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ACR 62 Task Force Meeting September 18, 1984

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CALIFORNIA STATE LEGISLATURE

ACR 62 TASK FORCE MEETING

STATE CAPITOL

ROOM 437

SACRAMENTO, CALIFORNIA

TUESDAY, SEPTEMBER 18, 1984

9:00 A.M.

Reported By:

Evelyn Mizak
Shorthand Reporter

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TUESDAY, SEPTEMBER 18, 1984

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MEMBERS PRESENT

ASSEMBLYMAN DAVE ELDER, Chairman, ACR 62 Study Panel;
Chairman, Assembly Committee on Public Employees and Retirement

JUDITH POWELL, Vice-Chairman
State Teachers' Retirement System Board

DR. CARL KLUDT, Retirant
El Camino Community College

REBECCA TAYLOR, Representing Dick Simpson
California Taxpayers' Association

ELIZABETH COOPER, Chairman, Retirement Committee
California Teachers' Association

JEAN CURTIS, President
Compton Educational Association

JAMES SLIVKOFF, Former Chairman, Retirement Committee
California Teachers' Association

KENNETH DOCTER, Certified Public Accountant
School Board Member

BURT COHEN, Representing Jesse Huff
Department of Finance

DOROTHY MOSER, Vice-Chairperson
State Teachers' Retirement System Board

DAVE FELDERSTEIN, Representing Senator Wadie Deddeh
Chairman, Senate Committee on Public Employment and Retirement

FREDERICK KAHN, Public Member

MEMBERS ABSENT

None

ALSO PRESENT

DAVE COX, Interim Project Director
ACR 62 Task Force Staff

WESTON HULSE, Research Specialist
State Teachers' Retirement System

ROBERT ROBERTS, Chief Executive Officer
State Teachers' Retirement System

DAVID CRIPPEN, Principal Consultant
Assembly Committee on Public Employees and Retirement

DOUG KINNEY, Legislative Counsel
Office of the Legislative Counsel

TOM BRANAN, Consultant

JO ANN FRIERSON, Consultant

YOLANDA GARCIA, Special Consultant

KARON HART, Special Consultant

JAYNE WILSON, Special Consultant

TERRY RANDALL, Project Secretary

SUSAN HURTADO, Secretarial Support

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PROCEEDINGS

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CHAIRMAN ELDER: Good morning. I'd like to welcome all of you to the second of the two-day session on the Task Force report.

I'd like, if we can, Mr. Cox, to start with Appendix K, I believe is where we left off.

It's my thought that we should be able to get through all of the remaining alphabet this morning, and that we can then proceed to the afternoon session at about 1:30. This is going to involve some cooperation of everybody here so we can set some time limits on each of the sections.

So, if you do have something to say, we want to hear it; on the other hand, if you can give it some thought before you say it, and try to make it as brief as possible, it would be a big help.

Mr. Cox, if you would proceed with Appendix K.

MR. COX: Appendix K discusses the System's retirement formula, the basic formula, which is comprised of three parts: the retirement factor, the years of service, and the final compensation.

Were the Panel to consider a second tier, there would be some sort of change in that particular combination which now consists of a two percent factor at age 60 times the three consecutive years of service.

On Page K-3 there is a chart which gives several combinations as to a possible change in the retirement formula.

I think this particular section is there for informational purposes, and there is no recommendation.

CHAIRMAN ELDER: So, at age 60, if you go to one percent, you basically take the 19.56 percentage and reduce it by 9.39 percent?

MR. COX: The savings, 9.39, would be a savings from the normal cost, yes, sir.

We do have figures that would give you a savings for any reduction from 2 percent down to 1 percent in addition to those here for age 65, if you'd care to go into that. You might want to wait until you get into Volume I, where you actually discuss two-tier. This is more or less a basis contained in this report.

CHAIRMAN ELDER: Do you have more detailed alternatives?

MR. COX: Yes, sir.

CHAIRMAN ELDER: Any comments from the Panel members?

Yes, Dorothy.

MS. MOSER: In the next to last paragraph, a statement about salary is made:

> "Because the effects of changes in salary must be long term to have a significant impact, salary does not lend itself as easily to adjustments as do the other two elements of the benefit formula."

One of the concerns that has been expressed over the years is the kind of abuses that occur with unusual changes in salary granted to people when they are very close to retirement age. And this is more likely to happen in a smaller district than in a larger district, unless you're talking about the absolute top person in the system.

But I think before we finish --

CHAIRMAN ELDER: Pardon me, Dorothy. Please turn on your microphone.

MS. MOSER: I'm sorry. Thank you.

I think it's very important that before we finish recommendations that we focus on some of the abuses. And that we do make recommendations for possible laws that would point out abuses and avoid them in the future.

CHAIRMAN ELDER: It seems to me that a couple of options might exist there. We could take the average of the last five years, maybe weighting it in the last two or three. That would be one approach. Certainly, it would not prevent a really warranted increase toward the end of one's career. That is one alternative.

Another alternative would be that the last three years' service would have some percentage limit that the last year could be increased. In other words, you would count the last three years, but if the last year were increased above 10 percent before the preceding two years, that might trigger going into a five-year average. Because, while it is possible for a school district to give all employees a 10 percent increase, it would be a little unusual for it to exceed 10 percent. I don't know of many instances where school districts have granted above 10 percent in any one year.

I know San Jose was criticized for doing it three years consecutively by some people. So, perhaps that could be given a little more work as a way to prevent the abuses in a second tier.

I think I kind of lean toward the last one, that if the last year's increase is above 10 percent, then you would go to a five-year average. That's probably fairly easy to do. Of course, that means if they were going to do that, they would have to do it more than one year toward the end.

Of course, this will elicit comments, I'm sure.

Carl.

DR. KLUDT: I wanted to know how PERS handles this?

MR. COX: They have the any 36 consecutive months that the employee would care to choose.

DR. KLUDT: So they don't handle it.

CHAIRMAN ELDER: Well, they do handle it in another way. Each agency is given a bill every year for a rate for their actuarial circumstance, and it will vary from year to year. So, if their personnel practices are at variance with prudent management, they will pay for it in terms of having a higher rate. And all the other PERS agencies will not be asked to sort of pony-up for their excesses. They will have their rate vary.

I saw it happen in the Budget Office of the City of Long Beach. And if anything was going on there, they were Neanderthal in their twilight career arrangements. They would tend to flatten somebody out as sort of a way to ease them out and encourage them to leave rather more quickly, because they could see that they were not going to get the kind of increases that they perhaps had hoped. So, it was kind of a reverse mechanism under that PERS agency, and I'm not saying it's true everywhere.

But in PERS, if you do it, you got to pay the freight.

MR. COX: There's also a provision in PERS law that allows an agency to adopt a one-year final comp. It's very common for police and fire at the local level.

MS. CURTIS: Based on one year rather than the average?

MR. COX: Yes, ma'am.

CHAIRMAN ELDER: That can be very expensive.

MS. MOSER: The problem has not been across the board raises for your certificated folks. They have been gift-type raises for administrators. That's where the primary problem has been.

We had a case this Spring, where the Board, in its great wisdom, gave to the superintendent who was retiring 250 unused sick days.

CHAIRMAN ELDER: Is that Fontana?

MS. MOSER: Yeah, and that was very quickly reported to us, and I believe it's been taken care of.

CHAIRMAN ELDER: You're to be commended on that. I found that personally offensive, came very close to going to the Fontana School District School Board meeting and giving them hell over it, which I think would have been a little bit wonderful.

I don't think this really effects the classroom teacher for the most part, and that's really our charge from our point of view.

With that, I think we can move on to the next section. Today I think I'm going to be a little better in the alphabet, and I concluded that the next section after K is L.

MS. POWELL: I want to commend the Chair for learning the alphabet.

CHAIRMAN ELDER: I'm not part of the walking wounded from last evening. I had the good sense to switch to milk when I went to dinner.

In Section L, Mr. Cox, if you could lead us through this.

MR. COX: Yes, sir. Section L raises the issue of whether or not a cap should be placed on a retirement allowance received under STRS.

Of course, there are some individuals that feel that any person working 40 or 45 years deserves 80 or 90 percent of the allowance. Other individuals feel that there should be a cap, and that cap should be extended to any amount that a person earns in public service, including military service.

The only recommendation that's made by the Task Force staff is that were your second tier to be supplemental to Social Security, that consideration be given to a cap; but were the System to stand on its own, no cap be used.

CHAIRMAN ELDER: All right. Carl.

DR. KLUDT: The notes I made on this was: Why do we exempt other investments in the Tier II and penalize income from Social Security? I don't see that as any difference than any other investment income.

To just single that out, to me, maybe needs a look at as to whether it's ethical or even legal.

So, that would be a question that I would like to see addressed.

MR. COX: Sir, are you including any investments made with your own funds, or are you just talking about public money? that's usually the basic criteria that we're speaking about.

DR. KLUDT: Well, I don't consider my Social Security public money. I put it in, more than I'll ever get out of it, so it's my money.

I think a lot of people feel that way.

MR. COX: Definitely.

DR. KLUDT: So, I would look at the equity and ethics of penalizing them in one investment area which they had no choice about, which is Social Security. I mean, we ought to look at that aspect of it.

Maybe there is a rationale for it, but I haven't found it yet in questioning it in my mind.

Most people who make investments do this because they know that their retirement isn't going to cover their living expenses. They depend on Social Security as one of those investments. Then we all of a sudden say: No, you got -- your Social Security is different.

I don't think they see it that way; I know I don't. So, it's something to think about as far as whether this should be done or not.

CHAIRMAN ELDER: Carl, in the analysis of this over time in different circumstances for other employee groups, when you start looking at 8 percent for STRS being taken out of the check, and then, say, 7 percent and climbing for Social Security, you're talking about 15 percent right off the top. And for the most part, we have assumed that people are taxed, that 15 percent is taxable as it is earned, so you take 15 percent and enhance it by, say, as little as 20 percent, that makes a total of 18 percent right off the top of your check. And then, the rest of that is subject to taxation.

So, the practical effect is that you are not in a position to live on a residual. And I think that's kind of where they're coming from, because the take-home pay gets to be so low that you don't have anything to take home.

Any other comments on this section? Dorothy.

If I might interrupt, I'd like to turn the gavel over to Judy. I have a phone call in the hall, so please continue.

MS. MOSER: This concern with a cap when, on the other hand, in the Houses of this Legislature they are continuing to bring forth bills that would permit the retiree to earn more money going back and teaching in the public school system.

There was a bill in this year, one for 7500 and one for 8500, and we are talking about putting a cap so that future retirees in another tier are going to be even more handicapped in terms of what is their income.

Many of the people who retire and then go into the classroom to teach part-time or to substitute do it because that's what they love to do. Others do it because they cannot live on their retirement income.

So, as we speak of putting a cap of this kind on what you would receive after you have earned it over a period of 30, 40 years, I find it something we need to really think through with a great deal of care.

MR. SLIVKOFF: I think that this whole aspect is kind of skewed in a lot of ways. It's fair and yet it's unfair. It's unfair from the standpoint of the classroom teacher for the administrators to receive a considerably greater amount, which is fairly unlimited depending on the generosity or the length of their stay in the school district.

But I resented any kind of a cap for the retirement, but I think I've swung away from that because what we want to do -- most of the people will never achieve the cap. And I think the few people that do achieve it and exceed it are just -- have manipulated or have worked the situation so that they have, by design, gone over a permissible kind of cap, to the detriment of the System.

In think that's the part that's important. Over all, we have to protect the System, and we have to eliminate a lot of these inequities.

I think some kind of a cap is necessary from the standpoint of not only the administrators' salaries, but if they go over to PERS, then the cap should be somewhat a compromise between 60 and 80 percent, perhaps, probably 80 percent.

MS. POWELL: I have a little list developing here.

Ken.

MR. DOCTER: It strikes me that if we are taking about a defined contribution plan, that to put any cap on it would be inequitable because whatever one contributed, one ought to be able to draw out.

However, if we are talking about a defined benefit plan, into which people are going to put varying amounts, I think then we ought to look at it from the System's perspective. And we should say, and it can be done, that it is the intention of the System to pay an actuarial or a benefit to a person at their normal retirement age, and that if that person wants to work beyond that age, that they could earn an additional amount out of the System, which would be an actuarial computation of the longer work period and what would therefore, I guess in actuarial terms, be the de facto shorter life span subsequent to retirement. There's a way to calculate that, such that it is an even amount, or an amount which is actuarially the same as what a person would get at normal retirement age.

So, I would personally be in favor of some sort of a cap of that nature, that would keep the System the same, unless we were to move to some sort of a defined contribution plan, in which case I don't think there ought to be a cap.

MS. CURTIS: I have a problem with the concept that a cap should be placed if we correlate with Social Security. Already I am discriminated against because I work and will collect a public pension, I will not be able to have a spousal benefit from my husband's Social Security. If I did not work, or was not going to be collecting a public pension, then I would be able to get that. So, I'm already discriminated against.

It would be incredible discrimination for me to earn, by my taxes -- and I realize that Social Security is a tax, and that it is not, quote, "my money" any more than income tax that I pay is my money, nonetheless, I would have paid it out of my earnings and based on my earnings. And then to tell me that when I come down to retire, that although I have paid both of those things, somebody's going to decide that I really in reality cannot collect from both of those things.

Now, for it to be argued that since I have not earned a spousal benefit, other than by being a spouse, that has some validity to it, because I have not paid in that much. I have not been employed, you know, for all those quarters in Social Security.

But if I am and am paying it, to then say to me: Because you're going to collect from another retirement system which you also, or somebody, contributed towards you, to me seems patently unfair.

I realize that there are some inequities, and I realize that there are some folks who perhaps are incredibly well-paid while they are working, and therefore collect a whole lot more than I will, unless I go into administration and become an overpaid superintendent someplace close to home -- but I think that the problem is, most classroom teachers are not going to come anywhere near it, and it becomes ludicrous to talk about putting a cap on such a thing.

Going back to what Dorothy said before, we may need to deal with what is happening in terms of abuses, but I don't think that in the main we need to worry about anyone collecting too much. In fact, I thought that what we had talked about before was that folks, whatever that percentage was that they retired at, the problem was that pretty soon it eroded to the point where talking about a cap is truly ludicrous, unless you want to put a cap on the bottom of it. That might not be a bad idea.

MS. TAYLOR: This business of a cap is something that Cal-Tax, on different occasions, has had to take a position on, mostly because of bills in the Legislature.

My sense of it is that a cap is a remedy after the fact. Where it has come up is, obviously, in terms of Legislators drawing doubly increased pensions. But to use --

MR. CRIPPEN: Elected officials.

MS. TAYLOR: I apologize, elected officials and constitutional officers.

And in looking at that, there is a certain inequity that people were trying to address through this cap business. But ultimately, a cap becomes moot if indeed the retirement system that is set up is a moderate system.

In other words, we would rather not deal with the cap at all, but rather deal with the plan, the service factor above all, such that the career employee, even if they worked 30 or 40 years -- let's say they worked 40 years. Let's say they get 80 percent of their salary. If that were indeed the case, that someone were eligible under a plan for 80 percent after having worked 40 years, we wouldn't think that would be so bad.

So our point is, you deal with it in terms of the service factor, how much credit is given per year, and you don't really, at that point, have to worry about a cap at all.

Now, where it would come into play here, as it relates to the teachers, is if Social Security were blended into a teacher's benefit. But then, by redesigning and having an appropriate benefit level projected into that from the first, again, I think we'd avoid the problem of having to deal with a cap.

MS. POWELL: Someone once said that chairing a meeting is simply being a traffic cop. I'm just going to keep directing traffic here.

Dorothy, you're next.

MS. MOSER: In many discussions, people have talked about doing a cap in another way. For example, my superintendent and I were Probe One teachers together in the same building.

MS. POWELL: We'll try not to hold that against you.

MS. MOSER: When he retires, his retirement allowance, based on his salary, will be more than I will ever earn as a classroom teacher.

And there has been much discussion about capping what would be the maximum upon which you would contribute. For example, suppose you took the top building administrator in the state, or in your district, and that was the maximum upon which you would make retirement contributions. The maximum upon which you could then receive retirement contributions. And there would be many ways to look at this, but I think any cap -- this is a good way to look at the possibility of a cap, where you say, just as they do in Social Security: The first da-da-da dollars are taxed and credited as final comp.

So, if you're talking about maximum $50,000 being contribution upon, and therefore counting for what you would receive, I think that kind of cap, which is before the fact, not after the fact, is maybe one for us to look at.

MR. FELDERSTEIN: In the course of analyzing legislation over the years relating to proposed caps on safety retirement and others, I've always been interested in the question of whether having a cap is cost effective based on the information needed to administer it. Because, the administrator of the cap has to gather a lot of information and crunch a lot of numbers based on a theoretical cap, where ever it is, and growing benefits, and CPI, and all these other things.

If we do pursue a cap any further, I'd like the staff to furnish us with information based on what kind of administrative costs it would take to make the thing work, and whether it would be in fact cost effective for the System or not.

CHAIRMAN ELDER: All right. Maybe I can add my two cents' worth.

MS. POWELL: Carl was next in line.

CHAIRMAN ELDER: I know, but I've got the gavel.

DR. KLUDT: I'm going to get a sign and picket you.

CHAIRMAN ELDER: I would just observe that I think one of the comments that was really particularly yesterday on the subject was made by Ken, and that people should be aware that on the one hand we're saying that this retirement was never meant to fund a person's total retirement requirements, this program. Then, we're getting into a situation where we're saying: But, wait a minute; we think there ought to be a cap somewhere. It seems to me it's kind of a fundamental problem.

Carl.

DR. KLUDT: Yes, I was curious about these atrocity cases of administrators getting, you know, large income.

Are they remaining in STRS, or are they in PERS? They're remaining, so like the Deans in the Community College who are former teachers, so then we carry that.

I wanted to be sure that that point was clear, because that really is where our problem is, the oneS who stay in STRS.

Is that true of most of them?

MS. MOSER: There is not a way out.

DR. KLUDT: Oh, they can't get out.

CHAIRMAN ELDER: That was one of the thoughts that I suggested, is that when they get out of the classroom, we kick them into PERS, because they aren't teachers anymore. That recommendation has some followers and an awful lot of detractors on this Panel. Beyond that I will not add further. I'm not recommending it. I threw it out as something to think about.

Any other comments on the cap problem, Appendix L?

I have Appendix M as next. Is that two in a row? I'm on a roll.

This is talking about early and late retirement, advantages and disadvantages.

MR. COX: There are no recommendations from staff relative to this particular question. There is a comparison chart on M-3 and 4 that reflects numerous advantages and disadvantages of early and late retirement, but other than that, it's for informational purposes only.

CHAIRMAN ELDER: I think Mr. Slivkoff's observations yesterday were particularly on point here, that there are individuals who need that early retirement option because of their circumstance, and maybe even constitution, they cannot take the rigors of teaching for a period of time as long as 35 years; whereas, there are other people who seem to thrive on it and seek to teach into their 70s.

I was curious to know, the proposed revision here makes no increase for years beyond 65. It would continue on at 1.7; is that correct?

MR. COX: That's correct.

CHAIRMAN ELDER: And the current System, 2 percent at 60, there is some enhancement beyond?

MR. COX: No, not in STRS law.

CHAIRMAN ELDER: A flat 2 percent?

MR. COX: Yes, sir.

CHAIRMAN ELDER: All right.

My thought is, where do you ask the question in a 1.7 percent at age 65, in the second tier, what does it do to us actuarially if we enhance above 1.7 when a person is teaching beyond 65? We go to 1.75, then 1.80, and were a person to teach to age 70, how would that compute out? Do you have some information on that?

MR. COX: No, sir. Bob does state, however, that it would have to be actuarially determined to result in no additional fiscal impact, but I don't believe we have figures available.

CHAIRMAN ELDER: On the one hand, I think we should be interested in looking at it if it makes the System money, recognizing that we're going to have a tremendous shortage of teachers in a fairly short time horizon, five, six, seven years is my understanding. It might well be in the interests of everyone to try to enhance above 1.7 after age 65, and in fact could be a, quote-unquote, money maker for the System, recognizing that some individuals are going to do it whether it's 1.7 or anything greater than that in any event.

So, what we've got to be careful about is, are we really hurting ourselves?

MS. MOSER: Currently under the law, if you were born before July 1, 1917 and have not yet retired, you are permitted to retire under the old formula, which gives you a percent starting at age 63 that is greater than 2 percent.

There happens to be at least one teacher in my school district, because he teaches in my department, who was 67 prior to July 1, 1967, therefore he will get the improvement factor.

MR. COX: Yes, Mrs. Moser is speaking of the formula which was in effect prior to the Barnes Act, prior to 1971.

CHAIRMAN ELDER: So, those who were born before July 1, 1917, we would be talking about a person who is what now? They're 67 years old? So, we have some teachers, then, who are --

MR. DOCTER: We can't have very many.

CHAIRMAN ELDER: So, we have some who are 67 and older. Any other comments?

Mr. Crippen.

MR. CRIPPEN: To what extent is early retirement actuarially based? Is it right on the money; is it generous; stingy?

MR. COX: It depends on which actuary you talk to. PERS provides for early retirement down to age 50, and publicly PERS would say that actuarially that is a sound figure, but you can find people that would dispute that and say that they are losing money on people that retire as early as age 50.

STRS has resisted any change over the years to reduce early retirement to an age less than 55 on the basis that it would be expensive to the System.

CHAIRMAN ELDER: It is less than 2 percent in any event, so it's reduced accordingly.

MR. COX: PERS is 1.1 percent at 50; 1.4 percent at 55.

CHAIRMAN ELDER: And STRS is --

MR. COX: Approximately 1.4 at 55.

CHAIRMAN ELDER: Mr. Docter.

MR. DOCTER: Is that an actuarially determined amount, or is that one that has evolved over a series of compromises over a period of years?

MR. COX: Theoretically it's actuarially determined, depending upon the actuary that you talk to.

CHAIRMAN ELDER: Any further comments on this particular section?

I think you understand what we'd like you to look at, particularly beyond age 65 on that 1.7.

The next one is Appendix N, "Compatibility of Early and Late Retirement Incentives".

What is the great mystery we're trying to uncover here?

MR. COX: I believe that staff recommendation is merely that whatever system you adopt, any early retirement incentives that you also adopt should be compatible with the System. And under no circumstances should you have early retirement programs and late retirement programs in the same system that would not be compatible.

A good example of early retirement program is the Golden Handshake program, the Hughes bill that passed this year.

Another recommendation is, of course, that any early retirement incentive program that you adopt not impact the System actuarially or fiscally.

CHAIRMAN ELDER: The Golden Handshake does not, is that true?

MR. COX: It does not. The school district must pay the System an actuarial amount to offset the two years of additional service credit.

CHAIRMAN ELDER: That is most likely to happen in a circumstance where a district is having budgetary problems and needs to accrue salary savings in that position.

MR. COX: The law specifies the district must meet certain criteria. A basic criteria is that they have a cutback in a program, or they must hire a certain type of teacher that is not readily available in the math and science area.

CHAIRMAN ELDER: Any questions on this particular section? Comments or otherwise?

Appendix O, "Base Mandatory Service Retirement Plan". Boy, that's a mouthful, isn't it?

MR. COX: What staff is talking about is a plan similar to that which we have under PERS law for local contracting agencies. A base mandatory service retirement plan is a formula that would be available, base formula that would be available to all members of the System, but in addition to that particular formula, there would be options available to school districts that could be either chosen by school districts through collective bargaining, or I guess mandated on school districts. And the total plan, then, would be different from a cafeteria-type plan, in that the individual employees would not be able to choose benefits, but an individual district could, but those benefits would be offered on a district-by-district basis.

I believe this item should be discussed, and Section S actually deals with collective bargaining. It's really pretty difficult to separate an optional benefit plan from a discussion of collective bargaining, because they do go hand in hand, I believe.

MR. SLIVKOFF: Well, the one difficulty with this kind of approach is that you have the rich districts, you have the in-between districts, and you have the poor districts. So, it isn't fair to teachers in the poor districts, because they can't bargain anything if the funding isn't there. Beverly Hills can do whatever they want; Huntington Beach can do whatever they want, because they've got an oil well on their property.

But you take -- where did Charley Krantz use to be, used to come to the Legislature every year for money and get it, because he didn't have any kind of base, no industry at all and he had to come to the state every year for money. So, he couldn't fund any kind of a program for teachers, any cafeteria, whether it be on a district basis or individual basis, or whatever.

So, whatever kind of approach we take on this thing, I would hope we'd choose something that would be equitable to all of the teachers, regardless of where they work. Because I think a teacher in Jacumba, who are in very poor straits in eastern San Diego County, should have the same kind of opportunities because you're doing the same job and that's educating kids. And that's the primary thing.

MR. COX: Conversely though, sir, I believe it could be argued that it would be equitable to a school district that could afford additional benefits, as long as all school districts were entitled to a basic program.

In PERS, there is a provision to allow a school district to adopt up to a 5 percent cost of living increase for those teachers, but all teachers are guaranteed a 2 percent cost of living increase.

Districts can adopt ad hoc one time increases if they can afford it. Here again, PERS provides a basic program that's available to all districts, but then options to those districts that can't afford.

CHAIRMAN ELDER: Mr. Cox, did you say that school districts can augment the the 2 percent?

MR. COX: No, contracting agencies of PERS can.

CHAIRMAN ELDER: That's not the case with STRS?

MR. COX: It has been proposed in bills but never through policy committee.

CHAIRMAN ELDER: Mr. Felderstein.

MR. FELDERSTEIN: Question of staff here.

If we did to go some plan with this type of arrangement, how would service in different districts be figured on a concurrent-type basis? Say an employee worked for 20 years in a district with a basic plan and the last 15 years in a district with the enhanced plan, or some combination of that.

How would that be figured as a benefit?

MR. COX: I would imagine that concurrent service computation would be the easiest to figure, rather than a pure reciprocity or actually forwarding service credit from one district to another.

That has been an argument that has been brought up time and time again in optional benefit plan, because it would limit the mobility of the teacher from district to district.

MS. MOSER: I think we may need to be concerned. We don't have mobility within the United States for teachers into

California at the present time. And to limit the mobility for the teacher to go to the area in the state where his or her services are most needed, I think, might be a very unfortunate thing.

If you have a shortage of teachers in Los Angeles, and an excess of teachers in the area of California north of the Bay, you would further limit the mobility of people if we went to this kind of program.

One of the things that does occur now is that basically everyone has the same retirement plan. Unless we could see that the demographics of the whole thing would work, and it would not effect educational services to the children of this state, I think it would not be a good thing to institute.

CHAIRMAN ELDER: Mr. Cox, for myself, I'm having some difficulty understanding what would be examples of this kind of approach? Could you give us a couple of thoughts as to --

MR. COX: I think the most common example that is discussed is a provision in the law that would allow a school district to bargain for an additional cost of living increase.

CHAIRMAN ELDER: For retirants?

MR. COX: For retirees. Presently all districts are entitled to the 2 percent simple, plus whatever ad hoc increases are provided.

CHAIRMAN ELDER: How would that work? I mean, let's say a district did that; what would they do?

MR. COX: I would imagine that once that provision was included in the collective bargaining agreement, they would petition STRS for a cost. STRS would then, on an individual school-by-school basis, charge that district the cost, depending on the demographics of the district, the number of retirees.

Obviously, it would be a tremendous administrative cost initially, just as it was with PERS, because the System must examine the district, establish a profile, and each district would have to be treated separately.

Of course, you'd run into trouble with the County Superintendent of Schools.

CHAIRMAN ELDER: That's how you'd fund it, is eliminate them.

(Laughter.)

CHAIRMAN ELDER: The thought occurs to me that in that situation, what we would be talking about is an employee group basically bargaining a benefit for the immediate benefit of retired teachers, who probably don't belong to the organization. I've observed that those people who are involved in the union activities who specialize in this area tend to be the more senior members of the union hierarchy as far as retirement interests are concerned.

I observed that as far as PERS agencies, that it tends to be your more senior people who are really focused on the questions of retirement planning.

But wouldn't it be that situation where you would be basically negotiating a benefit with a school district, the most immediate benefit for which would go for the retirants?

MR. COX: In that particular example I gave, and your offer is quite valid. If you remember two years ago, there was legislation that would allow retired public employees to be part of the bargaining process. That was sponsored by Aaron Read and his group.

CHAIRMAN ELDER: Mr. Slivkoff.

MR. SLIVKOFF: Well, I really question the validity of a district paying for cost of living for employees it no longer has in its jurisdiction, those who've resigned and are retired. Why should the school districts be concerned with these people? It's the state's problem then, because the STRS then is picking up the ball and is paying them for that unique service upon retirement.

CHAIRMAN ELDER: It's just an example, and I think that Mr. Cox is wishing he'd thought of another one.

MR. COX: No, I think that's a good one.

MR. SLIVKOFF: I think that's a gift of public funds.

MR. COX: But it's not mandated on any school district; it's not mandated.

MR. SLIVKOFF: I think it would be challengeable by a court action.

CHAIRMAN ELDER: Pardon me, but for the benefit of the stenographer, it would be helpful if you would be recognized, Jean and Ken, if we could all get the wisdom of your thinking into the transcript.

Carl, Ken, and then Jean.

DR. KLUDT: I would like to let them go ahead, because I was going to change the subject slightly.

CHAIRMAN ELDER: All right, Ken.

MR. DOCTER: My understanding is that what we're talking about here is that we would be negotiating -- the current bargaining unit would negotiate for a future benefit for the people who were then part of the bargaining unit at the time that it was bargained. And it would then be an increase in the COLA for the group of people who were a part of that bargaining unit at the time of the bargaining. The district and/or the employees would pay for the future cost of that. And it would only cover those people who were part of the bargaining unit at the time and subsequent to the time that that particular thing was negotiated.

We've all been talking about whether that seems to be fair among all the teachers. I think what one needs to do is, one needs to say and come to a conclusion, and I'm not jumping at one or the other, is: Do we think that the teachers as a group of people across the state are a single unit in which they all ought to be treated the same, or do we thing that the teachers in a particular district are an individual unit of people and can be treated differently by their district, thus perhaps allowing one district to be a more desirable place to work than another district, just as a particular company is a more desirable company to work, one company to the next, even though they all may be represented by the same union.

I think we need to cross that basic hurdle first that says: Are all teachers the same, and do we want all teachers to be treated the same, as a single block of people across the state? Or do we want them to be individually looked at from a district-by-district basis, and thereby allow districts to negotiate different patterns of benefits for retirants?

CHAIRMAN ELDER: Jean.

MS. CURTIS: I would have to differ with Ken in terms of whom you would be negotiating for, because it might not necessarily be those of us who are currently employed that we are negotiating costs of living and retirement for. In fact, I think that would be very difficult to do.

I look forward to a number more years of teaching, and it's impossible to predict what would be necessary at that time in terms of cost of living for retirement. Additionally, most contracts, what the maximum that it could be good for is three years under the collective bargaining law, and lately it's been more like a year at a time for most of us. And what the school board giveth, the school board can taketh away. And they perpetually do that.

In addition, I think you're asking for, in this sort of concept, an amount of altruism on the part of those who are currently working, which is unreal in this world; maybe in the next we will find it, but we've found repeatedly when we're at the table, as you crunch, you come down to the crunch, you submit all kinds of great things, right? That are just beautiful. And when it comes down to the crunch, what you deal with is, you know, folks who are paying for it, what do they want. And the folks that are paying for it are the current members, and the people who are currently employed. And what, in their judgment, do they see that they need the most right now. And that's what you try and get at the table.

And the employer is no more altruistic; in fact, can be -- pardon me, Ken -- stupid about what they're doing, right? And they may not be wise, and the people on the other side may not be wise, and you could end up with individuals who are, down the pike, who really had no say-so in what happened being really hurt.

I really would like to keep this kind of stuff, like what you get in retirement, off the bargaining table. I think that's crazy.

CHAIRMAN ELDER: We would agree that we don't have to worry about retirement benefits in the next world.

You wanted to change the subject, didn't you, Carl?

DR. KLUDT: No, I wanted them to continue because they were more relevant, but I have a big concern about the districts competing with each other through this method of negotiation.

In the community college area, particularly, with open campus discussion, there is really a lot of concern that the big colleges get bigger, and the small ones go broke. And this is the same sort of thing, I think.

If one -- and I don't care what area it is -- if one district can offer greater benefits than the other, you're putting nearby districts and them into a situation where they're competing not only for teachers, but students and survival.

That's just a comment that I'm really against any kind of one district being able to offer more than another for those reasons, and I back up Dorothy for what she said also.

CHAIRMAN ELDER: Rebecca.

MS. TAYLOR: I'd like to pick up on this point where Jean left off in terms of discussing bargaining of retirement benefits in terms of a policy.

It seems that one of the assignments of this Task Force is to look at retirement and make some decisions about retirement policy; what is appropriate.

It's been our experience, from what we have seen in the collective bargaining arena at the state level on this issue or retirement, that policy considerations sort of never get discussed when you talk about collective bargaining. Often expertise is not available. Often it's cheaper for a jurisdiction to make commitments in the retirement areas because you're only dealing with present value costs, and you get a lot of bank for your buck, but future obligations then do, nonetheless, stack up. And I can give you all kinds of examples of where we have seen, through the collective bargaining process, that policy is just lost; policy considerations are indeed lost.

So, we support what I heard Jean say and Dorothy say, that there's a lot of down side to putting this retirement issue on the bargaining table, not the least of which is what Carl's saying in terms of competition between districts. We'd like to leave it at a policy level.

CHAIRMAN ELDER: Mr. Felderstein.

MR. FELDERSTEIN: I just wanted to pick up on something Carl said.

One of the things we are noticing in 37 Act Counties, where they're going to lower tiers, all tiering down to lower tiers, is -- I just wanted to let the Panel know this year there was a bill to allow some county to bring someone in back at a higher tier who was coming from a county that had a higher tier. They were having a recruitment problem. They wanted a certain individual who was coming from a county that was in a higher tier, and this second county had go to a lower tier. So, they now had to have special legislation to allow them to bring in people at a higher tier if they were coming from a county with a higher tier.

So, this competition problem that Carl mentioned, I think if this type of system became STRS, there could be a problem of people moving from district to district, especially if the district they want to move to is in a lower tier. That could be a problem.

CHAIRMAN ELDER: I've been quite amazed to hear the comments coming from the Panel members that I have. I don't think I would have necessarily predicted the observations from the people who are making them necessarily.

That's really encouraging to me, because I think that people are genuinely considering the data and the information, and turning it over in their minds, and really looking beyond their own personal circumstances in trying to solve this problem.

I just want to commend the Panel, and I hope that some of the things that I've said will be characterized that way. I know that it has been an extremely interesting set of criteria to consider, and I would commend the staff for having arranged the work product in this way.

My comments relative to the format and the presentation of the material are so minimal as to make them not worth saying, and I just basically commend you on the job and presentation format.

With that, I'd like to, if we can, move on to the next appendix, which according to my book if I haven't screwed up, is Appendix P.

MR. COX: Appendix P addresses the disability benefits of the System. The benefits were discussed at length yesterday as far as just what the benefits consisted of.

On Page P-2 there are three recommendations.

CHAIRMAN ELDER: Pardon me, Mr. Cox.

I'd like to announce that at the conclusion of this one, not to provide any particular incentive for people to be brief, we will take a five-minute in-place break.

Proceed.

MR. COX: Page P-2 lists four recommendations, several of which also were discussed yesterday.

The Panel recommended that STRS be requested to sponsor legislation involving two of them. I don't know to what extent you want to get into disability again.

CHAIRMAN ELDER: Any comments here?

MS. POWELL: I certainly don't feel that the Panel ever came to a consensus on suggesting to STRS that we sponsor legislation. If we're going to discuss that at some point, I have some very strong reservations about this Panel coming to STRS and saying, I guess: Sponsor legislation.

This may not be the appropriate time to talk about that.

CHAIRMAN ELDER: Wasn't that health insurance?

MR. COX: I thought it also included recommendation number 2.

MR. DOCTER: No.

MR. COX: I stand corrected then. I had that as a note.

CHAIRMAN ELDER: I think there are some comments in order here with respect to disability.

Rebecca, why don't you lead off here.

MS. TAYLOR: Let me pick up on what Judy said.

At one point yesterday I thought there was a discussion about, quote, the Panel had taken a position. And perhaps we could formalize that more, because if I had sensed that the Panel was indeed taking a position, I would have wanted more discussion on that particular point. It was either health care or disability; I've forgotten.

By my sense of it is, as of right now, is we have taken no official position.

CHAIRMAN ELDER: That's kind of where I am. I thought we pretty much agreed on health care, that that was something that would be the subject of further legislation, or legislative initiatives, which would then go through the process of the Legislature to be heard and kicked around and amended and so forth.

Whereas, in the area of disability, I don't think we did come to any consensus. But I have some further thoughts on it, and if you would continue.

MS. TAYLOR: I have noticed that some local government jurisdictions have taken the step to separate their disability program from their retirement program. I don't personally have any knowledge of what the advantages and the disadvantages of the two approaches are, except that I see that it's happening.

I would be interested in having staff prepare some sort of discussion along those lines. You know, why did L.A. County do it; what are the advantages; what are the disadvantages?

CHAIRMAN ELDER: Well, I'm not familiar with the L.A. County example.

MS. TAYLOR: I'm not familiar either, except that I know that they did it. It's part of their two-tier program. It came the second year after Tier E was put into place, and they have a long-term -- in effect, I think it's an insurance program as opposed to part of their retirement program. But I don't know what that means. I don't know if there are pros and cons -- I mean, there probably are pros and cons on it. I'd like to have a discussion of that.

CHAIRMAN ELDER: Mr. Cox.

MR. COX: I know very little more than what Rebecca knows, other than it was very controversial at the beginning because the elements contained in the disability plan were not readily made available at the time the employee organizations agreed to go to Plan E. At least, I lost contact with the program at that point.

CHAIRMAN ELDER: We're fortunate, because I think Mr. Crippen was involved in the bargaining of that particular benefit on disability in Los Angeles County and can, perhaps, explain what this fourth tier, or Tier E, disability program consists of.

Were you there, Dave?

MR. CRIPPEN: No. I wasn't involved in that bargaining.

My understanding is that eventually it involves applying Social Security criteria to disability. They also have a separate disability program, separate from the retirement program. It's on an insurance concept.

MS. TAYLOR: That's where, rather than the specifics of the program, definitions and what not.

My interest is to know what the advantages are of dealing with the disability program as an insurance program.

CHAIRMAN ELDER: Mr. Felderstein. Are there other comments that people wish to make on this side? All right, go ahead.

MR. FELDERSTEIN: I think the advantage that Los Angeles County has is that the disability program is not part of a vested program. That it can be changed if it proves to be too expensive ten years into it; they can change it to something lesser without having to deal with the problem of vested pensions rights, like a PERS 50 percent safety-industrial disability, or STRS, 50 percent with minor children, and so on and so forth.

If they decide it's too expensive, they can just change it, where we can't do that.

CHAIRMAN ELDER: In my particular case, since I don't belong to the Legislators' Retirement System, I buy, and I think it's $65 a month, for a disability policy which runs about $70 a month in my case to guarantee, I believe, something like $2500 a month.

I'll be more clear on this after my meeting Friday with my insurance agent, and I will probably have -- the result of which will be to elevate my premiums, probably, as well as my blood pressure.

Now, going along here in this direction, Dorothy.

MS. MOSER: In reviewing the material in this section, it is pointed out that STRS has an ongoing review process for disability. And that at least 50 percent of the cases are reviewed annually. And in the last two years, 30 or more have been removed from the rolls because they were found to no longer be disabled.

So, our process, I think, is quite good, particularly as you compare it to PERS, which has removed only two such members in the last four years since 1980.

So, I think we are carrying on a review process to be certain that people who are no longer disabled are not lingering on our rolls.

CHAIRMAN ELDER: If I may at this point, where is the cost figure on what the disability program shows? Where is that in the book?

MR. COX: It's A-2.

CHAIRMAN ELDER: Carl, did you have a comment?

DR. KLUDT: Yes, I wanted to relate this to the educational program.

I think this is probably one of the areas that the members are least well-informed.

CHAIRMAN ELDER: You mean the current members?

DR. KLUDT: Right. So, I just wanted to make that comment quickly.

Thank you.

CHAIRMAN ELDER: Liz.

MS. COOPER: I have some problem with the third recommendation:

> "Eliminate full-time student
> eligibility so that eligibility
> ceases upon attainment of age 18."

Because if you turn over to P-1, the cost is .02 percent of payroll.

Also, I would like to know at what -- at 18, if a student is a part-time student, has a job, does that disability cease? And if so, is there some way that we could make a disability payment to a part-timer that doesn't have a job that could support himself? I think we need to look into that.

CHAIRMAN ELDER: Jean.

MS. CURTIS: The cost of this is in percent of payroll 1.22 percent, it says here on page A-2. And before we came, I checked with my family members, who are employed in things other than education; in other words, what many refer to as the real world. And I found that they were taxed, if you will, for State Disability Insurance. One of them paid .89 percent, and other paid .85 percent out of each pay check. So, in round numbers, it was close to 1 percent. When I worked in the real world, I also paid State Disability Insurance.

And I think that we're going to be, you know, coming in around the same amount no matter who it is or by what entity we cover it.

I guess I'm getting a little bit bothered by, you know, we're talking about, well, let's take that out of STRS, and we'll do it some other way.

Well, it's sort of to me like I have on a coat, and it has several pockets in it. And if I were, as a teacher, if I'm having to pay any of it, or let's say that I'm a school district, and I have a jacket with four or five pockets, and all of my money that I have is in one or the other or several of those pockets.

It doesn't matter which pocket I take it out of. If I have to take it out of the pocket that goes to STRS, to PERS, to Social Security, to State Disability Insurance, or my own self-insured pool, or whatever, if the money's gone the money's gone. And I've had to spend it for the same thing.

My experience has been, if you go like, let's pick a separate agency, or whatever, and I don't know that much about about L.A. County's system, either, although I live within L.A. County, is that let's say that we say: Okay, STRS doesn't deal with disability; we'll have a separate agency to deal with that. Well, if you have a separate agency, then you have to hire folks; you've got to hire somebody to do that. So then, STRS won't have any less employees; they'll have the same number, but this other agency, then, will have some more employees. And it will in the end cost more, maybe for less.

Somehow to me, that's not cost conscious. And I think we need to continually keep in mind, although we're dealing with STRS, it does not solve the problem to just farm it out to some other place or agency. We have to continue to think in terms of disability does need to be provided for, and not -- I'm not asking that people should be able to abuse the System, or anything like that. But that it is something that must be provided for.

And it is not wrong that it be in STRS or PERS. It's not necessarily better or worse. Because my school board member friend over here has one jacket with several pockets, and he's going to give the money, regardless. He's going to pay for it, I'm going to pay for it, and I don't care where it goes, still the money's gone.

CHAIRMAN ELDER: Ken.

MR. DOCTER: Two quick questions, please.

On Page P-1, you define the cost of the elimination of the over 18 year old children as .02 percent of payroll. When I go back to your summary of one of the proposals, B, the Tier II on B-5, it defines that same element as .07 of payroll.

You need to define for me which one is correct, please.

Secondly, on your recommendation on Page P-2, recommendation number 1, that there be a cap placed at 100 percent, is there a cost savings associated with that? If so, how much?

MR. HULSE: To answer your first question, both of them are right. Here on Page P-1, we're talking about eliminating student eligibility after age 18 for disability only. In the next section, we're talking about student eligibility in the family benefit program, which is .05, and we're dealing with a total up-front.

MR. DOCTER: Thank you.

Is there a number on the capping of the 100 percent, on your recommendation number 1 at the top of Page P-2, cost savings associated with that?

MR. HULSE: It's such a minor figure that we have not even tried to enter a figure. It was put in more because of the fact that it had been brought up as an issue by outside agencies who have been auditing our disability program as to whether it was valid to have this ability to make 130-140 percent between disability and earnings if you had children, but not if you didn't have children.

MR. DOCTER: It's so minor we haven't got a number, thank you.

CHAIRMAN ELDER: Rebecca.

MS. TAYLOR: I'm afraid on this one I really have to show my ignorance.

I know that with PERS in the disability program, the definition of eligibility is at issue because in that particular definition, one is disabled if one's only unable to perform the former job. You might feasibly be able to perform all kinds of other work, but that is indeed the definition under PERS.

I start with that because I wonder if someone on the staff can say: There's not a similar kind of problem with the definition of disability in STRS?

MR. COX: I think the definition is fairly similar, isn't it? It's closer to PERS than it is to Social Security.

I don't know if a problem exists.

MR. ROBERTS: If I might address that.

In the STRS System, we have a term called comparable level. If a teacher becomes disabled, and they are unable to go back into the classroom, but can perform at a comparable level, and we have a definition for comparable level, then they are not allowed to go on disability.

Comparable level means, in our definition, if they can earn up to two-thirds of their salary as a teacher, it's considered a comparable level job.

CHAIRMAN ELDER: But still as a teacher?

MR. ROBERTS: Not necessarily as a teacher, anything.

CHAIRMAN ELDER: Oh, at anything. I see.

MR. ROBERTS: Now, you mentioned, if I might just elaborate, you mentioned are there problems, and the answer is yes.

When we go to the administrative law judges, and the issue of comparable level comes up, we have been having problems, yes. That definition is very loose.

MS. TAYLOR: Is there a proposal to change the definition?

MR. ROBERTS: There have been many proposals in-house with the Board itself, and we have not come forward in my recent history that I can think of with a proposal to resolve the issue of comparable level.

MS. TAYLOR: Could the staff prepare something for this Panel to identify what this range is, or something that -- if you're saying there is a problem that you found, certainly before the administrative law judges, can you make us more aware of what that problem is?

MR. ROBERTS: Well again, part of the STRS staff, yes, we can do that as far as the Panel is concerned. Yes, we can provide that information to the Panel staff, yes.

CHAIRMAN ELDER: I think that in terms of disability, what I would like to see, and I'm not sure that -- I don't get a sense that anybody is really asking us to attack this element of the problem at the moment. I think we're still in a kind of decision mode about that, and we have recognized that it is not the big ticket item that at least I thought it was. I mean, 1.22 percent is significant, but it's not as onerous a burden to the System that I thought. I thought we were talking about something that was 4 or 5 percent cost.

But in any event, if I may just talk about my biases as it relates to disability, I think if we are to make changes, and I'm not advocating any, but if we do, I would come down on the side that we would want to encourage people, provide an incentive for people to try to get back into the world of work, whether that's in teaching or some other thing. And that there would be a reward in the disability program for making that effort and for achieving that objective.

I think one of the principle problems with disability benefits is that it penalizes a person who in fact attempts to rehabilitate themselves, train themselves for another job, because of inordinate reduction in their disability benefits.

On the one hand, I don't want us to be giving a gift of public funds, but we have to understand that if we're going to motivate these people, we have to understand that there has to be some incentive for them to try to go through this process of rehabilitating themselves and entering the world of work.

So, that would be my only observation about it, and I don't have any particular orientation as to private insurance or the current program or somebody else doing it.

With that, if we can take an in-place break, and I am punching my stop watch, it'll be five minutes.

(Thereupon a brief recess was taken.)

CHAIRMAN ELDER: In the absence of any better ideas, I thought perhaps we should proceed.

We were concluding the comments relative to disability benefits in Appendix P. Dorothy had asked to make a comment or ask a question at this point.

MS. MOSER: I would like to say that the Legislature was very helpful to the State Teachers' Retirement System when they passed a law recently that provided a 39-month must rehire law, so that the school districts, if you were out on disability, you become rehabilitated, the districts cannot say: Well, we don't have a place for you. So now, someone who's been out on disability, who's been rehabilitated, able to return to work, his or her position must be left open for -- I was going to say 39 months, but I think that may be wrong.

CHAIRMAN ELDER: That's an interesting time interval, isn't it, 39 months. I wonder what the rationale for that was?

MS. MOSER: I have an idea about that. If you resign from a district and have been a satisfactory employee, you may return to employment in 39 months. So, that's a number that's in the Ed. Code for return rights kind of thing.

Of course, anyone who is disabled, who is not rehabilitated in three years will probably never be able to return to work.

MR. DOCTER: I think that 39 months is also the same period if you are laid off and then reemployed by the district within that period, you regain your seniority rights.

MS. POWELL: Also the gestation period for a hippopotamus.

CHAIRMAN ELDER: That's probably what happened, which reminds me of the fella who everyday went to work, and it was his job to blow the whistle when they were supposed to break. And on the way to work everyday, he set his watch by this jeweler's clock in the window. And he'd been doing this for many, many years. Finally, upon his retirement, he stopped at the jeweler's shop and asked the fellow, "Gee, you know, that clock of yours just kept the most incredible time over years. What did you set it by?"

He said, "Well, I set it everyday by the whistle when it blew at the factory, and that's how I determined what time it was."

MR. SLIVKOFF: Well, the 39-month instead of three years or some other years was to cover the span from the time of June to September, when schools start again.

CHAIRMAN ELDER: That would make sense, of course.

All right, you were going to say that, Mr. Roberts, weren't you?

Moving along, we are ready to move on to Section Q, which is family benefits.

Is this this .10 thing we're talking about?

MR. COX: Family benefits consists of the $2,000 before death benefits, which is .01, if you refer to A-2; the $2,000 after death or after retirement benefit for death of .02; and then the .41 cost of the family benefits, for a total cost of .44 percent.

CHAIRMAN ELDER: It was before retirement death benefit and post-retirement death benefit, not before death death benefit.

MR. COX: Did I say that?

CHAIRMAN ELDER: Yes, you said before death.

MR. COX: This area was also discussed to a limited degree yesterday, and there are five recommendations in the executive summary section.

CHAIRMAN ELDER: This 48 months is a finite period, isn't it?

MR. HULSE: Yes.

CHAIRMAN ELDER: That's the whole point of that.

Are there any comments of the Panel on this particular section? Yes, Jean.

MS. CURTIS: Only the same comment that's been made before about number 3, which is to eliminate full-time student eligibility and change it to 18. I still disagree with that based on the very small cost.

CHAIRMAN ELDER: That's my position exactly, if that's any help to the Panel and to the staff.

With that, let's move on, then, from Q to R. We have the 401(k) Plan.

MR. COX: Appendix R reviews the advantages and disadvantages of this concept. And the staff recommendation would be that were a second tier initiated, consideration be given to a 401(k) plan. And I believe also that consideration should be given to a 401(k) plan concept were the present tier continued.

Staff recommends that STRS not, however, be directly involved in administrating whatever plan is adopted. Tom's here of the staff, who has specialized in this area, if there are any questions concerning the basic concept.

CHAIRMAN ELDER: This is an area of very strong interest to many people. Basically it would be your thought that if we do go for 401(k), it would be in the current tier and any other tiers that might be developed.

Would that be your thought? Isn't that what you just said?

MR. COX: That would be my own personal thought, because as I understand it, there are many types of 401(k) plans. Some of them involve just the employee, some of them involve a combination of employee and employer.

I believe that it is so flexible a concept that we could utilize it either with the present plan or a Tier II plan.

CHAIRMAN ELDER: Well, then, why doesn't the staff director on this part of it maybe lead us into the discussion?

MR. BRANAN: I think what Dave Cox has just said is a good introduction. One of the advantages of the 401(k) is, it's very flexible. It can really perform whatever services an organization would want for a capital accumulation plan.

It is primarily a voluntary plan, and that was one of the reasons it was chosen to be presented. There are other programs available, and if there are questions about them, I'll certainly try to answer them.

CHAIRMAN ELDER: Mr. Cox, is it your view that we need enabling legislation to permit it for school districts?

MR. COX: I believe Mr. Docter raised a very interesting question earlier today, that rather than have these plans administered on a district-by-district basis, it might be advantageous for STRS, as the parent organization, just as PERS administers the state Social Security plan, STRS might petition the federal government for authority on behalf of all 1,000-plus school districts, rather than have each district do it on its own.

I do not believe that would require state legislation. It might result in administrative expense.

CHAIRMAN ELDER: I'll have a number of questions. For the moment, I have to hand the gavel to Judy, and she will recognize individual Panel members for their comments.

DR. KLUDT: I want to make sure I know what we're talking about.

The 401(k) is tax deferred various kinds of plans? Is that you're talking about?

MR. BRANAN: The 401(k) plan provides an opportunity for the employee and the employer to make both before and after deductions.

DR. KLUDT: So it is that flexible.

The other thing is, I may have missed it, but I don't see anything in the write up of the advantage to the members of having this part of STRS versus going out and doing it on their own.

MR. BRANAN: Well, one of the advantages is that unlike, say, and IRA, an individual cannot enter into a 401(k) plan; it has to be a group plan. I think that is one advantage, given the size of STRS, that is an advantage for the member.

DR. KLUDT: These other plans that we're going into now, the tax deferred annuities, et cetera, they come under another part of the IRS Code then?

MR. BRANAN: Yes, the tax deferred annuity comes under Section 403(b).

DR. KLUDT: That was where I was confused. Thank you.

MR. DOCTER: Is the tax deferred annuity that people buy now, they are purchased with post-tax dollars; is that correct?

MR. BRANAN: No, that's before. They're pre-tax dollars.

MR. DOCTER: There are two subjects running around here that, in order to make sure we're all talking about the same thing -- yesterday, we were talking about a provision in the Tax Code to allow the current 8 percent being contributed by the employee to be also a tax deferred contribution. And that is an independent subject from a 401(k) plan that's being talked about now.

I think we ought to be pursuing both and would want to make sure that we keep the two as independent subjects.

Again, the 401(k) is a concept that begins to march us down the line of a defined contribution as opposed to a defined benefit. And I think we need to recognize that again, not necessarily stating whether that's what we want to do or not to do, but that's what that process is.

MS. TAYLOR: Some place else in the research there is a discussion about whose responsibility retirement planning is, and the conclusion is that it's a shared responsibility: the employer and the employee as well.

I think when we talk abut a 401(k) plan, certainly given its tax advantages to the employee, even if the employer makes no contribution on behalf of the employee, we would be talking about institutionalizing a way for the employee to take on some responsibility for one's own retirement planning.

To go one step beyond that, again, one local jurisdiction that I know of has set up a 401(k) plan basically as the mechanism to maintain the purchasing power of the retirement benefit on the one hand, and has gone beyond that by making it, from the employer's perspective, a match situation. So that if indeed the employee in effect plans for his or her own retirement and sets aside so many dollars through the 401(k) plan, then the employer matches on some sort of basis, either one for one or 50 cents on the dollar, or some sort of match.

The whole point of that arrangement being as an incentive for the employee to also participate actively in setting aside funds for retirement.

That design of the 401 as a supplement or indeed as a mechanism for the benefit maintenance program is something I think we should look into in this jurisdiction.

L.A. County's the jurisdiction. There is not guaranteed cost of living benefit maintenance program. There is no COLA built into it at all, so that the benefit maintenance is through this 401(k) arrangement.

One other county I'm familiar with, Alameda County, has a document that I'll try to have Xeroxed over lunch and made available to the Panel members, in which is just played out what would happen in that county if the existing contributions made by the employer and the employee -- let's say in this case -- I don't know that it's an 8 percent program for each of them, but 8 percent from the employer, 8 percent for the employee. If those contributions continue to be required, but are rearranged in such a way that instead of the existing retirement program, the county offers a reduced second tier benefit for a less generous retirement program, but the employee continues to put up the 8 percent, the employee's contribution, but funnels that into a 401(k) plan, at the end the benefits, bought benefits either from the 401(k) plan or from the reduced retirement program, this same amount of money produces benefits at the end that's from 35 to 75 percent greater than the existing retirement program, which is interesting to think about.

CHAIRMAN ELDER: In doing that, what is it they're putting the money into which yields such greater returns?

MS. TAYLOR: Well, the county is just -- you mean specific retirement?

CHAIRMAN ELDER: Are we talking about a rabbit out of a hat or what?

MS. TAYLOR: No, we're not talking about a rabbit out of a hat.

CHAIRMAN ELDER: Is this perpetual motion?

MS. TAYLOR: It's something on that order.

CHAIRMAN ELDER: Is this the Smith-Barney you have to earn it approach?

MS. TAYLOR: Why don't I just Xerox it and let it be self-explanatory.

But the point is, that it's this long-term investment has to do with compounding, obviously. And I believe the rate of investment return is set very low, like 8 percent. But nonetheless, the way that it is structured, the same amount of money buys that much greater benefit.

CHAIRMAN ELDER: Well, I would observe that the power of these dollars can be demonstrated by, if you had $10,000 in such a program, and it were earning 12 percent, at the end of 29 years you would have -- or end of 30 years, you would have $290,000, which is a significant sum of money at 12 percent.

DR. KLUDT: I'm an example of that myself. I just played in tax deferred annuities. And it cost me about 46 cents on the dollar because it was deferred. And then, as I want to take money out, if I reinvest it in a proper way, the deferred tax is not levied because I'm investing it in a tax-break type of thing.

And I found my income was well over 35 percent from those investments over what I was getting from my investment in the regular retirement plan.

So, even without the 401(k), if they really do this right, you have to turn them over about every one to two years, but it costs you nothing; there is not tax problem or anything. And you can maintain an average of somewhere around 12 or 13 percent. At least that's what I was able to do.

So, that is why it's a much larger amount, is that really the return is greater from just your own plan.

CHAIRMAN ELDER: Carl, that was your own initiative? It wasn't something done through your district?

DR. KLUDT: Well, it was encouraged by the district, but we had a bunch of live-wire insurance salesmen who were allowed to come into the faculty offices. And when I heard this, I thought I'd discovered a gold mine, because I didn't know I was eligible. Not only that, I was eligible to go back several years and contribute. My take-home pay only decreased by about -- I don't know the amount -- 8 percent, something like that, while this was all building up.

I wouldn't have been able to early retire if I hadn't used this kind of plan.

CHAIRMAN ELDER: Your district gave these people carte blanche to come in and promote this?

DR. KLUDT: And that faculty requested it because once they found out it was available -- I think that's one of our problems. Again, I come back to the education program.

CHAIRMAN ELDER: It's becoming clearer and clearer that that's going to have to have some --

DR. KLUDT: And it should be a positive one, like your salesmen do give you. They give you the good points as well as the bad ones. And I think we have to watch out that we don't tell them, you know, you're going to be limited when you retire, so you'd better get on the ball. That's not the way to present it from my point of view.

CHAIRMAN ELDER: Jean, did you have a comment?

MS. CURTIS: Yes, a couple of questions.

On Page R-4, it says that there might be -- at the bottom it says:

> "In addition, it should be noted that there may be further restrictions upon contributions to a 401(k) if the participants are covered by another qualified plan."

Would I read that to mean like if I currently have a tax deferred annuity, or something, that there might be limitations so I would not be able to participate as fully in this?

MR. BRANAN: That's correct. There would -- there could be additional limitations. You could participate, but the IRS sets maximum limits.

MS. CURTIS: As to what the combined amount can be, or what? Because I guess on Page R-12 it says the IRS has released proposed regs, but they have not released the adopted regs at this point. That was the one question, so we really are not sure what the parameters are, then, at this point.

Is that what you're saying?

MR. BRANAN: Well, the way that has worked in practice is that when a plan has gone to the IRS for approval, they have set those limits with the IRS.

Now, the State of Tennessee has established --

MS. CURTIS: Each plan individually -- like, if STRS was to adopt such a program, they would submit a plan to IRS and say: See if it meets --

MR. BRANAN: That's correct. And that came up earlier; that would be one of the advantages of there being a state plan rather than 1100 district plans.

MS. CURTIS: The other question I have is, in the district in which I am employed at the current moment, which may now go to something different, we have what was the fringe program, and it was called the cafeteria plan, which was a set number of dollars. Employees could put it in health insurance, or whatever all else, or they could put the district's contribution into a tax shelter annuity, which some of them did.

What we were being told, not by the district so I believe it, but by tax people was that there was very shortly we were going to have to pay income tax. In other words, any money that the district gave us like for that was going to be included in our income; therefore, we were going to have to pay federal income tax on it.

This does not seem to agree with that, because it sounds like the same kind of thing really. You know, it's a kind of a fringe benefit thing that would be going into my pocket, which I could, maybe, with some penalty, because people do that, too. They take it out whether it's smart to do so or not.

And there is further talk about taxing fringes that we get anyway. I guess the point I'm getting to is that in the long range, which is what we're talking about when we're talking about retirement, how sure can we be that this will be a long-range solution? That it will not be taxed as income?

The employer's contribution is what I'm talking about.

MR. BRANAN: Well, there are not guarantees because at this time there are no final regulations. But at this time, that is one of the differences between a 401(k) and, say, a 403(b).

MS. CURTIS: What's a 403(b)?

MR. BRANAN: That is the tax sheltered annuity.

MS. CURTIS: Thank you.

MR. BRANAN: I think it's referred to by the IRS as constructive receipt, which means if you had a choice of receiving the money but chose not to, you could be taxed on it.

With a 401(k), you're not taxed on it.

MS. CURTIS: Wait a minute, say that again? I didn't understand that.

MR. BRANAN: Did you say that you had the choice of receiving --

MS. CURTIS: There was, I think it will not be shortly, but there was a set amount of money for fringe benefit. And you could put it in any of a number of things: health insurance of various kinds, or you could chose to put the whole bundle into a tax sheltered annuity, which obviously if you withdrew too soon you paid the penalty on it and all that sort of thing. But nonetheless, it was in a sense, in a very real sense, an additional salary for some people; they actually got money over and above.

But we were told that as of like January 1st, that sort of thing was going to be taxed if it was money that went into that. That's what --

MR. BRANAN: It would not be taxed as it presently works if it were put into a 401(k).

MS. CURTIS: Into the 401 but into the regular what we refer to as the TSA, which is what section did you say?

MR. BRANAN: That is 403(b).

MS. CURTIS: If it went it that sort of thing, it wouldn't be?

MR. BRANAN: I can't say that it would be.

CHAIRMAN ELDER: The 401(k) has been discussed. I'm curious to know as to these other kinds of programs that are available, let's say IRA, could employees have IRAs?

MR. KINNEY: Yes.

CHAIRMAN ELDER: You don't need authorization and it's statewide?

MR. DOCTER: It's nationwide. Any individual can open up an IRA on their own account as long as they have earned income.

CHAIRMAN ELDER: So, we don't need anything as far as statutes are concerned?

On the 401, did we come to a conclusion as to whether we needed enabling legislation?

MR. COX: I do not believe we need any legislation except were you to go to your AB 1265 concept.

CHAIRMAN ELDER: Enabling legislation for centralized administration, perhaps.

MR. COX: That would probably be a budgetary matter as far as state legislation is concerned.

CHAIRMAN ELDER: I guess what troubles me about it is that some districts would do it, some would not, and thus the teachers would be, you know, some would be treated well and some would not be treated as well.

Whereas, if it were something that we mandated statewide, then I guess the districts wouldn't have that kind of latitude.

In 401, legislation may or may not be necessary, or did you say 403?

MR. BRANAN: That's 403(b).

CHAIRMAN ELDER: So 403(b) is the tax insurance annuity that Carl was talking about, and that's permissible under current law? It must be; he's got it.

What other kinds of things --

DR. KLUDT: But the district does not participate. That's just an individual thing. There's not contribution from the district. I think there can be, but in this case there wasn't.

CHAIRMAN ELDER: So, we've got IRAs, we've got 401s and 403s. Is there anything else out there?

MR. COX: Yes, we have that ruling that we discussed yesterday that allows the employee contribution to be identified as employer contributions for the purpose of taxation, similar to the plan that UFC has, Los Angeles County has, Rules Committee is considering.

CHAIRMAN ELDER: This can have a tremendous impact on the take-home pay of an awful lot of people in the State of California right now; right?

MR. COX: What I'm not too sure of is what sort of combinations of all these concepts would be permitted at one time.

CHAIRMAN ELDER: Then we have the impact of 1265, my bill, if it should be signed.

MS. TAYLOR: There's another 400 number, to throw it out to make it complete. There's a 457 plan, which is familiar to state employees, because that is the authorization behind the state's deferred compensation plan. It's a deferral arrangement.

It's similar to the 403. Where there are differences have to do with some of the -- what happens when the money is returned to you, that you don't have income averaging; you don't have a loan program; all of which are features of the new 401(k).

But I mention it because that's also available to a school district.

CHAIRMAN ELDER: So, we have at least five or six items that have to be given, I think, some exposition in terms of how they work, not to the depth of 401, clearly, because it's already been done.

MR. COX: Mr. Chair, Rebecca raised a case in point there. I know the state deferred compensation plan is offset by the IRS ruling concept, and the federal government treats both of them together as to the total amount that can be invested.

MS. TAYLOR: There are limits. Each one of these programs has limits, but they don't seem to have interplay between the program.

MR. COX: Those two do.

MS. TAYLOR: Which two?

MR. COX: The IRS ruling to allow the employee contributions to be considered as employer contributions for taxation purposes.

MS. TAYLOR: But there's a certain dollar limit.

I guess what I'm saying is, there doesn't seem to be a limit that says -- well, there's an overall limit, whether the deferral be through 401 or --

MR. COX: Yes, there is with the state deferred compensation plan. That's deducted from that limit.

MS. TAYLOR: But you could also have an IRA; that's clear. You can also have a 401(k), which has, depending on how you look at it, up to a 25 percent limit. I think these are cumulative limits.

MR. COX: I'm just not too sure.

MS. TAYLOR: Soon you can put 110 percent of your salary aside.

CHAIRMAN ELDER: Well, that person shouldn't have any problem at all living on whatever the percentage of retirement is available to them.

I wanted to get these out so that we could have a little more exposition on them and see how they interact among themselves, because if all of them are possible, that's one thing. If some combination of them are only possible, we need to know that, too.

I think from the standpoint of where we are here, what is the interest of STRS in the promotion of these kinds of programs, and under what circumstances should they be promoted by STRS, or should they be left to individual districts to promote or not promote on their own?

So, that's kind of where my thinking is, and I apologize to everyone for taking so long on this.

All right, Ken, you first.

MR. DOCTER: Mr. Chairman, I think the only thing that would interact with what you just got through saying is that if in fact we decided that -- if in fact these programs are to be additive, or in addition to whatever the current retirement system would be, then your comment is absolutely correct.

If in fact, however, it was the conclusion of this board that we ought to in some manner substitute some form of a 401(k) for the current contributions into the STRS System, then we're into a different arrangement, where the Panel and the STRS fund is directly impacted.

MS. MOSER: On Page R-7, distribution, I have a question. In reading the hardship retirement and attaining age 59½, in the paragraph called "Distribution", then going down to the next one, it says:

"IRS (sic) does not recognize ..."

da-da-da,

"... as valid cause for distribution."

I mean IRA as valid for distribution.

My question is, if you separate from service and have not attained age 59½, can you receive your 401(k) without penalty?

MR. BRANAN: I have to admit, you found the only typo in this report.

MS. MOSER: Good for me!

MR. BRANAN: That is "or attaining".

MS. MOSER: Thank you.

MR. BRANAN: It's one of the requirements.

CHAIRMAN ELDER: I found one, too, but I won't tell you what it is.

MS. MOSER: That's one question.

The second one is, I do not understand the 457; I would like more information on it.

And finally, I believe that if my Board can write a letter, make a decision about their contribution to the retirement system or my contribution to the retirement system being a before-tax dollars thing, then appropriate distribution of this information should go from the Department of Education to every school district. I really feel that the Department of Education would be the state organ to distribute that, not the STRS. And the information should be made available to the School Boards Association, to the bargaining agents for the employees, whether it be the CTA, or CFT, or CSEA, or whomever. And I think this information needs to be available, because it's something that lots of people might agree was a very good idea, and the cost would be a 20-cent stamp to the federal government.

CHAIRMAN ELDER: Well, we might want to think about having STRS consider this as another alternative to what you're suggesting, handle for people who opt for less generous tiers, because there would clearly be savings to the System for those who opt to go into these lower level tiers, and therefore there would be resources from that savings to support an educational effort as far as all these programs and maybe some others in the alphabet and numerical soup that will come forward.

So, that is something that we should kick around in our minds as to, perhaps, that is an appropriate role for STRS to be actively involved in promoting such programs for those who elect to go into lower- priced retirement, as far as the System is concerned, as a means of perhaps attracting people to these lower tiers, and also it would be funded.

Now, as far as the State Board of Education is concerned, I don't really have anything to offer there. But it seems to me someone has got to take this by the horn and move it, because you have 1100 districts, or 1,000 districts, and thus, you're going to have variations as to how aggressively such concepts are pushed. And that's going to be to the detriment of certain teachers who happen to be in one district versus another.

I'm just throwing that out. I don't have any firm recommendation to make or thought, but just as a possibility that since STRS would achieve cost reductions by people opting for the lower tiers, if those are developed, that might suggest that in those cases, STRS would have the responsibility to make all these other alternatives and supplements and augmentations available to these individuals who opt for those lower tiers. And it would be a self-funding mechanism. So, that's something that we can consider further.

We have something that's just been passed out.

MS. TAYLOR: I was just going to point out, Jim Bald was kind enough to have the Alameda County information Xeroxed, and this is the spread sheet by certain specific classifications and pay levels about what happens if the same amount of money was put up that was put up prior for retirement costs continues to be put up, but in a different way, and to some extent takes advantage of the tax consequences of the 401(k).

So, here's this layout in which the benefits run from 35 percent to 75 percent greater for the same amount of money.

CHAIRMAN ELDER: These are assuming a 10 percent return, I see here.

MS. TAYLOR: Yes.

MS. MOSER: Mr. Chairman, the point that I made earlier, you know, I really don't care whether it's the Department of Education, or STRS, or who sends the information out. But we're talking -- I would guess that everyone who is a classroom teacher who is in this room right now, their organization is in negotiations with their board. And the contracts have not been settled.

If there is a proper form, a proper motion for the Board of Education to make to declare that the 8 percent that has been my contribution that has been taxed previously, that an arrangement can be made that that 8 percent not be taxed, I think that ought to go to folks now. You know, if it's a legitimate thing, it doesn't cost anybody anything.

CHAIRMAN ELDER: It costs the State of California quite a bit of tax dollars. I'm just indicating it does, in fact, cost some people some money. It costs the federal government a considerable amount of money, and it costs the state a considerable amount of money. But that's not the problem.

I agree that it should be moved, and that has to be demonstrated by my putting 1265 on the Governor's desk to make it tax deductible contribution, that they could pick it up and pay it for the person. And it's getting mixed reviews, depending upon the orientation and philosophy of the various boards around the state.

MS. CURTIS: I guess I'm having difficulty believing that such a thing exists. You know, a long time ago somebody said to me: There is no such thing as a free lunch.

CHAIRMAN ELDER: Which thing are you talking about?

MS. CURTIS: This whatever section of the IRS regs, or whatever that says that by merely deciding to do it, that the district can decide that that money that I've been contributing, that 8 percent, is not taxable income.

And I find it incredible. I'd like to know how long this has been a possibility?

CHAIRMAN ELDER: About a year; is that right, Mr. Cox?

MR. COX: Yes.

MS. CURTIS: I find it incredible, I guess, that this is now coming as a great revelation that such a thing exists.

It would seem to me that things like the School Boards Association, and whatnot, must have access to what laws and regulations come down and would have found it a long time ago. Whether they would have told the teachers' organizations or not, of course, is moot. But I would think, considering the crunch that we are in repeatedly and certainly, it would be nice. What a bundle that would be to be able to play with at the table for both the district and teachers and other employees.

CHAIRMAN ELDER: How does it feel to be on the cutting edge of information technology here?

MS. CURTIS: I guess until I see it in print, I'm not sure I'm on the cutting edge. I just maybe in the giblets that fall by the side.

CHAIRMAN ELDER: If it makes you feel any better, for sometime we've been attempting here in this building to try to get our legislative employees the same thing. And it's been available to them for -- we've been writing this memo for six months, trying to get the Senate Rules and the Assembly Rules Committee to respond to this really minor subject that everybody here on staff, Mr. Felderstein, other people that are here, Mr. Bald, yourself, are paying taxes on retirement contributions they don't have to pay. And the only reason that's happening is because a resolution has not been passed by the Senate Rules Committee and the Assembly Rules Committee.

MS. CURTIS: Could we have, before we leave here today, since we're here until four or something, could we have, each of us who are present in this room, in our hot little hands a hot little copy of whatever this particular dispensation on high, whether it's a reg, or it's a law, or whatever, so that we at least can take it back and say: This is real.

Can we have that?

CHAIRMAN ELDER: Well, I think so.

MR. COX: I don't know if I can get it for you today. Unfortunately my files left when I vacated the office.

Our most immediate contact is the County of Sacramento, which included that in a bargaining agreement last year. I have asked them to get us that information again, and that should be forthcoming within 24 hours. And I'll get that in the mail to you. That includes a similar agreement with the University of California and Los Angeles County.

MS. CURTIS: I would love to go back to my school district and tell them that they have 8 percent available there that they can --

CHAIRMAN ELDER: Wait a minute. You have to understand it's not 8 percent.

MS. CURTIS: My contribution, the tax on it.

CHAIRMAN ELDER: It's 8 percent of what you're paying in is not subject to taxation. Let's be clear on that. And if you're in a 30 percent bracket, that could be 2.4 percent increase in your take-home pay.

MS. CURTIS: That would be very nice at no cost to the district.

CHAIRMAN ELDER: I thought so, but I can't sell it around here.

MR. COX: Dave Felderstein says he might have that memo in his files.

MR. SLIVKOFF: We've been attempting to do this since the 1960s. We discovered that New York teachers were getting this kind of benefit, where they did not have to pay tax, and they had the take-home pay. But every time we explored it with IRS, of course, it exploded and it was not possible.

I'm really interested to see, because now, over a span of 20 years now, this has come about and made possible. So, that's interesting.

CHAIRMAN ELDER: Just patience, that's really what it is.

Mr. Crippen has a comment, then I think we can move to the next section.

MR. CRIPPEN: Dave, isn't it essentially treating your retirement contribution as if it were deferred comp?

MR. COX: Yes.

MR. CRIPPEN: Up to a maximum of 75 percent a year?

MR. COX: Right.

DR. KLUDT: I have another question, quickly.

The 401(k), in order to get your money out before you're 59½, you have to prove hardship; is that correct?

MR. BRANAN: No, there are several ways that you can get it out; hardship is one of them, but you can also terminate employment.

DR. KLUDT: I've talked to quite a few young teachers about IRAs, which are 59½, and they say that's too long to wait. I'm not going to put my money in for all that time. Let's say somebody 25-30, that's a thing to think about.

And if this is the case with the 401(k), that they have to wait until they're 59½, your younger teachers are probably not going to think that's such a good deal.

MR. BRANAN: With a 401(k) you do not have to wait until you're 59½.

DR. KLUDT: But you have to either leave -- you can't take it out while you're still teaching.

MR. BRANAN: That's where the hardship consideration comes in.

DR. KLUDT: Is there any definition of what a hardship is?

MR. BRANAN: So far the IRS has allowed a very liberal interpretation for 401(k) hardships, all the way to the point of college tuition and buying a house. There's some indication that that is going to be tightened to make it more difficult.

One thing along that line that hasn't been brought up, and it is considered a very popular point with 401(k)s, to offset the difficulty of withdrawing your money, the 401(k) offers a loan arrangement where you can borrow your own money.

DR. KLUDT: What's the interest rate on that?

MR. BRANAN: You have to pay prevailing interest, but the interesting point is, you pay yourself that interest. It goes into your account, not into the General Fund.

DR. KLUDT: You're just increasing your 401(k) account by the amount of interest you're paying; is that right?

MR. BRANAN: That you pay.

CHAIRMAN ELDER: That is truly perpetual motion.

DR. KLUDT: That could become a snowball rolling down hill, you know, bigger and bigger.

CHAIRMAN ELDER: I wonder if we might explore the possibility that STRS could enlighten IRS on this, and maybe perhaps it could be the agency that makes this tax deductible arrangement possible for everybody. Since it's the contracting agency, perhaps STRS, on behalf of all the teachers in

California, could do it, and that certainly would be a in one fell swoop approach.

Does anybody have any thoughts on that? Counsel? It is kind of off the wall, I recognize, but it's a lot easier. I think we've got half of STRS convinced already it's a good idea, at least half. I don't know how long it's going to take to convince the majority of 1100 school district boards of anything, let alone something like this. It's just a terribly difficult job of education.

Do you have any thoughts on whether STRS itself as a Board could do it by resolution?

MR. KINNEY: The better approach would be to give specific authorization, to enact a statute specifically authorizing STRS to do this. And it takes them off the hook. Nobody can sue them for going beyond their powers.

CHAIRMAN ELDER: So what you'd suggest is that were that a possibility, it would be best to pursue a bill that would authorize STRS to do that, and then in that process, try it with IRS and see if it would fly.

Is that your thought?

MR. KINNEY: There's one other complexity here, and that is that the Constitution restricts the utilization of retirement funds solely for the purposes of the retirement system.

It doesn't mean that the Legislature can assign anything it wants to to a retirement system and then require the system to pay for these expenses out of the retirement funds.

CHAIRMAN ELDER: Well, then, the bill would have to have an appropriation.

MR. KINNEY: It would have -- this course of action would have to have --

CHAIRMAN ELDER: Are we basically talking about typing a letter?

MR. KINNEY: Yes.

CHAIRMAN ELDER: I recognize that I've been admonished that we need another position, but I can't buy that. It seems to me that I will provide the bond, and the typewriter, and if someone will draft it, I'll even use their stationery to try to see if we can do that.

If there needs to be an appropriation, I'd be happy to do it.

MR. KINNEY: That would be by far the safest route to do it, is to have independent funding for it.

CHAIRMAN ELDER: All right. So, what we're basically asking is that this be explored as to whether STRS could do this on behalf of all school districts in the state.

I think that it would be a tremendous kudo for STRS to have performed this task, but I don't hold out any hope that it'll be that simple. I think it's worth venturing the 20-cent stamp and various other things just on the off chance that it might work.

MS. POWELL: Not counting the time and the typist or anything, or the cost of the paper, Rebecca and I have figured we could do it for about 250 bucks. I suppose we could put in a BCP and see if they would permit us to spend the money.

CHAIRMAN ELDER: There might be some money in that Task Force over there. We got some salary savings yesterday; still haven't calculated how much.

Moving right along, the next point would be -- here's what my intention is. I think we can get through these remaining items before we break for lunch, and then an hour-and-a-half subsequent to that, we would reconvene, at which time we would throw the discussion open for comments, and then try to provide in that process the staff with some direction as to their charge for the next meeting. I'll give some thoughts as to what I think it ought to be, and then all of you can trample that to death, if it be your wish. Otherwise, we can proceed with that as a process.

With that, we could go to S and move it right along, "Collective Bargaining - Possible Impact on System Design".

MR. COX: The staff recommendation is that collective bargaining should not play a part in system design.

As you are well aware, the EERA law does not specifically allow bargaining as negotiable item. However, AB 1265 would include retirement to the limited extent the employer could pick up the employee's contribution rate, but no other retirement benefits are specifically allowed under that particular law.

My own opinion, however, I think it would be unadvisable for the Panel to ignore collective bargaining as a very important force on retirement. I think this was reflected in the latest PERS second tier. PERS opposed a second tier for at least four years, opposing legislation that would enact a second tier. And as a result of that opposition, PERS played no part in the design of the present second tier. That was the direct result of bargaining between the Department of DPA and CSEA. I think that is very unfortunate, that the system did not lend its expertise to the design of that program.

CHAIRMAN ELDER: I guess it depends on your view of PERS. I'm not necessarily willing to concede that point to you, Mr. Cox. Based on my rather limited experience with the home loan program, I would not want to see PERS have anything greater put under their portfolio.

If I may, on 1265, can you explain to me why it is in my bill that it's effective, if it's signed, on July 1 of '86?

MR. COX: That was requested by STRS, I believe, because of the tremendous administrative problems connected with that particular bill, a design problem.

MS. MOSER: Could he repeat that?

MR. COX: Since the bill does not become effective until January 1, the lead time as recommended by STRS was such that the effective date of the program was not until July 1, 1986, since they would have to be dealing on each on an individual district basis.

CHAIRMAN ELDER: Why does it matter to them? They're still going to get 8 percent.

MR. COX: "Them" are right here.

CHAIRMAN ELDER: Why do you care?

MR. HULSE: Mr. Elder, it's the matter of having to totally redesign active master file systems to be able to record the employer-paid contributions separate from the employee-paid contributions, because one is tax deductible, one is not.

It also provides the lead time in the districts for the whole negotiation process, and the fact that they also have to go through a redesign of their reporting structures, which is one of the battles that this bill had with the counties and the districts, because of the need to redesign their reporting procedures.

CHAIRMAN ELDER: Short answer is it's complicated, all right.

MR. HULSE: Yes.

CHAIRMAN ELDER: Does anyone have anything to add in this particular section? If not, we can move on to Appendix T. This one deals with "Benefit Maintenance Goals".

MR. COX: Yes, Mr. Chair, Appendix T deals with our recommending goals, and Appendix U deals with alternatives as far as benefit maintenance goals are concerned.

Appendix T, of course, suggests that 100 percent maintenance of purchasing power is desirable; however, a minimum level should be established at 75 percent purchasing power.

The appendix also suggests that there's nothing magical about 75 percent. It seems to have occurred as a result of that was all the money that was available when the concept was originally placed into law several years ago. There's no reason why you couldn't establish a desirable level at 70 percent, 65 percent, 80 percent, 85 percent, depending upon the design of the program.

CHAIRMAN ELDER: We're shooting at a target of approximately 60 percent of final comp as a desirable goal for a retirant.

MR. ROBERTS: The initial retirement benefit.

CHAIRMAN ELDER: And so, when you take 75 percent of 60 percent, you're really talking about 45 percent of final comp.

It occurs to me that these numbers are somewhat arbitrary. The 60 percent seems to be a norm in the private and public sector in terms of a targeted final comp retirement.

I guess as I looked at one of the tiers in this shorter book, I noticed that it cost 1.97 percent to provide a 3 percent compounding, and it cost .76 percent to then also provide a 75 percent of purchasing power.

It occurs to me that if one were to simply go for the 75 percent of purchasing power arrangement, that that would be cheaper than the combination of 1.97 and .76; do you follow what I'm saying, Wes?

Can you tell me what that number would be if we eliminated the COLA entirely, but just went for the 75 percent maintenance of purchasing power arrangement?

MR. HULSE: At this moment I do not have a figure, but the cost differential would be very little less than the total of these two only because of the fact that with the movement of inflation, without having the 3 percent COLA, we're going to talk in terms of declining to the 75 percent level in about 6 or 7 years, which means that all you're saving in total is the first 6 or 7 years of payment, at which time, then, you're maintaining the full allowance beyond that level.

It's also having the negative impact, as you said in your introductory comments on this area, that it's counter to the effort of providing, quote, an adequate allowance of, say, 60 percent, the target replacement. So, automatically you're moving down to three-quarters of that target replacement almost instantaneously.

CHAIRMAN ELDER: Having said that, I would observe that, and this is a factor, that in the first two or three years under the current arrangements, a retirant would not be paying taxes for the first, say, 24 months or 25 months on what they get. So, the erosion wouldn't be quite as obvious initially as it would be in the third year, when they were then subject to taxation.

MR. HULSE: That's correct.

CHAIRMAN ELDER: That's when they really would start to feel it. So we might want to consider the 3 percent COLA, move it out to the -- start it in the third year, see what that does to the numbers, if it does anything.

MR. HULSE: We can look at these kinds of figures. Basically, experience tells me, again, the results are very small, because we're talking about a relatively small part of our population who has only been retired for two or three years versus the max of the retired population.

CHAIRMAN ELDER: But your point is, it's going to one of these things where we get you now or we get you later, and it's going to come out to very close to the combination of 1.97 and .76 percent?

MR. HULSE: That's correct.

CHAIRMAN ELDER: So there is no savings by opting for one versus the other?

MR. HULSE: No, sir.

CHAIRMAN ELDER: I was a little troubled by the interaction of these variables. I thought it was sort of, you know, the inter-relationship and the interaction of these variables on each other was not something that would be easily explainable as a benefit to a retirant. You know, you get your 3 percent COLA, and then we have this floor under here which says you're going to get .75, that's going to be the minimum.

Perhaps it might be better just to go with a 5 percent COLA, but start it in the third year. Do you see what I'm saying, and that would have achieved it based upon anybody's reasonable expectation of inflation. That might be a little cleaner, and I guess the cost would be essentially the same.

MR. HULSE: It also, of course, depends on the level of inflation assumed and the actual inflation related to at that moment.

The goal, obviously, is always to maintain allowances as close to 100 percent as long as possible. So obviously if the System could afford to fund a COLA of close to 5 or 5½ percent, which is our current assumed inflation rate, obviously we could do this kind of thing. It's the differential, as you note by the chart. I believe it's at the end of the next section.

MR. COX: It's U-12.

MR. HULSE: Page U-12 there's a chart which shows some of these relationships. This is percentage of purchasing power. In the first column it's showing you that with no COLA adjustment, a person declines from their full allowance, whatever it happens to be, down to only 76½ percent of the purchasing power in only 5 years.

Under the current program, with a 2 percent simple, they decline to 75.6 in 8 years. Under a 3 percent compounded COLA, the 75 percent level is reached in the 12th year.

The last column is a composite column. It was built assuming proposal C of a combined Social Security and STRS benefit, showing that because the Social Security benefit would be fully indexed, that that 75 percent level would not be reached until the 25th year, which is another one of the advantages of having a combined program.

CHAIRMAN ELDER: Now, as far as the benefit maintenance alternatives are concerned, are there any concerns in Section U? I meant to say Section T, right?

Any questions or comments or otherwise?

All right, in Section U, "Benefit Maintenance Alternatives", we've kind of leapt ahead into that. Could you introduce this section?

MR. COX: This discusses various alternatives to an ongoing factor, or an ongoing maintenance program. It speaks briefly of ad hoc increases, such as we have found necessary over the years, and other possibilities that would supplement whatever sort of fixed factors are placed in the program.

CHAIRMAN ELDER: I think the 3 percent compounded represents substantial progress as compared to our current 2 percent uncompounded. It's like -- I wouldn't know what percentage of increase that is, but it's really significant. It's clearly more than 50 percent increase over the current benefit.

Any comments on this benefit maintenance alternatives? Great, I think this is an indication more of people's desire to get to lunch than anything else.

All right, Appendix V, "Responsibility for Retirement Plan Cost".

MR. COX: Appendix V briefly discusses the normal cost and the amount that would be required to amortize the unfunded liability. And of course, the initial recommendation of the Task Force is legislation similar to your AB 3093 be enacted that would require the employer to pick up the shortfall and the normal cost of the program.

Staff also recommends that the state assume the liability of the unfunded cost of the program.

CHAIRMAN ELDER: In terms of AB 8, I guess the court ruling is that we have to pay it.

Is that in terms of its escalation? It's now, what, $280 million annually, and it's going up at the rate of $20 million a year?

MR. HULSE: The escalated part of the AB 8 is now at 80 million this year, will be 100 million in the new budget, plus the index portion, which this year was $220 million, will be something like 235 next year.

CHAIRMAN ELDER: So it would be 235 plus 100 million next year?

MR. HULSE: Right.

CHAIRMAN ELDER: So, it's 335 is the obligation rising from 280 this current year?

MR. HULSE: This year it was 301.

CHAIRMAN ELDER: Now, what happens if we are somehow able to, by a combination of the Task Force efforts and other things, able to arrest the unfunded liability problem? Do we never achieve any progress under AB 8? Are we bound by it, even after we've solved the pension difficulty if we did?

Maybe Counsel can advise us. Perhaps you've seen the Court opinion on this.

So, it's going to be 335 next year, and goes up at the rate of 34 million a year, approximately?

MR. HULSE: It's going up at the rate of the 20 million on the indexed portion -- I mean on the graded portion, plus the CPI on the other part, which is varying from year to year. It's a little hard to track.

CHAIRMAN ELDER: In your charts here, do you show what it will be over a period of time?

MR. HULSE: No, sir.

CHAIRMAN ELDER: What would we be talking about in, say, approximately 10 years? Do you have any ideas on that?

MR. HULSE: Well, in approximately 10 years, you're going to be adding another 100 million to the -- no, 200 million to the graded portion. It's going up 20 million a year, and --

CHAIRMAN ELDER: That's 200 million on top of --

MR. HULSE: It's the graded portion is graded up to 20 million each year, so in 10 years you're going to add 200 million to that graded portion, which is 80 million this year. And the indexed portion is going up by CPI, and if CPI, say, at 6 percent would double the amount due in about 12 years, so in about 12 years, this year's 220 would be about 440.

CHAIRMAN ELDER: So it would 280 plus 440?

MR. HULSE: About that, yes.

CHAIRMAN ELDER: So, we'd be talking about 520 million annually at that point as rising; right?

MR. HULSE: Right.

CHAIRMAN ELDER: And this doesn't make any difference what happens in terms of our unfunded liability; it just keeps growing?

MR. HULSE: Strictly to follow the law, yes. Until the code sections are changed, it keeps rising until the year 1994-95, at which time the graded portion tops out at 280 mill, and you are then talking about strictly indexing by CPI beyond that point. It continues to grow, and it will be out there until such time as the section is modified or repealed.

CHAIRMAN ELDER: So your view is that it could be changed by operation of statute?

MR. HULSE: Yes.

CHAIRMAN ELDER: Leg. Counsel, is that generally your reading of that Court opinion? I don't share that analysis.

MR. KINNEY: I really can't bind our office to any precise opinion on this, because the Court was not altogether clear about it.

It appears to say that those statutes are part of a contract, and they're going to sit there until something unusual happens, which is not altogether clear.

CHAIRMAN ELDER: Changing the contract?

MR. KINNEY: The sense that there's a burden on the Legislature to in some way establish that the purposes of these appropriations has been accomplished.

One of the factors that we tried to raise in our petition to the Supreme Court was that these are infinite funding statutes, and that we couldn't believe that the Court would conclude that the Legislature intended to freeze forever a formula so that they could never amend it.

However, the Supreme Court declined to hear the case. So, it's -- all I can say is there's a great deal of lack of clarity, but there's a lot to worry about here.

CHAIRMAN ELDER: Mr. Felderstein.

MR. FELDERSTEIN: Doug, isn't it possible for the Legislature simply to change or amend AB 8, repeal it, do something else? I was understanding that --

MR. KINNEY: That's what the case rose out of.

CHAIRMAN ELDER: No, the case arose out of the fact that we didn't fund it.

MR. FELDERSTEIN: Correct, I think, Mr. Elder, that the Legislature hadn't lived up to the provisions of AB 8 to date.

But I thought they could always, under the Court decision, simply repeal it and have the obligation for the future finished.

MR. KINNEY: Up until this case, we always thought that that was the state of the law. This case is a new direction that the Courts have never taken before. So, we have very serious concerns as to whether or not -- I mean, the Legislature can go ahead and repeal it, and --

CHAIRMAN ELDER: See what happens in court.

MR. KINNEY: And STRS can take us to court and say: Here's the case; it's already been decided.

The case involved not only the Governor reducing the fiscal year amount to one dollar, but also prior years in which the Legislature itself didn't appropriate. It was an in lieu amount rather than the same amount that was in the statutes. The Court said that state owes the statutory amounts.

CHAIRMAN ELDER: Judy.

MS. POWELL: Question, Doug.

Is the new direction you're talking about essentially, for a lay person here, essentially the fact that the ruling included the implication that the state had entered into a contract with its teachers?

MR. KINNEY: No, the case law up to this case had indicated that one Legislature cannot bind another Legislature. And this is a substantial departure from that principle and saying: You have bound another Legislature.

As I say, they haven't focused on it in the case that both these statutes go on indefinitely. There is no finite ending to them. So, it leaves this up in the air, how can the Legislature repeal this.

Looking at the case, it gives serious doubts. I mean, they can repeal it, but the legal effect would be back into court, and you'd probably be back in court in this district, and they have the case. And they say: Okay, you might repeal it, but it's still -- it's already a matter of contract protected by both the United States Constitution and the California Constitution.

CHAIRMAN ELDER: Who would be a litigant in that? Would it be STRS?

MR. KINNEY: I would assume STRS and CTA.

CHAIRMAN ELDER: They would be an aggrieved party or injured party under the terms of our modification?

MR. KINNEY: Any member of STRS has a vested right in it, and any member of STRS would be a party, could be a party. IN fact, STRS, under its fiduciary duties, I think, would almost have to sue.

MR. COX: Mr. Chair, the STRS attorney responsible for this particular case is in the audience, if you care to address the question to him.

MR. DOCTER: Is this relevant?

CHAIRMAN ELDER: This is the whole point, responsibility of retirement costs. In this section, we're dealing with the question of AB 8.

I just wanted to get that on the table, because I think we should be aware that this specter hangs over everything that we're doing, in addition to all the other imperatives. This one is really a big question mark.

I don't have any real strong answer for you. I'm not an attorney.

I suppose you could get batteries of attorneys on both sides on this one.

Anyway, moving right along, Mr. Crippen, you have a comment?

MR. CRIPPEN: Yes.

What would be the cost of the state picking up the unfunded liability over a 40-year amortization, annual cost?

MR. HULSE: The unfunded obligation could be amortized over 40 years at 5.19 percent of payroll, so obviously the dollar amount would vary, but we're talking about payroll today of about 7.8 billion.

MR. CRIPPEN: Thank you.

CHAIRMAN ELDER: Dorothy, did you have a question? Ken?

MR. DOCTER: Yes, I wanted to make sure I understand the staff recommendation on this.

Is the staff recommendation that the state assume full responsibility for funding the currently calculated unfunded liability, that 5.19 percent you just spoke of? And that the employer, and I assume by that you mean the school district, be responsible for picking up the 3.56 percent current shortfall of the normal cost at present; and that if the Legislature at any time changes the pay out of the System, that whenever that action takes place, that the school district is then responsible for making up whatever cost is involved in that change?

MR. HULSE: No, we're talking in terms of the districts being responsible for their normal costs. The normal cost typically is changing by experience variations. Because of SB 90, the state mandated cost issue is a change in program design would come under the state mandated cost issue, which would not be assignable to the districts without being reimbursed.

MR. DOCTER: So, if it's a change of the payout, change of the program, then that would be a state mandated cost?

MR. HULSE: As I understand it.

MR. DOCTER: Which Mr. Elder told us the other day would probably come out of pocket 1 and into pocket 2, and impact the program at any rate.

MR. HULSE: That's right.

MR. DOCTER: But that you are suggesting at the current moment that the district pick up and pay the current shortfall of the normal funding?

MR. HULSE: That's right.

MR. DOCTER: And that would or would not be a state mandated cost?

MR. HULSE: That's up for grabs.

Do you want to speak to that, Doug?

MR. KINNEY: I'm sorry, I was working on something else. I'm not sure I have a complete perspective.

MR. DOCTER: There is currently a shortfall from normal cost of approximately 3½ percent between the normal cost of the program and the two 8 percents that are paid in.

As I understand the staff recommendation, what they're recommending is that the school districts pay that amount.

My question is, is that a state mandated cost, or is that just a cost that must be taken from someplace else within the district's budget?

MR. KINNEY: The requirement for state reimbursement on state mandated local program costs is in the Constitution. And it is something that we have to look at, if not Step 1 at least Step 1½ or Step 2 in all analyses.

Whenever you consider anything that you're going to require a school district to do, the next step is, is this a state mandated local program, and the changes are, yes, because you're requiring them to do something that's going to cost them money, and the Constitution's going to require the State of California to reimburse.

Which brings into discussion the means by which you're going to require it. If it is of such vital importance, it could be put into a Constitutional Amendment. A Constitutional Amendment could be expressly exempt from the state mandated local program, because it is in the California Constitution. So, it's an exception to a Constitutional provision that school districts shall do this particular thing, and they will not receive state reimbursement for it.

MR. DOCTER: Is there something we can have a determination, or at least the best guidance given before we would ever come close to making any decision in this regard? Or is this something that has to wait until afterwards?

CHAIRMAN ELDER: We had an opinion on 3093, which authorized STRS to adjust the normal contribution rate by up to one-half a percent a year. And since that was optional from the standpoint of STRS, we had some confidence that the state mandated costs arrangement could be avoided, and it would take seven years to get to 3½ percent.

That, coupled with 1265, where the district would make the local contribution, was thought to be a pretty good package. Unfortunately, 3093 failed the Ways and Means Committee by a single vote, and we didn't move it along.

But we were proceeding on the expectation that 3093, at least, did not have a state mandated cost attached to it.

I don't know where you got that opinion, David, but it was from Leg. Counsel; wasn't it?

MR. COX: Your 3093 did not have a state mandated cost assigned to it. There is, however, the thinking on the part of counsel that once the STRS Board did move under the provisions of 3093 to increase the cost to a district, then that move on the part of the Board could be considered a state mandated cost. And the boards would then have the right to petition the state for reimbursement.

But 3093 itself was not a state mandated bill, because it did not mandate on the Board a certain action.

CHAIRMAN ELDER: So in effect what it would have done was to lower the ADA funding, assuming that education funding has some finite limit in any year, and would have basically had the power of reserving so many dollars for the retirement system.

MR. DOCTER: I'm not sure I heard it that way.

I think I heard it that the ADA funding would stay the same; that the district would bear an additional cost; and that it would be up to the district to figure out how to pay that additional cost, unless it was state mandated, in which case they could then claim a reimbursement for the state mandation.

MR. COX: One of those alternatives would be to claim from the state a reimbursement for the cost.

CHAIRMAN ELDER: I think they would.

MR. DOCTER: On the following year's ADA, I would assume.

CHAIRMAN ELDER: We would pay it, and it would reduce subsequent ADA availability. I mean, it really is kind of moot. As you say, which pocket are you taking it out of?

MR. DOCTER: Which has the effect, then, of -- if in fact it's coming out of education funding as opposed to some other source, that has the effect of impacting the program within the state.

I'd like to make one comment that you've been indicating your sense of where things are going. I think a sense that I'd like to lay on the table is that I think from a school board perspective, we've become a little bit concerned with when there is a separation -- at the current moment, we have a sharing in the cost of retirements for the teachers of California that shares the cost on a reasonably equal basis among the employer and the employee.

I think that there would be some long, hard thinking that would go on on the part of school boards before we would like to see a separation of the equal sharing amount as currently exists.

CHAIRMAN ELDER: Well, 1265 allowed that to happen on a district-by-district basis at the option of the districts, and subject to bargaining.

I would observe that teachers -- school districts are the only public agencies in California that don't have this option now. So, it's not -- it frankly is moot as a result of the IRS ruling, from my point of view, assuming that the districts will decide that they want to save the teachers the taxation of their retirement benefits going in. I'm sure that will be long and hard debated.

Are there any other comments in this section?

MR. HULSE: Mr. Chairman, if I may, Bob's point is I may have mislead some of you with an answer I gave a few minutes ago.

The question was about the cost amortizing the unfunded obligation over 40 years, and I have the figure of 5.19, which is the total cost.

If I may have been misunderstood, we already are getting 4.29 of that on an equivalent basis, so the shortfall currently, to bring it up to the full 40-year funding, is only .9 of payroll.

CHAIRMAN ELDER: That's pursuant to AB 8?

MR. HULSE: Yes, we're already getting part of it, so just the balance is only .9 percent.

MS. MOSER: Our school board member made the statement that we are now sharing on an equal basis, the employee and the employer.

I think it's important for the record that we point out that it was not until the school year 1978-79 that the employer finally arrived at the point that they were paying an amount equivalent to certificated personnel. Prior to that, they paid markedly less.

CHAIRMAN ELDER: Jean.

MS. CURTIS: It might be interesting to consider some halfway point between what is suggested here in the staff recommendation, wherein the school boards or the school districts picked up the difference until such time as they had invested as much as we had, because we always do what the law says 'cause they take it away before we see it anyway.

And once the school districts have put in an equal amount to what teachers have been putting in, since the Barnes Act, and then we were indeed equal, to then, whatever remains, assuming that the state would pay for the unfunded part, we're not talking about that, right? We're just talking about the ongoing cost, right?

Then, to equally divide it between us. That would be fair.

I agree with Ken that I think it should be, you know, half and half, but it wasn't, as Dorothy said and I'm glad she said that because I was hoping someone would, and I thought it would be her.

In other words, to phase in. I think that it is safe to say that neither the school districts nor the teachers want something for nothing. And most of us are willing to pay for what we get. Nobody's trying to do anybody in.

CHAIRMAN ELDER: You are unique among groups.

MS. CURTIS: That's because we are highly moral, and we have to be or they take our credentials away, you see.

(Laughter.)

MS. CURTIS: Unlike certain other groups of occupations.

At any rate, I would like to see some suggestion come from staff, you know, different ways that we might phase in over a period of time some thing to the point where it could be equitable, I guess is the word. So that in the end, it would be equal, even though it may not be equal at a given point in time.

CHAIRMAN ELDER: Counsel.

MR. KINNEY: We have a serious problem with any proposal to require a school district to do anything because of the Constitutional requirement of state mandated local program cost reimbursement by the state. So, you have to always keep that in mind, that ideas that up here sound great but that are going to require a school district to do anything.

CHAIRMAN ELDER: Counsel, did I hear you to say it's a Constitutional requirement?

MR. KINNEY: Yes.

CHAIRMAN ELDER: I thought SB 90 was a statute.

MR. KINNEY: Originally it was, then it came -- it's in the Constitution now.

CHAIRMAN ELDER: Why don't we call it Prop. 4, then? It seems to me we create the situation here where we think we're talking about SB 90 implies that if we got our act together, we might be able to repeal that critter.

MR. KINNEY: That's why I don't refer to it as SB 90, because I think it is Prop. 4.

CHAIRMAN ELDER: Whatever, it's a Constitutional Amendment.

Moving right along on that, did you finish your comment?

MR. CURTIS: I guess I am now thoroughly confused, which is not an unusual condition for me.

If I understood what you said, then, that rather ties the hands of everybody, and why are we sitting here?

Because it seems like if anything we come up with that will impact on school districts in terms of costing them more money is really a state mandated thing, which the state must then pay, then I suppose -- is that saying, then, that that makes us -- okay, let me back up.

First off, when we started talking here, the Honorable Senator Deddeh and the Honorable Assemblyperson Dave Elder told us that it wasn't necessarily the state's responsibility for anything, and now the courts have said: Oh, yes it is, for the rest of the existence. So, there's a difference of opinion.

But all along, we've been talking about it being the responsibility of the employee and the employer for ongoing expenses of a retirement system. And as far as I could see, that's the kind of way that we were dealing with the problem that we had, in terms of ongoing costs at any rate.

But if indeed we can do nothing to increase what the employer can contribute, because that then becomes the state's responsibility, and the state says that's not their responsibility, then what is really being said is that it is all the responsibility of the employee.

And I find that a rather -- I don't agree with it. And I somehow cannot believe that it's real.

MR. KINNEY: Addressing it, using the word responsibility doesn't really help here.

We're talking about powers and duties and Constitutional provisions.

When you're talking about whose responsibility something is, whose duty it is, we're talking about theory, about fairness.

But you have a Constitutional provision that's been there for years. And if you want to make an exception to that, you can with a Constitutional Amendment.

If you don't want to go the route of a Constitutional Amendment, then you have serious problems with anything that's going to impose a state mandated local cost upon the school districts, because the state is going to wind up paying for it.

CHAIRMAN ELDER: On that cheerful note --

MS. CURTIS: I'm still confused as to what it is we're supposed to do.

CHAIRMAN ELDER: Let me give you my view on that.

Obviously, the challenge of this Task Force is to do a number of things. First, it's to encapsulate, because I'm not so optimistic that we can eliminate, the unfunded liability, encapsulate it and make it so it doesn't grow beyond where it is. That was the obvious mission of 3093, and your recent discussion raises the question. Perhaps if we had raised the contribution rate by up to a half a percent per year on the employee rather than the employer, we would have avoided the mandate problem, which would have gone over like a lead balloon in certain employee organization groups. But nonetheless, to try to encapsulate that.

And our challenge, from my point of view, is to develop a series of benefits for something less than 16 percent that are going to be more creative and imaginative and helpful to the problems of teachers than the current program, which is a rather fixed arrangement, 2 percent at 60. And in the task of doing that, achieve enough savings, and make the program attractive enough, for a great majority of teachers to get into it.

Failing that, then an outright law that says that from henceforth, STRS shall not offer the old program for new hires. I mean, that gives us an option to go to.

So, there is an awful lot for us to do, and I think what all of us are going to be about, after we get through this exercise, is to give the staff some guidance as to which of these various things that we are most exercised about, and have them sift through the transcript and come forward with a series of proposals, some of what we're really going to hate, but do bite the bullet in terms of the unfunded liability problem.

We may not be able to come to a consensus or a recommendation on it, but we will certainly come to a consensus and a recommendation on something. And when we do that, we will have succeeded to at least that extent.

But I am optimistic. I have a saying that I like very much: To be realistic these days, you have to demand the impossible, because we can no longer conceive of the impossible.

So, on that maybe Pollyanna-ish view, the series of recommendations that come forth are going to try to encapsulate, if not eliminate, the unfunded liability problem, and that is the charge of this Task Force, recognizing that 16 percent is probably the outer limits.

I had hoped that we would be able to get through all of this, but I see it's approaching 12:30, and I want to have a short comment from Counsel, and then I think we should break off, come back, and quickly get through the remainder of these at 2:00, and then we would throw it open to a general discussion to try to give staff some guidance as to what we thought they should be able to do for the next iteration.

I want to just say right at the outset, I'm very pleased with this level of work product.

Counsel, did you have some concluding remarks on that?

MR. KINNEY: I have more bad news.

The Courts have held that you cannot increase employee contributions rates unless -- well, unless you have reserved that right, and I do not think it is reserved. I do not think the Legislature, in the State Teachers' Retirement Law, has reserved that right.

Without reserving that right, if you're going to increase the rate, you would have to give corresponding advantages because it's a disadvantage. That's for all people who are vested right now.

CHAIRMAN ELDER: I see. Well, that's certainly a cheerful additional to this morning's observations.

With that, let's break until 2:00, and then we can get through the remainder of this Panel study.

(Thereupon the luncheon recess was taken.)

AFTERNOON PROCEEDINGS

--oo0oo--

CHAIRMAN ELDER: All right, ladies and gentlemen. I'd like to now commence.

I've made a commitment to several members of the Panel that I would adjourn this meeting promptly at 3:30. So, take all the time you need, but recognize that at 3:30 by that clock, I'm going to gavel it down.

What I see happening now is, we'll get through the rest of these particular points, then go to the thinner volume. At that point, I want to throw it open to commentary and comment by all members of the Panel, and to see some interaction of points of view.

Then what I see happening is that the staff will take back all of our comments, concerns, criticisms, recommendations, requests, ideas and come forward at the next meeting with a series of alternatives.

I want to encourage all members of the Panel to contact the staff and suggest various alternatives that may occur to them so that they can be put into the hopper for consideration.

Then I would expect that what will come back is another iteration, which will delineate these various programs or options with maybe some individual elements costed so that they can be enhanced or refined, or even deleted in order to more satisfy what the Panel collectively might wish to achieve.

So with that, and before we get into an extended conversation, I would like to finish the large volume, go to the small volume, and then throw it open then if you have further comments.

Counsel has probably had a chance to reflect on a couple of points that were raised earlier, and I think you may wish to enlighten us on some of those matters.

MR. KINNEY: Yes.

First, yesterday the question of whether or not classified employees were covered by Social Security was raised. None of us knew.

I contacted PERS. At noontime I had a note from PERS indicated that, yes, they are. And that they have been covered since January 1, 1956.

The second point, I'm not altogether sure how helpful my discussion of the CTA v. Cory case was, but in order to give you the language of the Court, it might be possibly helpful:

> "This is not to say that the terms of the contract set forth by sections 23401 et seq. are eternally immutable. We imply no view of the permissibility of alternation of the amount of payment in response to a change in the unfunded liability of the system .... However, changed circumstances and an alternation tailored to conform thereto are matters in the

nature of reformation or excuse
for nonperformance of the contract.
The affirmative burden of pleading
and proving such a justification
is on the state .... No such
claim is made here."

End quote.

CHAIRMAN ELDER: That is not immediately obvious by its recitation.

(Laughter.)

MR. KINNEY: I hope I've clarified the matter.

CHAIRMAN ELDER: That sounds a little bit like: I know you think you understand what you thought I said, but I'm not sure you realize I didn't say what I meant.

MR. KINNEY: Approximately.

CHAIRMAN ELDER: If you would, would you need a formal Leg. Counsel request to offer a translation for us at the next hearing? We'd be happy to request that formally, if that would help you in getting the time from Mr. Gregory necessary to do it. But if you give us an opinion as to what you think the opinion says, it would be helpful.

I think we will direct the staff to make a request at this time for all of us.

It's encouraging to see the bureaucrats break the bureaucrats' code from time to time and inflict upon themselves greater workload. It does my heart good to see that.

(Laughter.)

CHAIRMAN ELDER: I can't tell you how wonderful that makes me feel.

With that, can we get to one of my favorite sayings was as a budget analyst: I think you can absorb that.

Where are we, what section? Dorothy, you will be recognized when I find out what letter of the alphabet we are in.

MR. COX: I had Section W.

CHAIRMAN ELDER: Anyone want to move Z? Here's Section W.

Dorothy Moser, please.

MS. MOSER: I think it needs to be noted that people who are classified employees of the school district prior to January of 1956 and did not elect to be covered by Social Security were not and are not.

CHAIRMAN ELDER: It seems to me that if somebody needs a two-tier, it would be the little CSEA. Of course, I've had my differences on that point already.

For the record, I might indicate that I have carried a bill to allow two-tier at the local level, which is actively being considered. So, we are not on totally uncharted waters here.

As we move along here, can you enlighten us about the elements of Section W?

MR. COX: Section W simply reflects several additional funding sources that the Panel could look into relative to easing the burden.

If you remember, SB 1710 by Senator Deddeh, a member of this Panel, would authorize the use of the sale of state lands for ad hoc cost of living increases for retired employees.

The appendix also reflects the possibility of monies from a lottery or a special tax. It's there for informational purposes really.

CHAIRMAN ELDER: All right. I hear a microphone being grabbed. Yes, Mr. Docter.

MR. DOCTER: May I just ask a question, and it's a question we've been wrestling with, so maybe you can enlighten me.

You talk about a local tax. Is it your impression that if the Jarvis Initiative were passed this fall, that a local tax would be an available source or would not be an available source?

MR. COX: I couldn't answer that question.

CHAIRMAN ELDER: Well, as I read Jarvis, and there are various estimates as to what it removes in public revenue sources, but they're in the magnitude of about a billion-two to a billion-five. In property tax revenues from existing sources, I don't know how it could be done. It would, I guess, have to be done on a two-thirds basis for each district, and then the liability for each district would have had to be calculated, which would be a very difficult task for STRS to do on an individual profile basis. And then within that jurisdiction, they would have to perhaps adopt that tax.

MR. DOCTER: My point being that our understanding of the law is that, or the way the initiative is written, is that if it passes, that under no circumstances can you, even with a two-thirds vote, increase the property tax above the one percent. And that since we're already at the one percent, that that option that has been taken by several school districts to raise additional funds for the school, not necessarily the retirement system, would be taken away.

CHAIRMAN ELDER: Burt.

MR. COHEN: Could I ask, hypothetically, if the school districts were picking up the balance of the normal costs that's not being funded now, and the state continued to make payments under AB 8 at the present formula, would we be out of the woods?

I realize that wouldn't pick up the full unfunded liability, but do we have to pay all of the unfunded liability at some point in order to keep the System going?

MR. COX: I'm sorry, Burt, when you say "out of the woods", you're referring to out of the woods as far as the commitment to AB 8 money?

MR. COHEN: Would the System be --

MR. COX: Or out of the woods as far as eliminating the shortfall in the normal cost, or --

MR. COHEN: Let's say, where would the System be 20 or 30 years from now?

MR. ROBERTS: If the normal cost were totally funded from the local jurisdictions at 3.56, this is on Page A-1, and the state continued to contribute under the provisions of AB 8, that would in fact amortize the unfunded obligation.

We're talking about a deficit right now in the unfunded obligation in terms of a percentage of payroll of .9 percent. AB 8 is equivalent now to about 3.94 percent, so that would amortize the unfunded obligation.

MR. COHEN: Over approximately what period of time?

MR. ROBERTS: That I cannot answer.

Wes, do you have any thoughts?

MR. HULSE: I have not tried that calculation.

MR. ROBERTS: I have no idea. It seems to me substantially less than 40 years, maybe 20 years, but that's just a guess.

MR. COHEN: Thank you.

CHAIRMAN ELDER: Well, if 3093 were the vehicle, it would take seven years to get to the additional 3½ percent, assuming they did it every year. Then you would be talking about the AB 8 formula attacking the unfunded liability, which at that time would be approximately -- and it's been variously estimated -- but for round numbers, in seven years it would approximate $15 billion.

So, you'd be looking at the funding of, I think I figured out, $480 million going against 15 billion. So, that's going to take a little while.

MR. COHEN: About 25 years?

CHAIRMAN ELDER: Well, if you just took it in, and assuming that it would be basically frozen at 15 billion, and then you figured out how long it takes basically 500 million to fund 15 billion, plus the interest earnings on the 500 million a year, it would probably be less than 15 years.

MR. COHEN: The thing in our favor is that there's a graded portion in AB 8 that increases it by 20 million a year for the next 10 years, and then there's a CPI adjustment factor, both for the initial portion and the graded portion. So, we start playing catch-up pretty fast.

CHAIRMAN ELDER: Right. But again, that's an awful lot of money out of the General Fund, and every year for a long time. I mean, it was fortunate we were able to put $512 million in this year, but last year we were at issuing warrants, and some people are speculating about whether -- the press has been speculating whether, in light of a billion dollar surplus, someone might be so bold as to suggest a tax refund to the California taxpayers, which sort of tears that up to whatever extent they wanted to give the refund.

That, of course, would be a political move and probably wouldn't be pursued for that reason. It would be viewed as political.

So, a billion dollars isn't very much cushion right now and can be eroded with as little change as like 2 percent in the unemployment rate, because you figure out what that does to personal income tax collection and sales tax. Pretty soon we're in big trouble.

With that speculation, does anyone have anything further to add to Section W?

DR. KLUDT: Mr. Chairman, I have a question about what is the situation with investment of funds for income? There's no mention of that here, and is there any chance of getting some record of at least the mix of investments that STRS is making?

CHAIRMAN ELDER: I have asked that question in the past and been informed, I think by Mr. Roberts, that were we able to earn 4 percent more on the investment portfolio that we have, we would solve the unfunded liability that way.

DR. KLUDT: This concerns me, because I'd like to -- I think it's part of the problem of income sources. And we have nothing in here at all to go by. It should be public record.

CHAIRMAN ELDER: This is clearly not an exhaustive list, and your points are well taken.

I think what Carl is saying to the staff is that among the things that are listed here should be increased earnings on investments.

MR. COX: Mr. Chair, the information that you asked for, Dr. Kludt, is readily available as to the present mix of the investments.

I should point out, however, that the charge of this Task Force specifically excluded the investment program of the System at the request of Assemblyman Lou Papan, Chair of the Joint Pension Investment Committee.

DR. KLUDT: That's interesting, because two of the things suggested are taxes, which come back to the taxpayers, and the others are things we already have. But this particular thing, I don't know how I can consider income sources when I don't know what kind of an investment policies or the mix, you know -- is everything in one item, or do they have a well-dispersed portfolio? These kinds of things, even if we don't do anything about it, it's one of the items when you solve a problem, you start out -- we stated our problem, and now we're getting facts. And we've got one fact missing here, and I'm having trouble even considering this area without having all the facts.

It seems to me that there ought to be some way at least we could be informed. Even if we don't have anything to say about it, it is a necessary fact to me. I don't know, but this makes sense to me.

CHAIRMAN ELDER: I think it wouldn't do violence to our charter to just indicate that if we could earn 4 percent more, or whatever that figure is, that we would do better, and we'd get rid of the unfunded liability. I don't think that kind of a statement is going to offend necessarily the Chairman of the Rules Committee.

It is a question that I had asked before. I might observe that in light of the elimination of the constraint on the stock market portfolio, I view the potentiality of that happening as almost zero.

Having said that, I'll recognize Judy.

MS. POWELL: Yes, with a dissenting point of view.

In our last meeting, in the model that was presented to us at that time, it was included a projection of possibilities, what we might hope to achieve through a revised asset allocation mix, which we are in the process of going through now as a Board. And as you can obviously pick up on, the Chairman and I don't necessarily agree as to how that's going to work, what's the best way to go, in fact.

I think, Carl, it's important. And I think it can be built in, because it was built into the last model. And in fact, it's something that I'm concerned about when we're talking about cutting back the percentages and talking about this a little earlier. It is significant to us if, in fact, we are going to, by changing our asset allocation mix, are we going to achieve a better rate of return. That is significant to us in terms of looking at what we want to do with this particular package, or any package of, you know, combining any of these features.

So, I would agree with you, and again, I would stress that we're in the process at STRS of redefining this in the light of Prop. 21, and I think our staff can give us those projections, and they already have once before. Probably just need to have it in front of us again.

DR. KLUDT: Well, that would be appreciated.

Also, I think I didn't really state my concern in toto. That is, we're hitting at taxpayers, we're hitting the members. We, by Constitutional law, cannot do much about hitting the employer.

And I would like to see some relief, because the overall feeling I'm getting is the only place we can save money is with the membership, or else it'll have to go through a state mandate, which then ends up with the taxpayers who are also members.

I'd like to see a little more creative and positive approach to it, this resource situation and the income. And that's just where I'm coming from. It bothers me solving a problem with one fact missing.

CHAIRMAN ELDER: We wanted to see the ACR passed, Carl, and we are constrained by the requirement to get 41 votes in the Assembly and 21 votes in the Senate. That offers a very serious limitation sometimes.

MS. MOSER: There is a public document that I believe would be available to any member of this Panel who wished to have one. There's an annual report from the STRS, and it has page upon page upon page of what precisely were the investments on the closing of our fiscal year June 30th, 1983. The '84 report, of course, is not complete. But the '83 report would be available, and it would seem to me that anyone on this Panel who would like to have one, STRS could certainly supply it for them.

DR. KLUDT: Has there by changes made since then?

MS. MOSER: Every day.

CHAIRMAN ELDER: Carl, the closing period is the end of the fiscal year. It takes a period of time to produce the report. It's usually forthcoming in the fall.

MR. COX: That report was included in the initial package of material that the Panel members received, but we can certainly send another one. You got a lot of material at that time.

CHAIRMAN ELDER: I'm sure we can get you another one, Carl, and let you know the progress of the most recent report.

DR. KLUDT: I really would like the input as up to date a possible. That's just where I'm thinking.

CHAIRMAN ELDER: Carl, they produce the report once a year, and it is generally finished in the fall. And it quotes the stock prices as of the close of business, I think, on June 30th. And that's the extent of what we have.

That will be fairly current. They haven't moved too much around, that I'm aware of, and I haven't been following it, frankly, but I'm not aware of major changes in the portfolio since June 30.

Is that true?

MS. POWELL: Yes.

I'd just like to comment on a couple of things. Incidentally, a member of the System who want to receive that report has to pay $10, I think it is. Just thought I'd throw that in.

In terms of historically, in June of 1983 is when we were separated off in terms of our staff from PERS, our investment staff. And essentially what we did at that point, because we've been unable to put into place an internal investment staff because of certain constraints we were under in terms of salaries and so forth, at that point the Board made a decision to sort of park the money with three different managers, Manufacturers Hanover and all that stuff.

For that reason, I would say that what Dave says is relatively accurate. There have been changes in our portfolio, and if you want to get more specific you could refer to staff, not only Bob but Robin Miller is here, too. But there have been some changes because of the activity of our managers, but probably less substantial than what I would expect you would see between now and maybe the end of next year or two years from now.

I think that the '83 report would pretty well reflect where the System has been for the last X number of years, and the types of portfolio you would see. I don't think it would reflect where we expect to end up down the road in a couple of years.

Robin or Bob, is that an accurate characterization?

MR. ROBERTS: Yes.

CHAIRMAN ELDER: Well, I think a paragraph here on the effect of increased earnings and what it would take, and you know, some optimistic projections as to what everyone hopes to achieve through the new arrangements.

Any other questions on W? With that, then, we can move to X.

MR. COX: Appendix X deals with the state mandated cost issue, and its impact on two-tier.

To a great extent this item was covered by Counsel just prior to our recess for lunch. We do reflect in here that Legislative Counsel's opinion has been requested in addition to the one you requested several minutes ago asking as to the specific ramifications of state mandated costs on two-tier, were a two-tier plan adopted.

CHAIRMAN ELDER: And to review, to go to the 11.56 percent would be viewed as a mandate in all probability to the employer.

And secondly, you were precluded from doing it to the employee unless you offer a concomitant benefit, which would defeat the object of the exercise, presumably to get at the unfunded liability.

So, I don't think that the employees necessarily want to pay more than 8 percent even for more benefits, but perhaps they do.

MS. MOSER: They've so said they would.

CHAIRMAN ELDER: All right. Any comments here? Yes, Burt.

MR. COHEN: Could I just ask Counsel, I'm not an expert on local mandates. I know in some other areas we have reduced the amounts that we pay the local government for mandates on the grounds that decreases in their costs reflect inflationary increases and not substantive increases that they're subject to.

Would there be any reason to believe that what we're talking about here, where we're talking about funding normal cost, not funding new benefits or increases in benefits, would therefore, by the same logic, not be local mandates?

MR. KINNEY: I have serious doubt that that would be persuasive. The problem was that when the Constitutional provision was enacted, and even when SB 90 was enacted, the statutory rate was fixed at 8 percent. And to any statute enacted thereafter which is going to specifically increase that amount or is going to authorize, say, the Retirement Board to increase it, will in the first place, be a state mandated local program by statute, and in the second place, the event would be an executive order when the Teachers' Retirement Board would take the formal action to say: We are going to increase it by one-half or one percent this year. That becomes an executive order, which is going to be imposing new costs on it after the cut off date of 1978, whatever it was.

So, there doesn't seem to be any help there.

CHAIRMAN ELDER: I might tell you that the chances of getting a bill like that passed are very remote, having had one that did that that died. I would direct your attention to AB 3093 if you want to see it in writing and follow the progress of the votes on that bill.

Any other comments on this section? Then moving to Y.

MR. COX: Appendix Y raises one possible problem that could occur in a transition from a single tier to a second tier in instances where an employee was to receive a refund of her or her contributions, either for past service, future service, or a combination of both.

Staff merely points out that this should be carefully calculated, the impact of providing for a refund, so it does not impair the fiscal structure of the System.

If you remember the recent PERS program allowed an employee to have an option, an existing employee to have an option of receiving a refund for past service, or a refund for past service and to also not have to pay an allowance for future service. It was really a three-tier program rather than a two-tier program.

CHAIRMAN ELDER: Your point is that there might not be enough cash if everybody opted for this tier?

MR. COX: No, I think the point is that you should have the actuary take a very close look as to the impact on the System of providing refunds for those people opting into a second tier.

CHAIRMAN ELDER: A lot of people who have been in the System, say, as long as 30 years would have tens of thousands of dollars owing them, maybe $40-50,000. And one of the provisions which I suggested in AB 529, which is law, is that you have spousal approval of the withdrawal. Actually it's more or less notice.

I'd asked in that provision that it be a notarized signature, recognizing that often our spouses can do our signatures better than we can. I felt it appropriate that if someone's going to have $40-50,000 in a check, the wife or husband, as the case may be, probably ought to know about that before they get the check and make some advance planning as to what was going to be done with the disposition of those funds, rather than any, you know, fast trips to Las Vegas, or whatever might happen.

So, that's another element that I would like to see in any optional two-tier arrangement, would be the same provision.

Any further questions on Y? All right, Section Z, "Expenditures for Education and for Retirement Cost, Executive Summary".

This is basically information, I would suspect. There's really not much --

MR. COX: There's no recommendations, sir.

CHAIRMAN ELDER: As you can see, one of the things that I have tried to convince the administration to support 3093 on was that they get very little credit for putting money into education when it goes into the Retirement System. It's kind of viewed as below the line, so to speak, and it doesn't really get added into the total in terms of how most people think about this. But in fact it is a real cost of education. What I was trying to get them to do was be convinced that 3093 was the way to go, even if it did involve state mandated cost, and that that would have been a significant achievement to have 3093 passed, even if it meant we had to go for 1265.

I was unsuccessful in making that argument, and basically indicated that 1265 would wind up on the Governor's desk by itself, then, because we had the votes in both Houses, and that's essentially what happened. And I would anticipate that 1265 in all probability will be vetoed, which is kind of interesting now in light of the IRS ruling. Even more incredible craziness in an already screwed up situation.

As we move ever forward here, I would like now to move to AA, and I would like to request that it be modified to some extent, since I have the scars personally on my back as it relates to this particular bill.

If you are ever in my office, you will note that there is only one bill framed and on the wall. And it is AB 1342, which set up a home loan program for PERS, or attempt to. And to date, only one loan has been offered. If they had two, they could indicate a 100 percent increase in the number of loans. They haven't tumbled to that yet.

It was my pleasure to meet the person who received that loan, so, I'm familiar with the full extent of the program, I guess. She's a single lady. Even though it was a very high rate of interest, the 5 percent down was attractive enough for her to get the mortgage. And I met her boyfriend, however, and he was a very nice fellow.

I would say here that the principle problem with PERS in this program is that they have not come forward with recommended adjustments in the program to make it more attractive to more teachers. What in effect has happened is, that the loan correspondents have an opportunity to bid against us on these loans, and they can pull off the most desirable ones, and so the System really never is going to provide a home loan.

But the objective is still being met, and that is to get our public employees an alternative way to get their homes financed.

So, some of these comments and suggestions, for example, that STRS move cautiously, I think it would be hard to move more cautiously than PERS, and that the question of 2, to provide home loans below the market rate is something that could be justified when we think about the fact that the rate of return assumed for STRS is only 8-3/4 percent. Clearly, the kind of loans I would be talking about would be in excess of that amount.

In the 401(k) analysis that's in here that was handed out by Rebecca assumes a 10 percent rate of return. So, I don't think that we are necessarily throwing caution to the winds if we would seek some amendment in the laws that would make this program attractive to at least teachers.

I might say to STRS, I appreciate the fact that you have been much more sympathetic and anxious to implement such a program. So, I think it reflects the general need of teachers as it relates to other public employees to get such a program.

Having said that, the other points I might make about it are that I am trying to get costed an alternative program or tier, if you will, for our current difficulty, which involves a home loan program at a very good rate. Something on the order of 8 percent. So, I'm sure that -- I don't want to surprise anybody with that. Basically the plan is going to have at least this outline of provisions: That the teacher had to teach five years, then they would be qualified for an 8 percent loan of something around up to $100,000 mortgage; and that it would be a 20-year mortgage; and that upon retirement at age 65, the individual would be eligible for 1 percent per year of service, which is a substantially less generous program than even 1.7, but I might say that the teacher would then have a home paid off and would have saved several thousands of dollars each year they had such a mortgage and were paying it off.

I'm not trying to surprise anybody. I want you all to be aware of that. I'm not trying to sneak anything by anyone. And it needs to be jumped on, and beat on, and attacked in order for us to be sure we've thought of every possible contingency.

By the way, those loans would be not assumable if we can, by law, prohibit them from being assumed, and I think we can.

All right, Ms. Powell, then Jim. Did you want to say something?

MR. SLIVKOFF: Yeah, I'd like to say something when she's finished.

CHAIRMAN ELDER: Okay, this is on the home loan part?

MS. POWELL: Yes. I find the alternative you're talking about certainly interesting. It's my understanding you are getting cooperation from the STRS staff on that; right?

CHAIRMAN ELDER: Absolutely.

MS. POWELL: On coming up with a proposal.

It's interesting to me, because that the time that the original bill came through, and it went through the CTA Retirement Committee, and there's a couple of people here that will remember that, we were doing the Friday night look at legislation thing. And I almost got beat up on in trying, you know, to get the folks to either give an approve or support position over the issue of prevailing rate, because there was a great deal of concern in that group as to -- and it does say prevailing rate here. So, it'll be real interesting to see whatever creative thing between you and our staff that would come up that would be available in that regard. They really were very nervous about going anything but the prevailing rate because of the liability to the System.

CHAIRMAN ELDER: Okay, any comments on the home loan element here?

MR. SLIVKOFF: I'd like to react to this thing in two ways: one negatively, and secondly positively.

We started a home loan. I was a director and also President of the California Teachers' Federal Credit Union, and at that time we thought it would be great to have a home loan program for our members, credit union members.

But the one thing that we didn't take into account, or the staff didn't take into account, was the fact that the interest rates would go up so, and that's supposed to be kind of a money making proposition, so that made the home loans at 9 percent and at a 30-year fixed rate. And of course, we had to buy money at about 18 -- during the period of time of 18-19 percent. And of course, this made it very, very difficult for the credit union.

However, in this case, the one concern that I have, first of all, I think it's a great idea. The only problem that I think would be that here we're asking the STRS to do that, and none of them are expertise in this particular home loan situation. So, we'd have to have competent staff in order to do it.

CHAIRMAN ELDER: I might direct your attention to the fact that the bill provides that it would be done by mortgage lenders, not staff.

MR. SLIVKOFF: Oh, okay. That would take care of that problem, then.

Also, we set a rate so that it would be a slightly above, so that we could cover the cost of money later on. Because I would hate to have a home loan at 8 percent, for example, and later on it would cost the System and everything else about maybe 10-10½, and that would be my only concern.

So, I would hope that you would look at perhaps a variable rate rather than a fixed rate kind of proposal, because all other essentials that you've iterated, I think, are extremely well-stated and would bear out well under the program.

CHAIRMAN ELDER: Jim, I might indicate to you that the 8 percent rate of return is not, you know, cast in concrete; we might have to go to 9 or even 10 in order to make it fly. Just as we might be at 1.2 percent of final compensation, or 1.1, or 1 percent.

The thing that is important to realize is that the way I would justify the 8 percent is that a person getting a benefit at age 65, that we're talking about, could be fully funded with only an 8 percent rate of return. And in fact, that would be one of the requirements, because obviously, we don't want to be put into a position where that particular tier is not 100 percent self-funded within itself, and that's exactly the way it would be structured if it's possible to do. And we don't even know that yet.

So, in the case of the credit union, I did exactly the same thing, and my credit union had a very difficult time. I had an 8 percent mortgage with a 10-year amortization. And they ran out of mortgage money very quickly when the rates went up as high as you say, and they terminated the program. I am something of a celebrity in that credit union, because I got the largest single loan anybody ever had. Were I still with the City of Long Beach, a year from next March, my house would have been paid off, and my net worth would have been in that home a quarter of a million dollars. Whereas, the refinanced home that I've refinanced several times in order to stay in the Legislature, I have an equity of about $50,000. So, being a Legislator's cost me about $200,000 in lost -- our balance sheet figures there.

MS. POWELL: If you'd made all that money, you'd have had to become a Republican.

(Laughter.)

CHAIRMAN ELDER: I'll let the Republicans try to defend that one, okay? I don't think they want me.

Dorothy.

MS. MOSER: Welcome to the group. We would be very happy to have you.

MR. SLIVKOFF: Darn right!

CHAIRMAN ELDER: It's the pin-striped suit, folks.

MS. MOSER: In 1978, I got a mortgage on my home, and the rate is 9-3/4 percent. I realize what has occurred to interest rates in the meantime.

I am concerned a little bit about the proposal that's been brought forth. I am not at the point yet as to whether I can support or whether I would oppose it.

However, we must remember that in the teaching force, as in every kind of group there is, there are those folks who are unscrupulous.

CHAIRMAN ELDER: No!

MS. MOSER: You bet!

I believe that if you look at this and say you must taught five years, in the sixth year you can get your mortgage.

I've been doing some calculations, and it looks to me as if a person could teach six years, and walk away form the System, having saved something in the vicinity of 40,000 if they forfeit their retirement contribution, because they can't withdraw them and they have not arrived at the point that they can retire at any amount of money. They could have netted out about 28,000.

And I really need to look at this and do some calculations and some figuring, because I have some very grave concerns about those folks who could walk away from the System having done us, number one.

CHAIRMAN ELDER: If everybody did it, we would not have to pay any retirement benefits.

MS. MOSER: And we could close the schools, and no problems any more.

Then, also I would like to look at, if you have $100,000 mortgage, and you're to pay it off in 20 years, and the interest rate is 8 percent, what are the payments? And I know that's a very simple calculation that can be done. And I would be interested --

CHAIRMAN ELDER: It's $726.40; that's my guess.

MR. SLIVKOFF: That's about right, give or take 20 cents.

MS. MOSER: Those are my concerns.

CHAIRMAN ELDER: I think Mr. Hulse is going to give us an answer here.

MR. HULSE: It's 836.44.

CHAIRMAN ELDER: I missed it by 110 bucks; 836.44, of course you're talking about a $100,000 mortgage.

All the protections have to be built in, obviously. It can't be assumable; we couldn't allow someone who opted for that program to withdraw their contribution. I mean, that would really be adding insult to injury. And, you know, there will be a percentage of people that opt for that kind of a choice.

But there may be others are in, say, at your point, where you have a 9-3/4 percent mortgage, and you're saying: You mean I could get this for 8 and save 1-3/4 percent, and they would refinance their house; not a lot but some, and then opt for the lower benefit.

So, there'll be all combinations of those things, and we have to have enough cushion on the benefit to be able to fund those kinds of problems.

Carl, go ahead.

I don't want to -- I mean, this isn't even a proposal yet. It's just something I want done to try to see how the numbers come out. So, don't feel like this is your last shot at it, because it certainly isn't You may not get any shot at it because it may not be workable.

DR. KLUDT: I'm curious as to what the going rate is now versus 8 percent. Does anybody know?

MR. SLIVKOFF: It's 14.

DR. KLUDT: Thank you.

CHAIRMAN ELDER: That's pretty hard.

All right, any other questions? I'd like, then, if there are no comments or concerns relative to the home loan program, I think that my earlier admonition is that the staff will take back all of the comments that have been taken and faithfully recorded in transcript form, and put together a series of alternatives. And if you have an alternative you'd like them to look at and consider, I'd suggest you might want to talk to them personally about it; or some element you want to have costed because you'd like to see it added on as an ornament, or pulled out of an existing plan or proposed plan, get in touch with them directly.

I'd like to just open it up for discussion now on any general or specific points.

Carl, why don't you lead off?

DR. KLUDT: Well, the main thing I wanted to do was tell you that I'm getting the feeling of being kind of suspended, because I'm a decision-making type of person. And I hope in our next meeting we can start weeding out those things which maybe we shouldn't even worry about or consider, and get down to the nitty-gritty of real recommendations. Because I think we're going to find that's going to take some time.

What do we have, three more meetings?

MR. COX: Really two more, Mr. Chair, if you're going to make a presentation to the joint legislative group. You have the October 15th-16th, and then November 7th and 8th. Two more meetings really.

DR. KLUDT: I think we've had a good iteration of all these areas, but I would like to start now thinking about zeroing in on hard, fast recommendations.

CHAIRMAN ELDER: All right.

DR. KLUDT: That's just my suggestion.

CHAIRMAN ELDER: I didn't mean to, but I glossed over this smaller volume, which has a couple of sample-type recommendations.

If you will look at this and see Proposal B is a two-tier. On B-5, you can see the various elements of a 1.7 percent program at age 65 with a 3 percent COLA listed out. And you can see that as compared to 19.56 percent, such a program costs 16.82 percent; that's Proposal B.

Proposal C is 1 percent at age 65, and this particular program costs 8.56 percent.

MR. COX: Plus Social Security.

CHAIRMAN ELDER: Plus Social Security, which would be 14. This would only be recommended in the event that the districts opted for Social Security.

But you can see what 1 percent at 65 does cost, and that's on C-5.

So, there are some sample programs. And what I would envision is that what has been taken in as testimony here, plus what we might say to the staff independently, will be cast in a series of alternatives, much along the format of the smaller report for next time.

Judy.

MS. POWELL: A couple of things, I would certainly agree. And I would add to what the Chairman has already said about the quality of the work product. I'm extremely pleased with it.

I think we all commend all the people that worked on it, with the exception, of course, of Tom's typo. I thought it really was very, very good.

I suspect also that a number of us probably need -- at least I probably do, and there may be others here, I sense --to spend between now and the next meeting spending more time reviewing the work product actually, and going over it, and coming up with all of any other questions that we haven't raised yet.

I happen to have a question on the short report on Volume I.

Wes, I guess this is directed to you, I don't know, or start through Dave Cox. But would you say that your estimates here on percentages were geared towards the lower or the higher side, particularly on Proposal B, Page B-5? How would you characterize them? Would you say those are high estimates, low estimates, what?

MR. HULSE: I think the estimates are -- the ultimate cost of the program is probably a little on the high side, if anything. We've tried to be a little conservative. Also the fact that each element was priced by itself without taking into effect the integrated approach of the other features. And so, you get them all merged together and there is a somewhat different reaction, but we have high hopes that if we're wrong, we may be a little on the high side in overall cost.

MS. POWELL: That's what I thought. I just wanted to be sure we all understood that probably you were being pretty conservative when you did these; right?

MR. HULSE: That was the attempt.

MS. POWELL: The other question I have is that I asked -- I requested that we also be able to have copies, because I don't know if any of us could locate them, unlike Mr. Felderstein, who's able to find stuff in his office no matter what, the sample we had, the model we had last time. I think, Wes, you have those. And a couple of us were discussing this during the lunch break that it would just be useful to have together with this so that we could, in fact, compare some of the components that were presented that time with the components of these models.

MR. HULSE: Yes, I have some. Unfortunately, in changing over in the office this morning, I ended up only bringing up 8 of them rather than bringing the full 12 of them with me. I was transferring back and forth between brief cases, so I left them in my desk.

MS. POWELL: I can always pick one up at the office, and so can Dorothy.

MR. HULSE: I'd be happy to send them out to those people who don't end up with one today, but I do have 8 of them with me.

MS. POWELL: This was the model.

CHAIRMAN ELDER: I was just curious. One of those elements was .18 on the 10-year vesting. Where did that go? I don't see it here.

MR. HULSE: That's because neither one of these proposals dealt with the concept of changing vesting. These particular proposals made here do not include the vesting recommendation.

CHAIRMAN ELDER: So, if you put that in this one, it would go down by .36?

MR. HULSE: I think the consensus of the Panel yesterday was, they only wanted to change the vesting time for service retirement, which would be .26, not change disability.

CHAIRMAN ELDER: That's true, so 26 off of 82, that's 16.82. And I presume that would be the case over here in this other C-5 costing element, too; is that right?

MR. HULSE: No, the relationship there, because of the other change, I didn't actually cost that one, but it would probably be more in the neighborhood of .12.

CHAIRMAN ELDER: So, 10-year vesting would be less expensive in this one?

MR. HULSE: Yes, because the overall program costs are lower.

CHAIRMAN ELDER: But you're going from two-tier, I mean from the current tier at 5 years to this.

MR. HULSE: But we adjusted them down the way, and I'd only be dealing with the remaining -- with the 1 percent program, changing from vesting at a 1 percent program from point to another, rather than changing a 2 percent program on the vesting requirement.

I say, we didn't actually cost that particular feature, but that would be my guess at the moment, that it would be something in the neighborhood of half.

CHAIRMAN ELDER: So this difference, you show 19.56 at the top, which is your comparative, and you're saying you're not striking the .26 out here.

MR. HULSE: I don't believe so.

CHAIRMAN ELDER: Would you look at that and see --

MR. HULSE: I will, but I think that we did draw some lines that might vary that a little bit.

CHAIRMAN ELDER: If that were the case, then this one would be a very minuscule cost benefit of 8.3 percent as opposed to 8.56, which is already very lean and very mean.

MR. HULSE: The teachers will agree with you.

MR. DOCTER: I just wanted to make -- I think in the course of our discussion yesterday, we implied, or a rereading of the transcript may imply, that we walked away from a concept of integration with Social Security. And that seemed to be the general feeling.

I'm not so sure that we didn't do that a little too rapidly. If one looks at the amount of payout of the current System, 2 percent at the end of the normal retirement, and assume some normal salary that then might return a person somewhere in the range of $18,000 a year.

The Social Security system, with the 14 percent contribution rate between the two, would turn somewhere in the range of $14,000, plus would have built-in escalation, plus would have medical, and if we took the difference in 2 percent and invested that in some sort of 401(k), we may come very close to what the current System is.

I'm not suggesting that we may want to end up there as much as we might not want to dismiss it quite as much as we seemed to yesterday.

CHAIRMAN ELDER: Why don't you fellows run that alternative and see what happens. So, we would be at 14 percent Social Security, and then 2 percent on top to the benefit of the teacher, for their own account in a 401 program. See what that generates over time.

If you have an alternative you'd like to see analyzed, I think this is the time to get it out, because I think what you're going to see at the next meeting are alternatives seriously being discussed and presented by staff based upon their reading of our comments today and yesterday.

We're going to get around to you, Jim, and coming around here, are there any other comments? Liz, you look like you're about to say something here.

MS. COOPER: No.

CHAIRMAN ELDER: Dorothy.

MS. MOSER: A couple of things. At lunch, Jean questioned if we changed the retirement age to 65, this would, of course -- and made it normal retirement -- disability ceases at the time of normal retirement age. And so, currently disabilitants are theoretically less than 60 years old.

Is there some way that one could estimate the additional number of disabilitants we would have because normal retirement age is 65 and not 60?

We are aware that there's a lot of wearing out between 60 and 65, and would this increase our load of disabilitants?

Secondly, in order to have some information that I think would be helpful to us, I would like to know the average age of retirees in the pre-Barnes era during the one-sixtieth formula, year by year, and then post-Barnes year by year. The average age of retirees.

And another thing that we discussed at lunch --

MS. CURTIS: Excuse me, not the retirees, but what they were when they retired.

MS. MOSER: The age at which they retired, yes. Thank you for making that clear.

We also discussed that in the law now, there is a provision that deals with people who enter teaching, enter the System, at age 45 or later. All people must declare disabilities they have as they enter teaching. If I lost an arm in an accident and I become a teacher, I cannot later apply for disability because I don't have that arm. And that applies to everyone new coming in.

And if you are 45 or more, your disability, you vest for it in 5 years, but at the fifth year, you are eligible for 5 percent for each year. So, at age 50, you would be eligible for

25 percent, and at age 55, you would be eligible for the 50 percent payment under current law.

What would be the effect if we removed that age 45 and made that disability requirement for everyone: vest in 5 years, but then from the fifth to the tenth year, you're talking about 5 percent per year?

And we know that's legal for new entries into the System, and I would like a legal opinion about can you do that sort of thing for people who are vested currently? Or people who are members of the System currently but not vested?

CHAIRMAN ELDER: I think they're going to work on that.

Carl, you had something you wanted to say?

DR. KLUDT: Unfortunately, I had to miss the last meeting, and I'd appreciate copies of anything that were passed out at the last meeting. I'd like to have a priority, if I could. Thank you.

CHAIRMAN ELDER: Any other comments? I mean, you don't have to make a comment. It wouldn't be the worse thing that ever happened if we got out of here early.

MR. SLIVKOFF: No, I reiterated this before. If we're talking about, as Ken mentioned, about taking a look at Social Security again, I again have the misgivings about that, but I think that we should really investigate what it would cost the state to get in that system so that we're realistic with that kind of cost.

And again, what ultimately, if we project, since Social Security started at 4 percent and it's now 7, what is the projection going to be 10 years form now, 15 years from now? You can't look at 7 percent. It's going to be more like 9 perhaps, or 10 percent in another 15 years, if the system is still available to its membership, you know, in the year 2000.

So, that's the only caution I have about that, if we're going to study it, we better look at the long-range implications of that system as well, because I think they're in a heck of a lot worse trouble than we are, because we can project ours to 40 years, and theirs is on infinitum.

That's my caution.

CHAIRMAN ELDER: Mr. Felderstein.

MR. FELDERSTEIN: On the subject of Social Security again, several entities that have gone two-tier have gone on a system where they provide Social Security as the primary insurance amount, plus a piece added by the retirement system, to add up to a certain percentage of final compensation.

For example, Los Angeles Tier E, as I understand it, provides that Social Security plus the retirement benefit will equal 2 percent at age 65, or something like that. And Contra Costa is using something where the retirement system amount is added to the Social Security amount to equal some kind of final comp equivalent. This is an integrated plan rather than a supplemental plan.

I just wanted to ask the Panel's staff to, if an integrated plan is going to be investigated, to look into some of the problems that other entities are having in using that.

CHAIRMAN ELDER: Well, I would just caution you that we had a hearing on that, and you get into a real difficult time telling a potential retirant how much they're going to wind up with, and that is really the problem. Because when they say: Well, how much am I going to get? And then the answer is: Well, you tell me what Social Security's going to be and then I can tell you. That's where the problem is.

What I think you have to do is, if you do Social Security within the constraints that we find ourselves here, we talk about a specific amount of money that's available and earning interest, which will produce so much income.

Another alternative is to say a defined benefit in terms of $100 per month and see how that shakes out. If a person can say: Well, I'm going to get $812 a month, or it's today's cash equivalent of that, plus Social Security, then they're in a much better position to judge if that's a prudent decision or not.

But to have some percentage, it gets real hard when you're trying to tell where Social Security's going to be at some point in the future.

MR. FELDERSTEIN: I also wanted to congratulate the staff on a job very well done.

CHAIRMAN ELDER: I was going to wrap up with that, and kudos are in order even for those people who found it necessary to leave, because I know that they made a contribution. The fact that, perhaps, their recommendations were not accepted should not be viewed as something that is bad. Rather, their deliberations and thought and detail here contributed to our ability to sort out alternatives. And that is a very useful work product.

MS. POWELL: Relative to the issue of staff, I feel constrained to see that it is in the record that the Chair and the Vice-Chair of the State Teachers' Retirement Board do not concur in some sentiments that were expressed here yesterday that characterized the staff of STRS as incompetent, and the Board itself as irresponsible.

Ms. Moser and I feel that we have some outstanding staff, and while we might have individual opinions about some of the Board members, we don't really feel it's fair to characterize our Board as irresponsible.

CHAIRMAN ELDER: Well, I think the reading of the record will suggest a somewhat less abrasive characterization. I was exercised about someone who was on disability and retirement, who had had open heart surgery and not able to cut a check for him in 27 months. And I felt and do feel that that's an unacceptable level of performance by whomever is responsible for it.

Again, I would indicate that I am very pleased with the progress of this work product and in the short period of time available to all of you. Many thanks and congratulations on truly a milestone report.

We are all very busy people, and I know sometimes you think that we don't look at this, but it wouldn't take you very long in looking at the work product here to be convinced that a great deal of time, and effort, and energy, and talent is represented by what's written on these pages.

So again, thank you one and all for your effort, and Leg. Counsel, I appreciate your attendance and bearing with us through this what must be from your view a very tedious process.

MR. COX: Mr. Chair, could I make just two quick comments.

Tomorrow is Bob Roberts' birthday. I think the Panel should be aware of that.

(Applause.)

CHAIRMAN ELDER: Congratulations, Mr. Roberts, in advance of your birthday.

MR. COX: Mr. Chair, I'd also like to ask the Panel to consider the possibility of scheduling a meeting jointly with the State Teachers' Retirement Board sometime prior to the joint PE&R Committee meeting; maybe the day before or possibly the week before.

CHAIRMAN ELDER: Certainly, if it can be worked out and everyone's kind of strained to the scheduling limits, but I think that's appropriate and well-advised. So, let's try to get that worked out if we can.

MS. CURTIS: I had hoped that we would have -- I thought we were going to have a closed session this afternoon, and I was going to ask this question then, but since another meeting yet has been scheduled -- when we initially started meeting, I either thought I heard, or somebody said, we discussed districts being compensated for people who had -- teachers who had to be here.

Since that point in time, I was informed, I guess more or less, that it is expected that they will not be compensated.

I would like to ask, number one, for clarification on that. And not only that, I would like to have a letter from the Chairman of this committee to my school district telling them what they may expect, since it's kind of sticky right now.

CHAIRMAN ELDER: Mr. Cox, do you have anything to add to that?

MR. COX: No, other than we ran the question as to the feasibility of a closed session by Legislative Counsel, and they advised against it, stating that the Panel would be in violation of the Open Commission Act.

MS. CURTIS: My question was not about a closed session.

CHAIRMAN ELDER: Mr. Cox, you were going to get to the point of reimbursement to the school district?

MR. COX: No, I have nothing to say on that matter. I wasn't aware that that was an issue that was still open.

MS. MOSER: As Chair of the Operations Committee of the State Teachers' Retirement System Board, when we planned to fund this Panel, part of the planning was to reimburse district. It is a part of the state law.

The law provides in what manner, you know, the state pays for the substitute or something. And I am sure that Mr. Roberts can check and find out what the procedure is we use at the State Teachers' Retirement System, and that we can provide a letter for you or your district as needed. And they will also be informed about the method of payment and the method for billing.

This is a standard operating procedure, and apparently it has kind of slipped through the cracks. But it certainly was expected to come out of this Panel's budget.

CHAIRMAN ELDER: Jean, we'll put it in writing, whatever the answer is.

What can I tell you? I assumed, like you did, that it was going to be paid. It's something, I guess, that Mr. Cox will advise me of so I can put it out in writing to whomever the appropriate people are.

MS. CURTIS: Both I and the Compton Unified School District would appreciate that. Thank you.

CHAIRMAN ELDER: With that, this session is adjourned, and thank you all for your attention and patience.

(Thereupon this Meeting of the ACR 62 Study Panel was adjourned at approximately 3:25 P.M.)

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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Study Panel Hearing of the ACR 62 Task Force was reported in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of October, 1984.

Evelyn Mizak

EVELYN MIZAK
Shorthand Reporter