House will be able to say we want to waive the notice  
3 requirement.

4 This 72-hour notice requirement is enforced by  
5 providing in the Constitution that if a vote occurs when a  
6 notice is violated, that the bill in question shall not  
7 become a statute. Basically, the Supreme Court will toss  
8 it. Just as the Supreme Court would if the bill were  
9 proven now not in fact to have mustered the required  
10 majority in the House, or one or other House or any other  
11 Constitutional provision about to pass issuance of a bill.

12 Of course the Legislature could always, while  
13 the Court is mulling over this, simply re-visit the bill,  
14 with due notice, and pass it, pending the objection. But  
15 if they did not, then the bill would not become a statute.  
16 It might take definitive evidence for the Court to be  
17 convinced that a violation occurred. But because our Act  
18 mandates the Legislature has a Constitutional  
19 responsibility to record all its public meetings, in  
20 particular the one where the language of a bill was last  
21 changed, and the one where the House actually moved to  
22 vote on that language, that evidence to the Court would be  
23 available. Even if the official cameras go dark at the  
24 critical moment, which under the stress of this or that,  
25 might happen, by accident or design, because our Act

1 provides any person present may make their own recording  
2 of the proceedings, there will be a backup. So that is  
3 how the notice requirement's enforced.

4 We now move on to the question of the  
5 Legislature's recordings. We require the Legislature not  
6 only make a recording of its public proceedings, but to  
7 post it on the internet within 24 hours. We provide that  
8 it must be downloadable, meaning that any person may keep  
9 their own copy. And we provide that any person may freely  
10 broadcast or otherwise transmit them.

11 Next point. To require that a person attending  
12 a proceeding of this Legislature has the right, that a  
13 member of the public has a right to attend, has therefore  
14 a right to their own recording of what their own eyes see  
15 and their own ears hear. We provide a measure taken from  
16 the Ralph M. Brown and Bagley Keene Act. Those Acts, as  
17 you know, have been in force for decades and for every  
18 single agency of local government, city council, school  
19 board, board of supervisors -- everything -- and every  
20 single agency of state government except the Assembly and  
21 Senate alone. A member of the public who comes into a  
22 public meeting may freely make their own record of what  
23 they see.

24 That exception for the Assembly and Senate is  
25 long overdue to be ended. These recordings under the

1 Brown Act and Bagley Keene Act provide that the official  
2 recordings made are complete, that they stay honest, that  
3 there's a redundancy in the availability of recordings  
4 available to the public, and this is all done at  
5 absolutely no cost to the State whatsoever, because these  
6 are these people's own recording devices.

7 In the context of our Act, while we require the  
8 State to post its recordings only within 24 hours. We're  
9 not going to ask you to do anything fancy, like guarantee  
10 live-streaming of everything instantly. However,  
11 recordings by persons of the press, since they're their  
12 recordings, may be posted immediately, and in fact  
13 live-streamed. So whether this body chooses to  
14 live-stream its meetings, information on many meetings  
15 will be made available to the public immediately.

16 Now adapting provisions from the Bagley Keene  
17 Act, the Legislature, while it must allow persons to  
18 record its public proceedings, may adopt reasonable rules  
19 for the sole purpose of ensuring that any disruption of  
20 its proceedings is minimized.

21 Now, naturally, to keep the Legislature from  
22 abusing those rules, we provide two forms of relief to a  
23 person whose right to make a recording is being abridged.  
24 Specifically, a person may seek a Court to grant  
25 injunctive relief, meaning, the Legislature makes a rule,

1 and the person wants that rule struck. In the more  
2 complicated case of a rule whose effect in practice on a  
3 person seeking to record a meeting frankly is not at all  
4 clear, a person may seek from the Court declaratory  
5 relief, that is that the Court issue a clarification of  
6 just what under the rule the Legislature is and is not  
7 permitted to do in the name of minimizing disruption of  
8 its meetings.

9 In these proceedings the Legislature bears the  
10 burden of showing that the purpose of the rule is in fact  
11 to minimize a disruption of its proceedings, not to stifle  
12 rights of public recording, and that limited end of the  
13 rule in question must be, quote, "reasonable," end quote.  
14 And these are high standards of proof.

15 Last point. To allow the fullest distribution  
16 of the recordings, whether made by this Legislature, or  
17 made by a private person, we mention that the recordings  
18 by persons may be freely broadcast and transmitted in  
19 whole or in part; that the recordings made by the  
20 Legislature must be posted on the internet and  
21 downloadable for a period of 20 years, and thereafter are  
22 archived, and all recordings of whatever origin may be  
23 used for, quote, any "legitimate purpose," without  
24 imposition of any fee by the State. As for legitimate  
25 purpose, you may know that the provisions of an initiative

1 put in statute can be made that it takes a vote of the  
2 people to change them. Most statute's by the Legislature,  
3 Statute's by the Legislature, a vote of the Legislature  
4 may change. That protection is -- that word legitimate is  
5 protected by the two-thirds required to have another  
6 initiative. And consequently, when someone asks what is  
7 legitimate, it will be, broadly speaking, legitimate  
8 within the purposes of the act. And we have a page and a  
9 half, abundantly declaring that the purpose of the act is  
10 to provide public access and information and to allow the  
11 public to engage fully in the political process and to  
12 allow the public to engage with their representatives  
13 before a vote on the bill, et cetera, et cetera.  
14 Infringement on that would not be legitimate in the course  
15 of -- in my view, in the course of any ambiguity or  
16 difficulty in someone interpreting it.

17 Now that concludes my part of the talk on the --  
18 excuse me -- almost. I want to address a question  
19 Mr. Cooley raised and that Mr. Ben Allen raised, including  
20 cost to this measure.

21 The first matter is, of course, modern  
22 digital -- modern audio-visual recordings are digital  
23 files. Digital files are a collection of binary bits.  
24 It's zero and ones. It's the same file if it was recorded  
25 on any media whatsoever. So if we have recorded it on an

1 old-fashioned tape deck, I wouldn't recommend it, and you  
2 said "Whoops. We want to make it available to the public,  
3 but we don't use that technology anymore," you just need  
4 to copy the bits over. And there are many services that  
5 will exist to do that whenever it's required.

6 To give an example, we used to take color  
7 slides? Anyone remember color slides? And there are  
8 commercial companies that will take your color slides and  
9 they'll turn them into modern computer bit files. They've  
10 invented that technology. The transition will be  
11 seamless. It's not costly. You're not going to be stuck  
12 with saying "I've got 20-year equipment which I somehow  
13 have to keep maintaining for the business, the purpose of  
14 the public having access to recordings." You can copy the  
15 files over. As long as they are viewable as audio-visual  
16 files by the public, you're good. So the legacy issues  
17 and equipment are not a major issue.

18 Regarding the question Mr. Ben Allen asked about  
19 the funding of this measure, we did take the cost of this  
20 and require them to come from the Legislature's own  
21 budget. As members of the Legislature are aware, your  
22 budget is tied to something called the State  
23 Appropriations Limit, which is a Constitutional Amendment  
24 established by Proposition 140 in 1990. And it's indexed  
25 to -- if I can remember the technical term, which is

1 eluding me at the moment -- but roughly speaking it goes  
2 up as the State economy goes up. As you may also know,  
3 that that budget in real terms went up five percent last  
4 year. Five percent this year. And we project it will go  
5 up five percent next year.

6 In fact, I just saw a headline this morning  
7 saying California had suddenly gotten back to being the  
8 sixth most powerful economy in the world. So I think  
9 you're going to get your five percent. In real terms  
10 that's something like 40 million dollars a year. And  
11 that's a permanent increase in the Legislature's budget.

12 We generally agree with the Legislative  
13 Analyst's estimates of the one-time capital costs of this  
14 of the one to two million dollars, and the operating cost  
15 annually for the whole shooting match of one million  
16 dollars. I submit to this Legislature the public is going  
17 to make available to you an extra 45 million dollars a  
18 year, that peeling off one million dollars of it, or about  
19 two and a half percent, to take what you are already  
20 doing, you are already audio-visually recording and  
21 streaming this meeting, and now that you're -- take that  
22 part of your duties and increase its effectiveness in the  
23 same way that you increased the effectiveness of the rest  
24 of your organization. We do not view that as a big bite  
25 out of that increase. And we also think that

1 consolidating the authority for making the videos with the  
2 money to make the videos is appropriate public policy. It  
3 is the Legislature that has authority over the building,  
4 over the cameras. It's the Legislature, given the  
5 Constitutional responsibility for making these recordings.  
6 The Constitution now guarantees you have a budget to do  
7 this. It seems an entirely appropriate way for us to do  
8 this.

9 We will certainly concede if the cost of this  
10 had been ten million dollars a year, 50 million dollars a  
11 year. But one million dollars a year, it's irrelevant.

12 The other matter is you asked a question about  
13 the cost of maintaining all of this stuff on the internet.  
14 Memory is incredibly cheap and falling ever faster. So if  
15 you consult a company like Granicus, or you consult  
16 basically anybody, you will come up with the following  
17 remarkable fact. To host all the video that you will  
18 record, and every public meeting of the Legislature over a  
19 year, you will spend less money than it will cost you to  
20 buy the paper to print the 120 copies the Members of the  
21 Legislature use when they actually go to the Floor and  
22 vote. It's that cheap. You're talking -- it is -- you're  
23 down -- it is irrelevant on the scale of the Legislature's  
24 budget, which is currently in the vicinity of 300 million  
25 dollars a year. At this point you're literally

1 legislating over paperclips relatively speaking.

2 ASSEMBLY MEMBER COOLEY: Just, if I may, I  
3 wasn't asking about the storage. It was more of the  
4 question of if technology changes so we have to go back, I  
5 think the point is well made, this is -- to the extent  
6 this offers accountability, it's accountability that  
7 supports the Executive Branch in its works, the Courts in  
8 their work, the citizenship, the citizens generally. It  
9 is, of necessity, would happen, especially with the  
10 Legislature, but as a broad general government purpose. I  
11 don't -- accountability would further -- Executive Branch  
12 agencies, as I said, awareness oversight, be able to look  
13 at the record, understanding more particularly what the --  
14 what the discussion was, what a bill went through. It is  
15 accountability scaled up on a different level, but it's a  
16 broad governmental sort of thing. So it actually strikes  
17 me as very anomalous that for something that has such a  
18 pervasive effect on government, and supported all three  
19 branches of government, and the people, because of course  
20 every bill is the people of California to enact as  
21 follows, to say that it would come out of a particular  
22 account set up 20 years ago just strikes me as it's an  
23 anomaly. It is a general government purpose that's being  
24 articulated.

25 So I do want to say -- I jumped in. I wasn't

1 worried about the storage cost. It was if we have to  
2 convert old storage to updated things, and it's coming out  
3 of that Legislative account. It just strikes me as odd  
4 that a broad general government purpose, we would  
5 articulate in the Statute and the Constitution that it  
6 comes out of a fund that was established before any of  
7 this technology really existed.

8 1990, we were barely getting to the use of green  
9 diode screens in the Legislature. We still had IBM  
10 Selectrics pervasive in the building. Word processors  
11 were in their infancy. The whole technology scheme was  
12 different. So that just strikes me as -- I don't quite  
13 understand the rationale for a bill of such broad  
14 governmental purpose.

15 Accountability, by its very concept, is another  
16 party, you know, looking at what the law is. So it's  
17 everyone who would have an interest in the work product of  
18 this branch of government and what was -- what was  
19 understood.

20 So again, I'm sort of with the Chair of Senate  
21 Elections, and that just strikes me as anomalous.

22 FORMER SENATOR BLAKESLEE: Can I speak just  
23 briefly? So if these were videos of the Executive Branch,  
24 or these -- this was a fund that was going to pay for  
25 videos of local government, clearly that very broad

1 overarching conversation about why would the Legislature's  
2 budget cover it, certainly would be cogent. But we are  
3 talking about recordation of this body, just as we paid  
4 for this room. This is another form of public access for  
5 what happens in the Legislature.

6 And currently, about half of the hearings are  
7 televised. The precedent is that it comes out of the  
8 Legislature's budget. So we're working within, A,  
9 existing precedent, and B, the purpose and function of  
10 these activities are completely consistent with the  
11 Legislature's role, not the Executive Branch, not State  
12 Department's agencies or local government.

13 ASSEMBLY MEMBER COOLEY: Yeah. Well, if I may.  
14 Last November, Speaker Atkinson, Rich Gordon conveyed to  
15 every member of this body, this book dealing with  
16 oversight, and to put our institution on the road to more  
17 oversight, which is carrying out, I think, the top two  
18 primary, the citizens' redistricting, the longer terms for  
19 members, and in a transmittal letter, their concluding  
20 remark is "We encourage you to consider oversight  
21 hearings. The Administrative Branch of government is  
22 tasked with implementing public policy that was created by  
23 the Legislature." So I believe it's unassailable that the  
24 work of the committees, the conversations they hold, the  
25 understanding of events by memberships as they debate

1 issues of public policy, even as your own digital  
2 divide -- I saw that you have a video that has me in a  
3 Foster Care hearing. Mr. Blakeslee, your digital divide  
4 thing, a hearing released earlier this year.

5 FORMER SENATOR BLAKESLEE: You look great.

6 ASSEMBLY MEMBER COOLEY: It's all about what is  
7 the Legislature's intent. That is actually the raw  
8 material. The Statute and the associated understanding of  
9 the Legislature in passing that Statute, that is the raw  
10 material for the Executive Branch, and the work of  
11 oversight is are they aligned with that? So I would say,  
12 again, this initiative does focus on the fundamental  
13 interaction of our tri-partied system of government,  
14 Legislative, executive branches, Courts -- I'm not arguing  
15 with so much the recordation. If you want to go to  
16 YouTube -- I was looking at your YouTube this morning.  
17 You go to YouTube and look up California Proposition 20,  
18 or California Proposition 21. California Proposition --  
19 any up to 27, you're going to find that I'm on YouTube  
20 talking about ballot measures. Because that's -- and it  
21 will pull up on the first screen. It's not going to go  
22 searching in my name. So I actually believe in access.

23 But again, I just think for something that  
24 aspires to have such a broad impact on government  
25 generally, to go into the 20-year old budget and just say

1 this is uniquely a Legislative expense, is, to me,  
2 anomalous. And that's just an observation. And again, I  
3 don't disagree that the cost of saving digital stuff per  
4 se is more if you have ever had to translate into an  
5 updated format to meet the requirement of a 20-year  
6 access.

7 DR. MUNGER: I have a few -- one more. At least  
8 one more point to make. Because you had asked the  
9 question about details of language and statutory  
10 construction.

11 CO-CHAIRMAN ALLEN: Yeah. And we've got -- I  
12 guess there are ten ambiguities that were listed out. And  
13 it would be great if we could go through them.

14 DR. MUNGER: Well, let me -- I'm happy to do so.

15 CO-CHAIRMAN ALLEN: Okay.

16 DR. MUNGER: But let me preface this. I mean, I  
17 certainly agree with the Honorable Cooley that I think  
18 this is a transformational thing. You mention recording  
19 these and putting them in the internet for 20 years.  
20 After all, you all know that 15 years after a Statute  
21 passed, somebody doesn't know how it applies. One of the  
22 things the Courts do is say what did the Legislature have  
23 in mind when it passed this?

24 Well, I think they're going to need to look at  
25 an archive of recordings here to find out what the members

1 here might have argued at the time. At the present, a lot  
2 of that in the Committees evaporates into the air. It's  
3 actually important for the Legislature to be able to have  
4 that on the record, so that its own intent is remembered,  
5 even if a future Legislature might construe a Statute  
6 differently in trying to enforce it.

7 We tried to be as respectful of the tri-party  
8 nature of our government in this matter as possible. We  
9 have a budget that the Constitution actually gives to the  
10 Legislature to run its operations. We have not engaged to  
11 say that anybody else should be -- have authority over a  
12 budget that affects something so intimately as the camera  
13 arrangements in your own committee rooms. But you make  
14 the rules for the access to this building. You make the  
15 rules for security. You make the rules for conduct of  
16 your business. To give the authority over funding this to  
17 some other agency, seemed to us, one, constitutionally  
18 perhaps inappropriate, and certainly contrary to all  
19 existing precedent. We're extending what you were doing  
20 and how you were paying for it.

21 Regarding your question about it's anomalous.  
22 Yes. We're -- in this sense, it's anomalous. We're  
23 saying your proceedings, you have the responsibility to  
24 record. Every other agency of government, you are the  
25 Legislature. And if you want to set recording

1 requirements and pay for them, how ever they're done, you  
2 can require local governments to do it. By Statute, you  
3 can do the General Fund, you can do anything you want.

4 We're just saying for your unique recordings,  
5 your responsibility, your budget, you take it. It's your  
6 building. You take care of it. It's possible to disagree  
7 on that one. We tried to be very careful about it.

8 Let me turn to your issues. In drafting this  
9 California Legislature Transparency Act let me remark that  
10 our chief counsel, in drafting it, is the Honorable Dan  
11 Gulke. Mr. Gulke was the Chief Legal Advisor for Governor  
12 Wilson during the eight years of that administration. He  
13 is a former Appellate Court Judge. He was my counsel in  
14 the drafting of California's Congressional redistricting  
15 reform. This is -- oh, by the way, thank you for saying  
16 kind words about redistricting. That was -- Congressional  
17 redistricting was something that I essentially carried,  
18 and it's nice to know that after the fact -- it's a  
19 pleasure. The -- you know, it's apt to mention the  
20 Congressional redistricting in particular because there  
21 was alleged ambiguity in the interpretation of the Statute  
22 that was brought to the California Supreme Court,  
23 ironically by my own political party. I fought them. It  
24 was dismissed 7-0 within 24 hours of receipt by that  
25 Court. That measure's also withstood indirect challenge

1 before the U.S. Supreme Court as late as last year.

2 Now Mr. Gulke is, in my view, one of, if not the  
3 foremost Constitutional scholars and practitioners in the  
4 State. Because I'm a conscientious man, I had all this work,  
5 nonetheless, reviewed independently by two other  
6 attorneys.

7 So while at this late date, this language is has  
8 been before you for eight months, it's nice to get  
9 feedback from Legislative Counsel, yesterday at 1:30,  
10 about various ambiguities, and just in time for me to  
11 spend the interval of time, maybe 18 or 20 hours, trying  
12 to respond to your comments. But we're here trying to  
13 establish 72 hours for people to take complicated  
14 questions and actually think about them before giving  
15 answers. So if you'll excuse me, not going to give you  
16 definitive answers to your questions. My chief legal  
17 counsel is frankly not available for this meeting. This  
18 meeting was called on Friday. He's in trial. And he has  
19 other clients. So I'm sorry he can't address you  
20 directly.

21 Now you did mention Legislative Counsel had many  
22 specific remarks. Before I go through those in specific,  
23 again, are those the only issues that this body currently  
24 wish- -- this has been before you for eight months. If  
25 there's any other issue other than what's raised by

1 Legislative Counsel, this would be a good time to tell us,  
2 because we would like to respond to you. In particular,  
3 if there's any, we would like to take the Legislative  
4 Counsel's remarks, and we would like to reply in due  
5 course, perhaps a little more than 72 hours would be nice.  
6 But anyway, to write a reply and have it appended as part  
7 of the official records of this meeting.

8           Would that be acceptable to the body, in  
9 addition to my answering your questions as best as I can  
10 here?

11           CO-CHAIRMAN ALLEN: It is reasonable to me.

12           DR. MUNGER: Thank you.

13           CO-CHAIRMAN ALLEN: But if you do have comments  
14 on, you know, this is a -- and I understand, you know, you  
15 haven't had that much time. But if you do have comments  
16 that you would like to make today on these ten ambiguities  
17 that have been listed out, we would certainly be  
18 interested in hearing them.

19           DR. MUNGER: As I say, we can't give definitive  
20 answers from this kind of notice.

21           CO-CHAIRMAN ALLEN: I understand.

22           DR. MUNGER: But on some of these matters we  
23 can. Perhaps you would like to look at the list of ten or  
24 so and say which ones you would like me to address first,  
25 as to you think the most important.

1           And meanwhile, I'd like to invite Tom Hiltachk,  
2 one of the attorneys to the measure, to join us here. He  
3 may be able to address some of your comments, responses  
4 directly, and somewhat more authoritatively than I could.

5           ASSEMBLY MEMBER HOLDEN: Can I just ask a  
6 question? And this is not really question for those who  
7 are presenting. Because I appreciate the questions that  
8 are laid out before us as -- and before you, that have  
9 been identified by Legislative Analysts. I have staff who  
10 are watching who are in the office, who are watching from  
11 the audience, and there may be questions that -- I mean we  
12 certainly would be timely in trying to be -- to add those  
13 to it. I would be really -- I'm just saying, through the  
14 Chair, if I have any questions in a timely enough way that  
15 can be presented through the Chair, and then presented to  
16 all of you who may need to have them to respond to. I  
17 think that, just in terms process, because I know  
18 you're -- you've now twice asked for any questions from us  
19 here. And if -- and I don't want it to -- I don't want to  
20 let that moment pass without again saying that if I don't  
21 have a question at this particular moment, it does not  
22 mean that I will not have a question. But I will respect  
23 the fact that being timely and presenting my questions to  
24 the Chair, and then to you, I'll honor that. But just  
25 because I'm silent at this particular moment does not

1 necessarily mean that I don't have some questions that I  
2 might -- that might come up after this hearing.

3 CHAIRMAN GORDON: Miss Waldon.

4 ASSEMBLY MEMBER WALDON: Just to jump on what  
5 Mr. Holden's said, we as Legislators, you know, once we  
6 get out into the public, and we're on recess and things  
7 like that, we always have members of the public coming up  
8 to ask us, you know, what about this initiative? What  
9 about that initiative? We always get that. So you know,  
10 what you're saying is true. We may not necessarily have  
11 questions now. But it would be helpful to keep that  
12 dialogue and be able to ask those questions as we go  
13 forward. Because we will inevitably get those questions.  
14 Thank you.

15 CHAIRMAN GORDON: Senator Anderson.

16 SENATOR ANDERSON: Thank you. I -- perhaps you  
17 could clarify for us, the reason why you're asking for  
18 questions in the way you have is because the process that  
19 could have been performed months ago, that was supposed to  
20 happen months ago, is last minute now for you. Questions  
21 that weren't presented to you were presented to you on  
22 Friday, which kind of leaves the whole 72-hour issue of  
23 being blind-sided by this committee. And I know it's not  
24 the Committee's purpose to blind-side you, but on the same  
25 token, I don't want you -- I don't want you to believe

1 that our additional questions are necessarily hostile.  
2 But in the same token, I'm not sure every member realizes  
3 how this process has somewhat been blind-sided. No other  
4 initiative has been treated this way.

5 So I think there might be some  
6 misunderstandings, and perhaps you could address that  
7 issue.

8 FORMER SENATOR BLAKESLEE: I'll make an attempt  
9 at it, Senator Anderson. Thank you.

10 The reason we as proponents are asking if  
11 there's an issue, if there's a problem, identified some  
12 significant difference in policy, please alert us now, is  
13 because of the fact that we are literally two weeks away  
14 from that moment, June 30th, where the ability for us to  
15 withdraw the measure goes away. And as Senator Anderson  
16 mentioned, we reached the 25-percent threshold, which is  
17 the moment when this type of hearing can be convened, on  
18 February 11th. Four months ago. Four months ago we were  
19 ready to have a conversation.

20 And again, even that would not be an issue  
21 except for the fact the Legislature's rushing to put their  
22 own measure on the ballot, which could potentially compete  
23 with this. So when we ask for your feedback and are  
24 seeking an understanding of what's the problem you're  
25 trying to solve that we're not solving, it's not an

1 academic question. It's not a rhetorical debate. It's  
2 not an engagement of sophistry. We really need to know.  
3 Because if there's a problem, a substantial problem, then  
4 there may be motivation to sit down and do something else.  
5 For example, the vehicles that were mentioned earlier.

6 And why this is so important is the following:  
7 If that is not the ultimate goal of the Legislature,  
8 specifically to identify a critical defect or policy  
9 disagreement, and then resolve it through compromise, but  
10 it's something different, then I think we need to bear in  
11 mind the words that were in this morning's, Dan Walters'  
12 article, and they are whether SCA 14 goes before voters  
13 depends on whether at least a few Republicans support it,  
14 since it requires a two-thirds vote with a June 30th  
15 deadline to place it on the measure, the November ballot.

16 If both measures pass, the one with the most  
17 votes would prevail. But if voters are confused by two  
18 measures on the same subject, both could be rejected, and  
19 we'd be back where we started on making the Legislative  
20 process more transparent.

21 So the question here is is this an exercise in  
22 putting a competing measure on the ballot to confuse the  
23 public? I don't believe it is. Others are concerned it  
24 might be. If not, then what is the problem that we can  
25 speak to right now, in front of you? Because you'll be

1 voting on a competing measure which could produce this bad  
2 outcome that's been warned about in this morning's paper.  
3 That's why we're asking this question.

4 ASSEMBLY MEMBER HALDEN: Well, I -- to be honest  
5 with you, this is my first stint on Rules. I've not  
6 served on elections. This is three years for me, and this  
7 is the first time that I think -- at least my  
8 understanding -- that we've had this kind of conversation  
9 about a proposition. There have been plenty of them out  
10 there. And I'm not saying it hasn't happened in some  
11 context. But to be all sitting here right now, giving you  
12 the opportunity to present -- now I can't tell you, answer  
13 the timing issues, because you're talking about rolling  
14 the clock back four months ago, and I'm preparing  
15 Legislation for this cycle and asking LAO and engaging on  
16 my Legislation. And so I'm not tuned in, as you have  
17 been, on your initiative.

18 I've now been asked to tune in. So I'm here.  
19 And I'm taking notes, and that's all I can do at this  
20 moment. And my apologies if it comes down to two weeks.  
21 But welcome to how sometimes the sausage gets made.

22 FORMER SENATOR BLAKESLEE: Right.

23 ASSEMBLY MEMBER HALDEN: And you're keenly aware  
24 of that. And so we're here, and I think it's everyone's  
25 intention to find out where the equilibrium is on all of

1 this, and what is the best way to move forward. At least  
2 that's my intention. And -- but I, again, I may not have  
3 a question for you at this particular moment. I have  
4 ideas and thoughts that have arisen, based on your  
5 presentation. And I'll go back, and I'll talk to my staff  
6 and others. And through the Chair, if we have a series of  
7 questions, we will be prompt in presenting those to the  
8 Chair.

9 DR. MUNGER: Do you have some --

10 CO-CHAIRMAN ALLEN: Well, I -- look --

11 DR. MUNGER: -- particular points on the  
12 language? I can answer a few of them if you like.

13 CO-CHAIRMAN ALLEN: Why don't you do that. And  
14 then I understand you're going to be preparing some  
15 written remarks.

16 DR. MUNGER: YES.

17 CO-CHAIRMAN ALLEN: And more detailed response.  
18 And that way that will be on the record and you'll have an  
19 opportunity --

20 DR. MUNGER: Right. And we'll be able to  
21 actually get what our best answer to the questions that  
22 the Co-Chair has raised.

23 CO-CHAIRMAN ALLEN: Okay. Did you want to raise  
24 it first? Or should we wait for --

25 ASSEMBLY MEMBER COOLEY: I can raise it any

1 time.

2 CO-CHAIRMAN ALLEN: What are you -- Senator, do  
3 you prefer --

4 ASSEMBLY MEMBER COOLEY: How about I'll do it  
5 now, and then I'll --

6 CO-CHAIRMAN ALLEN: There you go.

7 ASSEMBLY MEMBER COOLEY: I'm more looking at  
8 this from a process standpoint. And just trying to think  
9 about how the process works. And I have to say, on behalf  
10 of the -- from an institutional standpoint, you know, in  
11 the 1900's we had Artie Samish. Artie Samish, the  
12 horrible lobbyist, who had Confederates engrossed in  
13 office, and was able to slip language in beyond the reach  
14 of members to change it in the official record.

15 We now have, as an institution, of necessity,  
16 just a human institution, we have deadlines. We have  
17 budget deadlines. We have end-of-session deadlines. We  
18 now create a dynamic where if somebody by any means slips  
19 language into a bill, at that last 72-hour window, no  
20 member has seen it, but your choice at that point is you  
21 either kill the bill, vote it down, or somehow there's  
22 reasons it moves forward.

23 I think there's actually plenty of your  
24 constituents who didn't like the way the minimum wage  
25 thing worked out, which was sort of action under pressure,

1 feeling they needed to move forward. It was sort of this  
2 new dynamics. I'm just -- some of the small business  
3 people, I meet with them, my district, you know,  
4 confounded by how the process unfolded. And yet the  
5 Legislature, it made sense to do something.

6 My concern is this language, and I'm not saying  
7 I'm opposed to it, but there's no ability to amend, to  
8 strike language if people think it's objectionable.  
9 There's no ability to "Oh, my God, we need to amend  
10 another bill, to double-join the two, so that it can  
11 cancel out a provision that somehow got slipped in."  
12 There's tools in the Legislative tool kit to keep the  
13 process well-grounded, and the 120 lawmakers feeling that  
14 what we are passing is our collective best judgment. We  
15 sort of set up with this deadline -- and again, I'm not  
16 averse to time for observation. But in an institution  
17 that gets crowded up against deadlines, sort of like the  
18 old Artie Samish thing, if someone could just slip some  
19 language in right at the last minute, all 120 members are  
20 sort of taken out of the ability to get something dumped.  
21 And it can be -- it can be purely technical. It could be  
22 that maybe, "Oh, my gosh, we agreed that a bill was  
23 supposed to have all the shelves taken out to May, and  
24 some of them got missed." How do we fix that? Or it can  
25 be something more pernicious, that somebody had a plan and

1 they got some language in, and of course, it got drafted  
2 that way.

3           So I understand the desire for accountability.  
4 But I think accountability for the people of California is  
5 vested in the 120 lawmakers. And I think when you get up  
6 against a deadline, and a member has no effective tool in  
7 the tool kit to say "Wait a second." You can commend the  
8 reporters that look at this stuff. But today, I had my  
9 staff saying "I want you to check against some of the  
10 bills I will be voting on," and looking for a particular  
11 code section that might have popped up that would have  
12 been of interest to me. And I'm the sort of Member that  
13 would do that.

14           And my colleagues, I can guarantee, I serve with  
15 an outstanding 120 lawmakers. And as we have more time to  
16 serve together, we're all going to be more assertive. And  
17 I think that's what the public wants.

18           So I see the broad philosophy in the thing, but  
19 I object to the funding. I don't think it's well-served  
20 to be on one entity. And I actually think that you  
21 haven't thought through the ramifications for good,  
22 responsive, effective government, strong legislators  
23 raising their hand, saying "There's a problem here." I  
24 think that 72-thing needs some work. There's some other  
25 variations out there that I should think start solving

1 this problem. But I don't think it's in yours.

2 Personally.

3 CO-CHAIRMAN ALLEN: And so I know Assembly  
4 Member Ching has comments, and then Assembly Member  
5 Walden.

6 ASSEMBLY MEMBER CHANG: Thank you so much  
7 Mr. Chair.

8 And I think you can tell that the Committee has  
9 some very thoughtful members on here. And we are clearly  
10 thoughtful in the need to want to review material before  
11 making decisions. So this exercise, this hearing, I  
12 believe is a great example of the need to have something  
13 in print for 72 hours at least, to be able have a  
14 thoughtful process.

15 And I love my colleague, Mr. Cooley. And I  
16 understand that you value and respect the process;  
17 however, in my two years of being here, I've been  
18 observing some inefficiencies in the process which I think  
19 that we can improve upon.

20 I've also noticed that quite a few bills are  
21 introduced to correct some unintended consequences from  
22 bills that have been signed in the past. And I believe  
23 that if we engage in a more thoughtful process, having  
24 more time to deliberate, to go through the details, we can  
25 eliminate that, and we don't have to keep introducing

1 bills to correct some of the deficiencies of prior bills.

2           So I think -- I think this is a really great  
3 thing. And I just want to say, as you can tell, once  
4 again, that members are very thoughtful, and we want to do  
5 the right thing. And we want to be able to introduce  
6 thoughtful Legislation. I think this is a great tool to  
7 be able to provide that.

8           CHAIRMAN GORDON: So we've asked Dr. Munger a  
9 question. We put him off several times.

10           Miss Walden, I'm going to let you have the last  
11 comment. And then we'll take no more comments from  
12 Members for the moment. So allow Dr. Munger to answer.

13           ASSEMBLY MEMBER WALDEN: Thank you, Mr. Chair.

14           You know, just hearing the conversation, and  
15 being a member now four years, the issues that were  
16 brought up about the kind tools that legislators have at  
17 the last minute, when things are presented on the fly, is  
18 kind of the symptom of the problem you're trying to solve  
19 with your initiative.

20           You know, if someone tries to sneak language in  
21 and throw it to the Floor in the war, with the 72-hour,  
22 you know, mandated time to look at it, if they sneak  
23 language in, someone's going to find it, the alternative  
24 then is to kill the bill. So over time people are going  
25 to learn that doesn't work anymore, and that process, I

1 think, is what you're trying to solve, that we're not  
2 going to have to deal with that.

3           And I remember as a freshman legislator, first  
4 year, and I have to commend, 'cause we had 38 new members,  
5 and then we added three more when other folks ran for  
6 other offices. So, you know, we were in the majority of  
7 80 members were freshman. And we did the bill that came  
8 through for the Sacramento Stadium, with the CEQA  
9 exemption that covered, kind of went through the whole  
10 State on a lot of things. We took a break, came back,  
11 there was a wharfed bill that undid everything in the CEQA  
12 exemption, except the stadium. And to the credit of the  
13 freshman, 33 Democrats, joined with Republican freshmen,  
14 and we did not -- that bill died. It was the last bill we  
15 voted on before we recessed. So those wharfing things,  
16 those type of things would eventually start to go away,  
17 because they wouldn't work.

18           And the reason things are the left to the last  
19 minute is for more of a control or to get things pushed  
20 through without the public even, and even us seeing them.  
21 So that's just my response to that.

22           CHAIRMAN GORDON: Thank you.

23           Now I understand that you've been asked to  
24 address some of the things from the --

25           DR. MUNGER: Happy to.

1           CHAIRMAN GORDON: And rather than put you on the  
2 spot, I'll let you respond to what you want to. You said  
3 you'd submit something anything writing.

4           DR. MUNGER: That's right.

5           CHAIRMAN GORDON: And I think that's very  
6 preferable at this point. So your turn.

7           DR. MUNGER: All right. I can address one of  
8 them for Mr. Ben Allen, who's been suffering, because he  
9 asked this question and got no answer. And I think I can  
10 address some of your concerns.

11           The first is that 72 hours applies to the bill  
12 that dismisses a bill from a House. So if you're in the  
13 Assembly, and you are going fast and furious through  
14 Committees, and you're amending bills on the Floor, and  
15 somebody says -- and says "I move to put in some bunch of  
16 junk," and they get it on there. If you notice it 20  
17 minutes later, you can take it right out. The only thing  
18 that starts the 72-hour clock is the Assembly pronounces  
19 itself satisfied. They want this to become law. They're  
20 putting it out of the Assembly. And if the Senate and the  
21 Governor like it, they're good. So the only time you're  
22 going to be in a problem is if the language in question is  
23 bad, and discovered last minute. It's discovered, and  
24 we're just about to dismiss the bill from the floor.

25           Now I submit that the Assembly can probably

1 learn to stop putting bad language in those circumstances.  
2 But the worst thing that's going to happen to you is  
3 you're going to have to say well, we had that bad language  
4 71 hours to go, with only one hour to go, we discovered it  
5 now. If we change it now, we're going to have to wait  
6 72 hours before we can move it to the Senate. That's the  
7 limit of the.

8           So when you think about Legislation, and that's  
9 the worst thing that's going to happen to you in practice,  
10 suppose at the end of the day, you're at the end of the  
11 session this year, you got every bill done except one, and  
12 somebody finds a problem. And you want to move out the  
13 Assembly, and you want to move it to the Senate. And the  
14 Senate's waiting. And it doesn't care. And you say "Okay  
15 guys, we're going to amend it in the Assembly. We're  
16 going to go home. We'll come back in three days, move  
17 that bill in the Assembly, vote in the Senate, it's law.  
18 Your problem is you've got to come back for one more day  
19 to deal with that one last bill, assuming it was important  
20 enough for you to do so.

21           Now in terms of the practicalities of this, and  
22 this answers -- addresses a part of your question, we  
23 didn't find this idea from nowhere. One of the language  
24 questions we were asked is why we said -- if I can find  
25 the exact phrase -- no bill may be passed or ultimately

1 become a statute unless the bill is up for Assembly. Why  
2 did we stick up "may be passed or ultimately become a  
3 statute"? And Legislative counsel said it's ambiguous.  
4 It's not necessary.

5 We took that from the Constitution of the State  
6 of New York, which provides that no bill may be passed or  
7 become a law unless it has been printed on the desk of  
8 members for three Legislative days. All right. So we're  
9 copying something that's been in the Constitution for a  
10 little bit, for a little while. 112 years.

11 Now the State of New York is one of the original  
12 colonies. I may have that wrong. May have 116. But it's  
13 well over a century. It's one of the original 13  
14 colonies. Governorship of New York has -- the Legislature  
15 of New York has dealt with every crisis imaginable.  
16 They've dealt with wars, we've dealt with recessions,  
17 we've dealt with people blowing up the Twin Towers. We've  
18 done all of that, and somehow or other the New York  
19 Legislature says, you know, it's not a bad idea before the  
20 final bill, final vote of a bill, for the Legislature to  
21 actually see it. And they have an exception that the  
22 Governor can waive it, which we also have.

23 Another state that has this is the State of  
24 Idaho has. It has a 70- -- it has three, several day  
25 exemption. The most interesting one is the State of

1 Hawaii. The State of Hawaii says that all the bills have  
2 to be final form for 48 hours. There are no exceptions  
3 whatsoever in the Constitution of the State of Hawaii.  
4 Hawaii's a very interesting state, because they put that  
5 in in mid -- sort of 1967. Hawaii, it lives on top of  
6 volcanoes. It is subject to repeated hurricanes. And  
7 within living memory, it has watched the U.S. Pacific  
8 Fleet sunk at Pearl Harbor by enemy attack. And it  
9 somehow thinks that to deal with whatever might come their  
10 way, their Legislature can manage to do it if the bills  
11 are available for everyone to see for 48 hours.

12 We do not think that this provision is going to  
13 seize up the California government. We have -- if you  
14 want me to go through how it affects specific bills, and  
15 the specific deadlines, at the end of the day, this is not  
16 going to be a problem. The examples of New York, Idaho  
17 and Hawaii make it pretty clear that this is -- that this  
18 is going to work.

19 And again, we've copied Constitutional language,  
20 because we just don't want to reinvent the problem. No  
21 one's had a Supreme Court issue with that language since  
22 its writing. We declined to reopen that question.

23 So that's one of them. And it's relevant to  
24 your question. The other -- the other ones, we're happy  
25 to respond to in writing before this Committee as long as

1 the record becomes part of the public's record on this  
2 meeting.

3 CHAIRMAN GORDON: And it will.

4 DR. MUNGER: Thank you.

5 CHAIRMAN GORDON: In just a second I'm going to  
6 move to public comment. Before I do, let me allow you to  
7 close.

8 FORMER SENATOR BLAKESLEE: Thank you. I'll make  
9 my comments brief. Thank you for your very thoughtful  
10 questions. And thank you for your patience in giving us  
11 an opportunity to address those questions. I mean that  
12 with great sincerity.

13 Again, as someone who loves this institution  
14 dearly, I believe these are the kinds of reforms that, if  
15 adopted, will allow us, I think, to serve with greater  
16 distinction, and to avoid these moments when we have to go  
17 back and explain to our press or our public and sometimes  
18 our families how certain bills became law. Because in the  
19 future we'll be able to read these bills. In the future,  
20 the public will be able to see what's happening in these  
21 rooms. And in the future, what's happening in the rooms  
22 will be widely available for the public's support,  
23 approbation or disapprobation.

24 With that I would urge you to think very  
25 carefully about putting a competing measure on the ballot

1 which could ultimately, if there's confusion generated,  
2 thwart these reforms. Thank you very much.

3 DR. MUNGER: And of course, Honorable Gordon  
4 knows I've been attending the hearings on the bills the  
5 Legislature developed. I think I'm now into hour  
6 number -- maybe starting hour number five in the last week  
7 before you all. Apropos of the Honorable Holden's  
8 concern, there's an ongoing conversation about what the  
9 Legislature should do in response to this initiative. Our  
10 first and foremost job, which is a question we're willing  
11 to have come in after this meeting, if need be, is tell us  
12 what's policy objections from -- for example, Mr. Cooley,  
13 tell us what the language is we've got wrong. Okay?  
14 Convince us that -- convince us, A, that there's a flaw in  
15 our measure that's so bad we should yank it. We want to  
16 hear it. Because we don't want to do the people of  
17 California an injury. But we have to hear there's a  
18 problem before we can contemplate that.

19 The second one is that we think we've got a very  
20 good foundation of the bill we already have, you know, to  
21 deal with these issues. And if the Legislature wishes to  
22 engage in working on transparency, it can continue working  
23 on the bills in question. I've testified at the  
24 Appropriations Meeting that, as written, I won't yank the  
25 CLTA if those are passed as they are. And I do not think

1 that a bill which is -- that it's a good idea for the  
2 Senate to dismiss a bill to the Assembly without being  
3 able to say to the public that we the Senate think that  
4 bill, the Assembly takes it as is, should become law,  
5 should amend the Constitution. I don't think you're  
6 there.

7 But I'm willing to engage. We've got 15  
8 calendar days. If you want to keep having public hearings  
9 about bills, legislation, so forth, I'm happy to attend to  
10 the limit that my wife will let me. You know, but you  
11 have to -- I'm not here to draft a solution for you on two  
12 weeks. It took us months. All right? To try to get  
13 where we are.

14 You're working under a -- self-deadlines imposed  
15 by the Legislature itself. I know you have many other  
16 things to deal with. But if you can't close this deal at  
17 the end, what I suggest you ought to do is simply say do  
18 the CLTA. Let's see if the voters pass it. And if  
19 there's something in it you don't like, which may be as  
20 simple as where the money comes from, well, you're the  
21 Legislature. And June -- 18 months later, if you want to  
22 say we have an amendment to offer the public, and we want  
23 the public to support it, you can do that.

24 The question is is there something so bad in  
25 this that you can't wait 18 months to fix it. If

1 there's -- is there an idea so good that you have right  
2 now that you want to have a head-to-head ballot, possible  
3 head-to-head battle on the ballot, with all the  
4 transparency in line, to get that reform, when you could  
5 ask for that reform in 18 months? You're not going to be  
6 in conflict with us if you just don't put it on the same  
7 bloody ballot.

8           So I'd be willing to engage with you. I'll  
9 continue do that. But you know, with respect, this  
10 institution is running out of time. And it's going to be  
11 difficult.

12           So I'm willing to engage, because there might be  
13 a big upside to this. But understand, if it doesn't  
14 happen, it's not going to be because I didn't want to  
15 engage or I'm not willing to talk to my Legislature,  
16 because you've run the clock out on yourself. Thank you  
17 very much.

18           CHAIRMAN GORDON: Thank you very much.

19           Let me now invite members of the public who  
20 would like to make a comment, that we have a microphone  
21 set up if you would line up, and encourage you to be to  
22 the point, please.

23           MR. SILVA: Thank you, Mr. Chairman and Members.  
24 And to the point, Fred Silva with California Forward.  
25 We're actively supporting the CLTA. I would suggest to

1 you, many of us have been involved in this since 2009,  
2 looking at different approaches to Legislative  
3 transparency. California Forward supported it, put  
4 together an initiative, Prop. 31, that included a vote  
5 requirement, a print requirement. It also supported --  
6 actively supported SCA 10 that Senator Wolk carried back  
7 in 2013.

8 So our active support has been based basically  
9 on this notion that there ought to be more legislative  
10 transparency and some form of a print rule so that  
11 everyone sees all legislation. Much of the emphasis has  
12 been placed on gut and amends. I would submit to you that  
13 the CLTA applies to all legislation, including conference  
14 reports, including legislation that you all deal with in  
15 special session.

16 So as you're considering this, think about the  
17 breadth of the application, not simply to certain  
18 circumstances like the gut and amend issue. So we're  
19 actively in support of the measure.

20 CHAIRMAN GORDON: Thank you. Next.

21 MR. SCOTT: Members. My name is Tom Scott. I'm  
22 the State Executive Director for the National Federation  
23 of Independent Business in California. 22,000 members.  
24 Strongly supportive of the CLTA. I know members of the  
25 Committee might say why is transparency a small business

1 issue? I am here to make it clear that this is a major  
2 issue for small business. And that this initiative is by  
3 far the best proposal at our fingertips to create a more  
4 open and accessible government for our job creators across  
5 the state.

6 Every day my members tell me that they worry  
7 about what's going on under the Dome, whether it's here in  
8 Sacramento, whether it's in D.C. And whether it's new  
9 regulations that are constantly coming out of nowhere that  
10 they're not aware of or legislation. But my members know  
11 that one bad bill out of these halls can be the death  
12 knell that closes these businesses for good.

13 I hear these stories all the time. And it's not  
14 fiction, you know. And honestly, what we witnessed, as  
15 Assemblyman Cooley mentioned about the minimum wage, to  
16 me, you know, for the 21st century to see a deal cut on a  
17 Saturday, before Easter, no public participation, one  
18 committee assignment, appropriations. No analysis. Two  
19 floor votes. And then a signature by the Governor, to me,  
20 was just unbelievable. No business at the table. No  
21 retirees at the table. No non-profits at the table.

22 I mean, if anything, that, to me is the model  
23 for why people should be supporting the CLTA. You know,  
24 and I'm not going to even get into budget trailers. I  
25 mean, I've been watching twitter, and I mean, there are

1 things that I'm learning every second, you know, as to  
2 what's going on.

3 But regardless of how you feel about the debate  
4 on minimum wage, I'm not really here to argue the issue.  
5 But the abandonment of the public process and good  
6 government demonstrated that in ramming SB 3 through this  
7 building a few months ago reaffirmed our need for real  
8 transparency here. There are important substantive  
9 differences between the initiative constitutional  
10 amendment before us compared to the legislative proposals.  
11 I mean, honestly, transparency, I mean people throw it up  
12 on their websites. They mention it in every other  
13 sentence.

14 You know, for me, I mean, what is the cost of  
15 transparency? A million? Two million? Public  
16 participation? Engagement? You know, to me, you know, I  
17 say hey, whatever it costs to make sure the people in this  
18 state know what's going on is well worth it. You know,  
19 and quite frankly, you know, I think this -- I mean one  
20 million-plus people have signed this. And then for the  
21 Legislature, in the final two weeks, to come along, you  
22 know, with even what I would question, you know, how  
23 transparent have the two proposals been, is really -- you  
24 know, it just -- this is the 21st century. We can do  
25 better. CLTA, to me, is the answer. Let the people vote.

1 MR. COUPAL: Mr. John Coupal. Howard Jarvis  
2 Taxpayers Association. And we strongly support this  
3 particular proposal. Among the many motivations is the  
4 fact that the incident referred to by Sam Blakeslee, with  
5 the video recording being turned off during the opposition  
6 arguments in the -- what was supposed to be an  
7 informational hearing on Proposition 30 was so shameful  
8 that the Sacramento Bee excoriated the legislator who was  
9 responsible for that. I won't mention his name. Rumor  
10 has it he's going to be a mayor around here someplace.

11 But also the Chairwoman of the committee, Lois  
12 Wolk was incensed that this had happened in her committee,  
13 that the video recording had been shut off.

14 We greatly support transparency. We also like  
15 this particular proposal for what it does not contain.  
16 It's going to shock you that we like this because it does  
17 not contain a tax increase.

18 But finally, the cost. As a percentage has been  
19 mentioned of the total Legislative budget, this is, I  
20 think to use an LAO term, is referred to as budget dust.  
21 Strongly in support.

22 CHAIRMAN GORDON: Thank you. Next.

23 MR. FRANK: Yes. Chairman and Members. Terry  
24 Frank, with Californians Aware, a non-profit organization  
25 that spends a good deal of its time, not all, but a good

1 deal of its time in policing the Brown Act, so to speak,  
2 and urging the improvements and defending against measures  
3 that would water it down, in educating and helping to get  
4 adequate training for local officials who don't understand  
5 what the Brown Act is or how to comply with it. And after  
6 about 36 years of doing this, with local agencies around  
7 the State, what strikes me is that they are already  
8 operating under a regime which requires them to provide  
9 adequate notice to the public of the specifics of things  
10 that are being proposed for policy, before the vote, so  
11 they may come forward and ask questions and make  
12 statements.

13 They're already under a regime which says that  
14 they must allow audio and video recording and photography  
15 of their proceedings, unless the body makes a finding that  
16 practically speaking, it can't be done without noise or  
17 disruption of the process, which of course, now, with  
18 photo cameras and their phones, is no longer an issue  
19 anyway.

20 We deal with organizations that, on their own,  
21 increasingly subject their meetings to recordation and  
22 archiving, without being told to do so, because they think  
23 it's a good idea. So with that kind of experience with  
24 local officials of goodwill, when we were approached to  
25 ask for our support for this measure, it seemed to be a

1 natural. Thank you.

2 MR. BAKER: Good morning. Gavin Baker with  
3 California Common Cause. We are in support of the ballot  
4 initiative. We think it's fundamental that legislators  
5 should have an opportunity to read a bill and to hear from  
6 their constituents before they have to vote on it. And so  
7 we believe that this initiative, which contains a 72-hour  
8 transparency period before a vote in either House is a  
9 common sense and balanced rule that would allow  
10 legislators the opportunity to read something, to hear  
11 from their constituents about issues before they have to  
12 vote, while also allowing their legislature to keep the  
13 trains rolling and be able to do their job.

14 Chairs, thank you very much for holding this  
15 hearing. I'll just quickly note that Common Cause was a  
16 co-sponsor of SB 1253 in the previous session, which  
17 created these public hearings for initiatives. We think  
18 it's important for voters to be able to have some  
19 information about what they're voting on. We think that  
20 these hearings are also useful because they create a  
21 record that courts can look to when they're interpreting  
22 these initiatives. So thank you very much for holding  
23 this hearing to build that record. Thank you.

24 MS. LAWRENCE: I'm Lee Lawrence, Government  
25 Director for the League of Women Voters of California.

1 And we strongly support transparency and the public's  
2 right to know. So we deeply appreciate the provisions in  
3 the CLTA initiative and hope that they end up in the final  
4 solution, however that comes.

5 I'm also wanting to speak on behalf of our  
6 Senior Program Director, Trudy Schafer, who's  
7 unfortunately on the east coast. But she has perhaps  
8 noticed with some frustration there may be some need for  
9 attention to transparency in the whole budget trailer bill  
10 process, and we recommend that to your attention as well.  
11 Thank you.

12 CHAIRMAN GORDON: Great. Thank you.

13 Anyone else from the public?

14 Let me thank my colleagues and my co-chair for  
15 participating this hearing. And let me specifically thank  
16 the proponents. Appreciate you being here and providing  
17 the information. And the public for participating. And  
18 those who are also watching us as this is being broadcast.

19 With that, we will adjourn this hearing. And  
20 thank you all very much.

21 (The hearing was concluded at 12:05 p.m.)

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REPORTER'S CERTIFICATE

I, KAREN S. CHALLE, CSR No. 8244, Certified Shorthand Reporter, certify:

That the foregoing proceedings, pages 1 through 71, were taken before me at the time and place therein set forth;

That the proceedings and all statements made at the time of the hearing were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or employee of any attorney of the parties, nor financially interested in the action.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

Dated this 20th day of June, 2016.

\_\_\_\_\_  
KAREN S. CHALLE, CSR NO. 8244