

In The Matter Of:
BEFORE THE INDEPENDENT CITIZENS COMMISSION
Public Hearing Comments

March 2, 2015

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BEFORE THE INDEPENDENT CITIZENS COMMISSION

March 2, 2015
10:00 a.m.

A P P E A R A N C E S**COMMISSION MEMBERS:**

Mr. Larry Ross, Chairman
Mr. Chuck Banks, Vice Chairman
Mr. Mitch Berry
Ms. Brenda James
Mr. Stephen Tipton
Ms. Barbara Graves
Mr. Stuart Hill

LEGAL COUNSEL FOR THE COMMISSION:

Mr. Brandon Robinson
Assistant Attorney General
Arkansas Attorney General's Office
323 Center Street
Little Rock, AR 72201

ALSO PRESENT:

Ms. Melanie Jenkins
Auditor of State Office

LOCATION:

University of Arkansas System Administration Building
Board Room
2404 North University Avenue
Little Rock, Arkansas 72207

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P R O C E E D I N G S

CHAIRMAN ROSS: It's about 10:00. I believe we'll call our meeting to order. And let the record reflect that Commissioner Banks and Graves and Tipton and Berry and James and Hill and Ross are all present as we open our meeting for public comment. I want to call, first of all, on Counselor Robinson to make an introduction and then we will proceed with our meeting.

ATTY. ROBINSON: Thank you, Mr. Ross. I think I've told most of the Commissioners but I am leaving the Attorney General's office to go to a different position, at UAMS, and so today is actually my last day. So I want to take this opportunity to thank you all for all your hard work and dedication. We came in and really started this with not a lot of guidance. And I know you all have worked tirelessly to do this with very -- you know -- with the motivation I know is purely public service and doing the right thing, and so I want to thank you all for that. Because it's kind of sad, you know, because I know we went through some hard, hard meetings and we've done a lot but -- so I wanted to thank you all. And I want to introduce my replacement, who is my supervisor Amy Ford. Senior Assistant Amy Ford is

1 going to be taking over representing the Commission
2 and I've brought Amy up-to-speed and after today she
3 will be ready and willing to help you all get this
4 process completed.

5 CHAIRMAN ROSS: Well, on behalf of the
6 Commission let us thank you for your wise counsel, as
7 was stated in our last meeting. We had no idea that
8 you were moving on but we bid you Godspeed and thank
9 you for your input in how we've been able to thus far
10 come. So, Commissioners, will you join me in giving
11 Counsel Robinson a hand for all his hard work?

12 [APPLAUSE]

13 ATTY. ROBINSON: Thank you.

14 CHAIRMAN ROSS: And also welcome to you,
15 Attorney Ford; we welcome you.

16 Thank each of you for being here today. As the
17 Independent Citizens Commission opens our meeting for
18 public comment, our goal is to achieve reasonable and
19 commonsense paths to a new day and a new way of
20 setting salaries for elected officials in the state
21 of Arkansas, according to Amendment 94. This
22 Commission agreed from the outset that there will be
23 an honest and transparent process with public input
24 as we consider appropriate salaries. Pertinent data
25 was presented to the Commission regarding our task.

1 Moreover, the initial report was based on the data,
2 much discussion, and much debate. The data included
3 the overall economic condition of the state of
4 Arkansas; it compared like states, various and sundry
5 ways, which included relative to population, cost of
6 living, per capita personal income, net state
7 revenue, net state expenditures, gross domestic
8 product, and other significant data. All data
9 presented to the Commission has been on the
10 Commission's website for your review, and that's
11 www.citizenscommission.ar.gov. Please note our final
12 report will be presented and voted on at our next
13 scheduled meeting. Tentatively, right now that's
14 March 13th, and that may change, but it will be here
15 in this same room, at this same locale.

16 Please sign in on the sign-in sheet in order to
17 speak today and you will be called to speak for five
18 (5) to seven (7) minutes or less. We welcome your
19 comments; we welcome your remarks; we welcome your
20 input. So having said that, I see that we have two
21 names thus far. There's another sheet that's there,
22 according to Ms. Jenkins, that you can sign in on and
23 she will get the sheet to me.

24 Our first presenter or person for remarks will
25 be Mr. Scott Minton. And, Mr. Minton, you're

1 recognized, if you would come and take a seat over
2 here, and we are all ears.

3 By the way, as Mr. Minton comes, we also have
4 received over the website several electronic
5 comments, and I have copies of that, as well as on
6 the website you can see all of the comments that were
7 submitted, as well as our minutes and our agenda and
8 audio files and the whole nine yards.

9 SCOTT MINTON

10 CHAIRMAN ROSS: Mr. Minton, you're recognized;
11 welcome.

12 MR. MINTON: Thank you. Thank you. Well,
13 before I comment on the recommended pay raises I've
14 got a couple of things I'd like to say. First of
15 all, it astonishes me that there are only three
16 people that have signed up to comment here today, in
17 light of the newspaper articles and everything else
18 and the people I've talked to about this. That
19 astounds me that more people aren't willing to come
20 forward and state what I hear the general public
21 saying about these recommended raises. It just -- it
22 absolutely floors me that there are not more people
23 here to say what they think about this, based on them
24 telling me what they think.

25 I just have a couple of things I want to get

1 clear in my mind. I've read this House resolution
2 deal, 1009, and, if I understand it correctly, the
3 seven of you are appointed to a term of four years.
4 Is that correct?

5 CHAIRMAN ROSS: (Nodding head up and down.)

6 MR. MINTON: And you can serve two terms if
7 you're so willing?

8 CHAIRMAN ROSS: (Nodding head up and down.)

9 MR. MINTON: Two of you are appointed by the
10 Governor -- by the way, was this the past Governor or
11 the present Governor?

12 CHAIRMAN ROSS: Former Governor.

13 MR. MINTON: The previous Governor, Governor
14 Beebe. Okay. Two of you are by the president pro
15 temp, two of you are by the Speaker of the House, and
16 one of you is by the Chief Justice. Is that correct?

17 CHAIRMAN ROSS: (Nodding head up and down.)

18 MR. MINTON: And then you -- in turn you set
19 their salaries. Is that correct?

20 CHAIRMAN ROSS: (Nodding head up and down.)

21 MR. MINTON: It is. Okay. Along with -- well,
22 14 different positions; you set salaries of the 14
23 positions. And you're paid \$85.00, according to this
24 document, per day or per meeting or et cetera up to
25 that amount?

1 CHAIRMAN ROSS: (Nodding head up and down.)

2 MR. MINTON: Okay. Well, I want to read Section
3 -- I don't know if I'm quoting the section right or
4 the paragraph right or what. But anyway, on page 14
5 of the Resolution I'd like to read this: "When
6 considering whether or not to adjust a salary for a
7 position under Subsection B" -- in other words, the
8 salary that you're going to regulate -- and you have
9 alluded to that, Larry -- "the Independent Citizens
10 Commission shall include in its considerations the
11 overall economic conditions of the state at the
12 time." And you alluded to some of the things that
13 you consider. One of the things I want to know is:
14 did you consider the average pay raise of the average
15 citizen in this area when you considered the
16 recommendations that you've made? Did you consider
17 the average pay raise of the working taxpayer when
18 you thought about this? Well, did you consider it?

19 CHAIRMAN ROSS: (Nodding head up and down.)

20 MR. MINTON: You did. Okay. According to -- I
21 don't know how many people I've talked to, probably
22 50, 60 people individually since I started reading
23 this in the paper and talking to various people about
24 it. But the average pay raise of the average
25 citizen, according to the number of businesses I've

1 talked to and everything, over the past five years
2 would be somewhere in the neighborhood of 3% at best.
3 I didn't find anybody in business that gave 10%
4 raises or anything like that; it was around 2% to 3%.
5 Several people didn't give any -- but about that
6 amount. Now I guess my point is, is given that
7 consideration what is the justification -- what is
8 the justification for recommending pay raises for the
9 legislators of 148%, the present pro temp increased
10 150%? What is the justification and the rationale
11 for such a recommendation? Would any of you comment
12 about that? Mr. Berry, would you have a comment
13 about that?

14 COMMISSIONER BERRY: I would like to comment.
15 Did you come to any of our other meetings?

16 MR. MINTON: Did I attend any other meetings?

17 COMMISSIONER BERRY: Yes.

18 MR. MINTON: No. I just read the papers and --

19 COMMISSIONER BERRY: Well, it would be hard for
20 any of us to summarize what we've considered. You
21 know, we had -- I don't know how many meetings we
22 had, 10 maybe, you know, where we went through a lot
23 of information, heard a lot of presentations. And so
24 if you want to know what we considered that's all on
25 our website and I would encourage you to take a look

1 at that.

2 MR. MINTON: Well, I tried that and I finally
3 got on it. It was very difficult to get on the
4 website for me. Maybe I'm not good at typing or
5 something. But several times I went exactly like it
6 said to type and I'd get cut off and run off to
7 somewhere else or can't do it now or the system is
8 down or something, but I finally got it and I read
9 the comments about it. I guess back to my point: it
10 seems extremely out of good judgment to me and the
11 people I've talked to that we would recommend raises
12 in the area that have been recommended given the
13 general economic position of people that work in this
14 area and what they make and what kind of raises
15 they've gotten. In my judgment, it is not sensible
16 to keep increasing the government pay, paid to
17 government workers, to the extent that we are. It
18 don't make sense; it's not fair and it does not make
19 sense. And I see comments by Representative Hendren
20 and he says it was shameful. A number of the
21 newspaper articles have said it's ridiculous. And I
22 guess I've said about all I can say.

23 CHAIRMAN ROSS: Thank you, Mr. Minton.

24 MR. MINTON: Thank you.

25 SCOTT TROTTER

1 CHAIRMAN ROSS: The next person who is signed up
2 is Mr. Scott Trotter. Mr. Trotter, welcome; you're
3 recognized.

4 MR. TROTTER: Thank you very much. I appreciate
5 the opportunity to speak and also to debate a little
6 bit. I welcome any public debate on the subject of
7 these salaries because I think they're very
8 important. I come to speak in favor of the
9 recommendation, the initial recommendations that
10 you've made on salaries and expense reform. Even
11 though they are moderate as far as the salary, it's
12 just a little bit less than what in some instances I
13 recommended when I came before you back on I think it
14 was January 28th. Let's keep in mind that the
15 salaries, other than some few inflationary increases,
16 have not gone up since the voters approved Amendment
17 70 back in 1992. That's a long time without
18 improving the salaries. Even with Amendment 70 in
19 '92, they were still very, very, very low in
20 comparison to the rest of the country. They remain
21 -- they remain very, very low in comparison to the
22 rest of the country as of this day, as we sit here.
23 And I wanted to just sort of point out a few things
24 that I've noticed in the public debate. I looked at
25 the website, I looked at the public comments that you

1 referenced, Chairman, and I feel like there's
2 probably some misperception and some misinformation.
3 Most of the public commenter's are just referring to
4 the amount of the increase, but they're not looking
5 at the reasons why. And I wanted to mention the
6 reasons why as I understand it. First of all, with
7 regard to the legislative increases, I believe that
8 essentially what you have done is to provide for the
9 legislators an inflationary increase, CPI increase,
10 that they did not get over the years, since '92. And
11 I think that you also gave them some credit for the
12 fact that since '92 an extra legislative session has
13 been added that they have to attend, which is the
14 fiscal session in every even-numbered year. And then
15 you also have recommended doing away with the home
16 office expense, which can be up to \$14,400 a year,
17 and in essence the way I comprehend what you've done
18 is that you've rolled that into the salary. And so
19 that's roughly, in my mind at least, how you get to
20 the level that you recommended for the legislature.
21 And I'd like to mention that I was very fascinated
22 with the Democrat-Gazette story yesterday, written by
23 Mr. Wickline. And he put in his story a few facts
24 that are very revealing, I think, with respect to
25 overall increases with respect to the legislature.

1 He mentioned that the total legislative salaries with
2 the increase that you've recommended would be about
3 \$3.94 million per year. That's the salaries
4 themselves. He also mentioned that the current
5 overall salaries for all members of the legislature
6 is about \$1.58 million. He also mentioned that in
7 doing away with the office expense that that amounts
8 to about \$1.16 million per year in savings; \$1.16
9 million in savings with those home office expenses
10 eliminated. So one way of looking at this is that
11 the overall net increase for all legislative salaries
12 would be about \$1.2 million a year and you can look
13 at it that way from the Senate side too. The total
14 Senate salaries, \$1.38 million. Right now, they are
15 \$557,000 total and eliminating the home office would
16 eliminate and have savings of about \$445,000. And
17 so, once again, another way of looking at it is that
18 the net overall increase for Senate is about
19 \$377,000. When you put it in that perspective and
20 you get a little bit better educated about some of
21 the reasons for doing this then I don't think that
22 there is cause for condemnation and outcry from
23 members of the public. And, frankly, there's been
24 very little public discussion, very few members of
25 the public who have come here to express their

1 opinion. And, frankly, there are not that many
2 comments on the website either when you consider the
3 population that we have. So I think you've done a
4 good job, a good thorough job, and that you have
5 considered a lot of useful factors in reaching your
6 decision, because I have attended a lot of the
7 meetings or had someone attend on my behalf and I've
8 tried to track what you've considered and the debates
9 that you've had.

10 On the executive salaries, I believe that
11 essentially what you attempted to do was to look at
12 surrounding states, nationwide average, look at
13 states that are similar in size to Arkansas and so-
14 on, and you tried to bump the salaries up to make
15 them, you know, something a little more comparable
16 with what we see elsewhere in the nation, instead of
17 being, you know, in some instances, at rock bottom.
18 And when you did these increases you understood that
19 in this particular instance you had the latitude this
20 first time around to increase salaries to go ahead
21 and bring them up to a reasonable level, whereas in
22 future years you will be limited to no more than a
23 15% increase. And I for one recommended that you go
24 ahead and try to get the job done now, this first
25 instance, to get them up to a reasonable level

1 because they have been so remarkably low for so many
2 years.

3 On the judge salaries, I didn't speak to them as
4 much as I did the others. I did express support for
5 the Judge Association presentation that was made to
6 you with that handout that referenced that the judges
7 did not always receive a COLA or a merit type
8 increase the way other state employees did over a
9 certain period of years. And so that presentation
10 was persuasive that maybe you should go back and
11 consider increases that would reflect that type of
12 change that other state employees got. And my
13 understanding is that, roughly, you have listened to
14 that presentation and based your judicial salaries on
15 those facts.

16 Anyway, I commend you for what you're doing. I
17 know -- because I was the one who authored Amendment
18 70 and campaigned for it, I know that increasing
19 salaries can create some passion in some people. But
20 back then, the people approved Amendment 70 and it
21 took the Governor from a \$35,000 salary up to \$60,000
22 all at one time and the voters approved it. They
23 approved Amendment 70 by about a 57% vote in favor
24 of. And so I would encourage you to stay-put with
25 your proposals. I think they're reasonable. I think

1 that you've been very deliberate. And, again, I very
2 much appreciate you listening to my suggestions.
3 Thank you.

4 CHAIRMAN ROSS: Thank you. Are there others who
5 have signed up? All right.

6 RICK

7 CHAIRMAN ROSS: Mr. Rick, welcome, sir. And
8 you're recognized.

9 MR. RICK: Thank you. I only had about 20
10 minutes to prepare for all this; I just got wind of
11 the majority of this today. So you'll have to excuse
12 me, I don't have any prepared speech or prepared
13 numbers so-to-speak. As far as finding out the
14 information, yeah, you bet, it's difficult to get
15 onto the site, to even figure out where this took
16 place. It took me awhile to find it. What I'm
17 seeing here is a bunch -- is some -- a bunch of
18 people who claim to be citizens -- an Independent
19 Citizens Commission and not one of you were voted;
20 you were assigned by the judicial -- the Governor,
21 Senate and the House. And the first thing you guys
22 did was walk up in here and double their pay rates.
23 You guys weren't even trying to be subtle. The first
24 thing out the door you came in here and did was
25 double their pay rate. We've got educational

1 problems; we've got people having -- we've got
2 children having to be put into classes because we
3 have less teachers, we don't have money that can go
4 into education; we've got road issues; we've got so
5 many issues that this money needs to go to, and the
6 first thing you do is double the pay rate of people
7 making, some of them, hundreds of thousands of
8 dollars a year, and we want to double that. All
9 right. Again, without being able to actually make a
10 prepared speech, there's only one thing I'm going to
11 leave this room by saying: scam, cheat, shenanigans,
12 every one of you. You guys are cons. And although
13 not many people are aware of it, those who do see it
14 see you for what you are. So just be -- just take
15 note of the fact that we did pay attention. Have a
16 nice day.

17 CHAIRMAN ROSS: It is a public comment session.
18 Our next --

19 MR. BANKS: Is he a lawyer?

20 CHAIRMAN ROSS: There's nothing on here.

21 JUSTICE KAREN BAKER

22 CHAIRMAN ROSS: Our next registered individual
23 to speak is Karen Baker. Ms. Baker, you're
24 recognized.

25 JUSTICE BAKER: Thank you, Mr. Chairman. First,

1 I'd like to introduce myself to you. Some of you
2 I've met; some of you I haven't. My name is Karen
3 Baker and I'm an associate justice on the Arkansas
4 Supreme Court. And before I say anything else, I'd
5 like to express to you my appreciation for the job
6 this council has done at looking at the situation in
7 our state. And unlike the two previous speakers, I
8 feel like I can be assured that you have considered
9 all of these issues very carefully because I have
10 listened to every one of your -- I was able to find
11 your website and I listened to every one of your
12 sessions, the audio from them. So it didn't take me
13 -- well, I would say it took me as long to do so as
14 it took you to have those meetings, so I have a real
15 appreciation for the amount of time and effort the
16 Commission has put into this endeavor and time away
17 from your lives, your work and your family to
18 consider these things. My family wasn't very
19 thrilled with this as an activity, listening to the
20 meetings of the Commission, so I got to do that
21 pretty much by myself; they didn't want to enjoy
22 that.

23 Let me say also that I am here speaking only for
24 myself. I know members of the Judicial Council have
25 been here to address you about issues concerning

1 judicial salaries and discussed with you the fact
2 that Arkansas judges, particularly in the last
3 several years, have been left out when there have
4 been pay increases to other state employees and
5 COLA's to other state employees that we did not get.

6 Speaking once again for myself, I'll tell you
7 the background from which I speak. I began 20 years
8 ago as a circuit judge in this state and so I spent
9 many years on the -- six years on the circuit bench,
10 and so I have a very great appreciation for the very
11 hard work that our trial judges do. And I want to
12 thank you for your consideration of raising their
13 salaries. I think it was something that needed to be
14 done, or making the recommendations, the proposed
15 recommendations, I suppose. Nothing is final yet,
16 but that you have made the proposed recommendations
17 that you have regarding their salaries for the
18 circuit judges and the district judges. And
19 following my service on the circuit bench I spent 10
20 years at the Arkansas Court of Appeals and in 2010
21 made the decision to run for the Arkansas Supreme
22 Court and was elected and have been serving on the
23 Supreme Court; this is now my fifth year on that
24 court. So I feel like I have a pretty wide range of
25 experience in the judiciary. I have served at almost

1 every level, not as a district judge but as a circuit
2 judge, a Court of Appeals judge, and at the Supreme
3 Court. And what I would like to comment on
4 specifically, other than to say I'm very grateful and
5 appreciative that you've looked at the salaries that
6 are available and looked at the comparisons to other
7 states, and I know that you've undertaken that with
8 judicial salaries and that you've also considered the
9 fact that cost of living increases haven't taken
10 place with great regularity to the judiciary over the
11 years, and particularly the last few years.

12 And I would just in regard to my comments like
13 to provide something to the -- if I can keep myself
14 organized here -- to the committee, if I might, Mr.
15 Chairman Ross? He can hand them out.

16 (COURT REPORTER'S NOTE: Mr. Robinson passes out
17 Justice Baker's handouts.)

18 JUSTICE BAKER: I don't know that I kept one
19 exactly like what you're being given, but what I am
20 --

21 (COURT REPORTER'S NOTE: Mr. Robinson gives a
22 handout to Justice Baker.)

23 JUSTICE BAKER: Thank you, thank you, as long as
24 we have enough for everyone. What I would like to
25 ask for your consideration -- I was somewhat

1 reluctant to do this because it's not as if I feel
2 it's a matter of "ask and you shall receive," because
3 I know that you have been more deliberative than
4 that. But I also know that if you don't ask you're
5 very unlikely to receive, so -- and so I bring you
6 this for your consideration and know that we will be
7 happy that you have done what you've done in
8 proposing the salaries for the trial court judges,
9 the district judges, the circuit judges, and the
10 appellate courts as well. But in making the proposed
11 recommendations that I've given you what I
12 specifically wanted to address are a few items that
13 the Commission I don't believe discussed in their
14 meetings. I know that the comparative states that
15 you selected were selected on the basis of their
16 population and their governmental structure and other
17 factors, like the rural or urban character of the
18 states and the populations, the per capita income
19 comparatively to Arkansas -- and you've picked states
20 that you felt would be the most like Arkansas to do a
21 comparison; states that had a bifurcated legislature,
22 for instance, as Arkansas does. And in that regard,
23 I have in the last several days found out more about
24 the court systems in these five states than I had
25 ever thought that I would need to know in comparison

1 to Arkansas. And I found that in a lot of regards
2 they are similar, but in the way their high courts
3 work they are dissimilar. While their legislatures
4 may function in much the same way Arkansas' does,
5 their court systems are really very different. And,
6 for instance, of all the states that have been used
7 as comparisons for Arkansas, their justices at the
8 Supreme Court level are chosen by appointment and
9 followed by some form of retention election, and it
10 varies by state. The court structure itself is
11 different in most instances. I've tried to outline a
12 little bit of that but -- for instance, two of the
13 states, their high court justices have six-year
14 terms; in Louisiana, they have 10-year terms; in
15 Missouri, 12-year terms; followed by some type --
16 they are initially appointed followed by some type of
17 retention election in those states, other than
18 Louisiana. In Louisiana, the justices are elected
19 but they are elected one each; there are seven
20 justices there as well. They are elected one each
21 from various districts within the state. In contrast
22 to that, in Arkansas, our Supreme Court is elected in
23 statewide nonpartisan elections. And for that reason
24 I think that that's considerably different in terms
25 of what it costs personally and financially to seek

1 the office of the Arkansas Supreme Court. I was at
2 the Court of Appeals when I made the decision to run
3 for the Supreme Court and the Court of Appeals
4 receives, or they did -- I guess I could start my
5 story somewhere else. When I was on the circuit
6 bench and ran for the Court of Appeals I had two
7 contested elections in 19 counties in the state,
8 which is essentially about a third of the state, to
9 reach the Arkansas Court of Appeals. And when I got
10 there I was astonished to discover that I would no
11 longer be receiving mileage reimbursement for driving
12 to work, and that actually in terms of real dollars I
13 probably was making less than I had been at the
14 circuit court level. Just a year before I left the
15 Court of Appeals for the Supreme Court, the
16 legislature approved a \$60,000 a year fund to
17 reimburse the judges on the Arkansas Court of Appeals
18 for their drive to and from work for three trips per
19 week. And so I had just begun that when I went to
20 the Supreme Court and discovered -- well, actually, I
21 knew at that time that they were not reimbursed for
22 mileage or for driving to work. And, currently, none
23 of your Supreme Court justices live in Pulaski
24 County, so -- so other than the two judges that live
25 in Pulaski County on the Court of Appeals all of the

1 judges on the Court of Appeals received a
2 reimbursement for mileage. So that's 10 judges,
3 \$60,000 is available for that, so \$6,000 per judge
4 for reimbursement based on actual miles driven on
5 those three trips a week to the Justice Building for
6 court.

7 CHAIRMAN ROSS: Excuse me, Justice Baker.

8 JUSTICE BAKER: Yes. Yes.

9 CHAIRMAN ROSS: Could you close in about two
10 minutes, please?

11 JUSTICE BAKER: Yes. Yes, sir. I certainly
12 can. So I think the fact that you have made these
13 suggestions for proposed increases in salaries is
14 very commendable. I think, however, that as a public
15 policy matter when you have to consider we would like
16 to draw in the future candidates from the trial
17 courts to run for -- to run for seats on the Supreme
18 Court -- and if you're going to be -- and most of
19 them probably are smarter than I am and realize that
20 considering the extra expenses and the lack of
21 reimbursement that -- and the onerous task of running
22 a statewide election that it would not be in their
23 financial interest to do that and may -- may prevent
24 us from getting the best and the brightest from the
25 trial bench to be interested to run in this position.

1 So, also, the other courts are -- that you used as
2 comparisons, other than the way they select their
3 judges, they are also set up very differently. And
4 many of them, they have two appellate divisions, one
5 that handles civil and one that handles criminal, and
6 those appeals do that go to their Supreme Court; they
7 don't go directly to the Supreme Court. However, in
8 Arkansas, that is not the case; we are the court of
9 the last resort for all of Arkansas. So in your
10 considerations I would ask that you think about that
11 in determining and maintaining some level of
12 difference, perhaps greater than is in the proposed
13 -- between the different levels for the state court
14 systems, the Court of Appeals and the Supreme Court.
15 And I want to thank you again for your hard work on
16 this Commission. I know that you've devoted long
17 hours to it and I very much appreciate it. And with
18 that, Chairman Ross, I would close. Thank you to the
19 committee.

20 CHAIRMAN ROSS: Thank you, Justice.

21 JUSTICE JOSEPHINE HART

22 CHAIRMAN ROSS: The next person we have is
23 Josephine Hart. You're recognized.

24 JUSTICE HART: Mr. Chairman, I am on the
25 Arkansas Supreme Court at the present time. I came

1 to that position a little differently than some of
2 the other justices. I practiced law in the circuit
3 courts for 26 years and then I ran in a partisan
4 election for the Court of Appeals and I served -- my
5 next elections were all nonpartisan, 14 years in the
6 Court of Appeals. I live in Mountain View, Arkansas.
7 In order to do my job down here I have an apartment.
8 Currently, that apartment and my travel back and
9 forth to Mountain View, Arkansas is paid for by me
10 after-tax dollars. Under the scenario that I see
11 that you have presented for proposed salaries, you
12 have the Court of Appeals at \$161,500. If they get
13 \$6,000 per year for their travel, they are making the
14 same amount that I am making.

15 Let me address the workload and why I feel that
16 that is not a good public policy position. Like I
17 said, I worked 14 years on the Court of Appeals and
18 I'm a hard worker, and I don't think you'll find
19 anyone that says that I do not work very hard. It
20 takes twice the effort or maybe three times the
21 effort to do the job at the Supreme Court. When I
22 look at your comparative states -- and we'll start
23 with Oklahoma -- Oklahoma's Supreme Court only takes
24 civil cases. The constitution of Arkansas gives
25 people a right of appeal. Our Supreme Court hears

1 death penalties and all of the appeals of criminals
2 that come through the system to the -- except for the
3 Court of Appeals, when they writ them, then we take
4 those by certiorari, which means that we take them if
5 there's something of interest that hasn't been
6 answered. So we take those too. Also, when you look
7 at Oklahoma they do less than 100 appeals a year. If
8 you'll look at what we are doing, when you count our
9 per curiams, which is our thirty-seven's, we're doing
10 approximately six times the amount of work they're
11 doing. When you look at Louisiana, they too set
12 theirs -- I think they handed down less than 60
13 written opinions in 2010. So when you look at the
14 work and the structure of their courts they're very
15 different than ours. And the Supreme Court of
16 Arkansas takes a huge workload. We are expected to
17 hear cases, say an oral argument case on Thursday; we
18 conference it; there's decision made; I'm expected to
19 have an opinion drafted and circulated the next
20 Tuesday. On Wednesday, if there's not a majority
21 opinion and you're writing a dissent, you're expected
22 to have that dissent done in the same amount of time.
23 It is not only arduous, it is pressure-driven and it
24 is difficult to do. And speaking to the finances of
25 it, I made more money as a trial lawyer than I'm

1 making now. We have not received increases, we do
2 not receive any per diems, and our retirement system
3 is funded at 5%. The remainder of our retirement
4 system comes from fees that are paid for filings
5 within our court system. But when you look at the
6 five states that was a comparative state they paid 2%
7 toward their contributions. You know, that's a great
8 deal of money. Our schedules and our cases are
9 assigned to us; we have nothing to do with it. We
10 don't get any less assignments on a week where we
11 might have a holiday than we don't. And to address
12 our -- what seems to be a concern that I've heard out
13 here is that we take a break during the summer.
14 Well, when you have seven people who must sit
15 together every week, two days a week, and discuss
16 cases, there comes a time when you need loose from
17 each other and that's what we do in the summer. But
18 we're not totally loose because we do what we call
19 expedited motions. Those are a turnaround motion
20 that's an emergency type motion. We continue taking
21 those all in the summer. In the middle of the summer
22 we come back to do all the cases and the emergencies
23 and the non-emergencies. So you end up spending one
24 week out of that getting ready for our conference on
25 all the motions that's piled up, so, you know, that

1 cuts that down. We're required to do CLE and if
2 you're a serious justice you try to go to seminars
3 where you learn something that will help you be a
4 better justice. So if you go to one week of
5 schooling you take it during that time because
6 there's no time to take it, to take a course and
7 study and become a better justice when you're getting
8 -- we take five to seven cases, brief cases, and then
9 we have seven post-trial motions, and then we have
10 numerous other writs that we do each week. When I
11 listened to the presentation that came from our ALC,
12 I will say that I want to apologize in advance that
13 this information in the differences between the five
14 states and what they do and the number of cases they
15 take because their jurisdiction is different, when
16 you compare it to what we're doing -- what they're
17 doing is sometimes only 30%, sometimes it's like 50%,
18 but none of those states -- like I said, Louisiana is
19 the only one that has an elected judiciary. That in
20 itself takes a lot of time. I self-funded most of my
21 -- over 50% of my own campaign; that's an expense.
22 And I'm a firm believer in elected processes for our
23 justices because I think if the justices do not look
24 to the people then they're not fulfilling their
25 position within the government because they're there

1 for -- to take care of not allowing the constitution
2 and the rights that they're granted. So the cases we
3 have are weighty; they're hard cases, and you have to
4 start early in order to work for them and get them
5 done. And because of that -- and like I said, at
6 this point the Court of Appeals is making as equal
7 amount of money as I'm making because they get the
8 per diem. I don't think that it's good for a
9 hierarchy system -- if we're the highest court in the
10 state and we're going to have to do the toughest work
11 for the state and we want to draw members from the
12 Bar who are successful lawyers who right now are
13 making a lot more money than we are, we are only
14 going to do that if we compensate them for their time
15 and effort. I have spoken to numerous lawyers and
16 groups about what the committee is doing and I think
17 I can say directly and honestly not any person has
18 indicated that they thought that we should not have a
19 greater salary than is proposed. The Supreme Court
20 has what the Court of Appeals doesn't have, and it's
21 a great deal of administration. Right now we work in
22 panels mostly, in committees. I right now have the
23 responsibility to work with the Civil Rules Bar, so
24 we have the rules that we have to work with, the
25 proposal of the rules, getting them done; we have

1 meetings that we attend. I also handle defense, so
2 the Defense Bar Committee, so here -- and then the
3 jury instructions. So it takes a great deal of my
4 time. You know, when something new comes up I try to
5 get it to my chairmen so that they can look at it and
6 see whether or not we need to make a tweak or rule
7 changes, if they need to propose things then. Other
8 members of the courts have their judges, their jobs.
9 We'll have someone that's in charge of statewide
10 security. Justice Baker that just spoke to you, she
11 has the committee for licensing of the attorneys;
12 Justice Goodwin has the discipline of attorneys; we
13 have the CLE, the continuing legal education. Each
14 judge has a lot of administrative duties that's
15 attached to their jobs that we do and then we report
16 back to the court because what we have to do is to be
17 the face of the judiciary for this state. I spend a
18 lot of time speaking to groups and that comes
19 straight out of after-tax dollars too and it comes
20 out of your time. Our job is not a 40-hour job; our
21 job is 7/7 because in order -- we come in, we -- I --
22 weeks it takes me two briefcases on wheels to just
23 pull my cases that I have to read home. After I read
24 those cases we have to meet and discuss them and make
25 decisions, and then I have to write an opinion. We

1 have 10,000 lawyers in the state of Arkansas. Our
2 opinions are published. And let me tell you, we are
3 graded every Friday when they come out. And we have
4 specialists out here and when we're having to know
5 all of the law -- I have to know all the probate law,
6 because that's what I'm going to be doing it on.
7 Administrative law, whether it's worker's comp,
8 whether it's a civil litigation, whether it's -- it
9 doesn't matter if it's got to be an individual claim
10 or it's going to be a big tort action; it doesn't
11 matter. You've got to be ready for it. And because
12 we have to study and we have to know and we have to
13 have this umbrella of knowledge, that's why we have -
14 - we're at the highest level because we're the final
15 statement. And when you look at a trial judge, to
16 divide their work; we have trial judges that handle
17 the juvenile; we have trial judges that handle civil
18 matters and that handle criminal matters. They have
19 an opportunity to set their schedule and divide their
20 work up so they can become very familiar with it.
21 But when you have to do all of them you have to
22 commit your self to a job that -- somebody told me
23 one time the law is a jealous mistress, and that is
24 true. So if you're going to continue -- because I'm
25 getting old; if you're going to continue to ask these

1 successful lawyers who're making about four times
2 what I am to be a citizen and to do the work of a
3 citizen, as you are doing here today, we're going to
4 have to raise their salaries. And I appreciate your
5 time and your effort and I think y'all have done a
6 fine job. The only thing that I think is that the
7 Supreme Court justices needs to have an elevation in
8 their monies, and the Court of Appeals could use a
9 small one too. So thank you so very much.

10 CHAIRMAN ROSS: Thank you, Justice Hart.

11 CLOSING COMMENTS

12 CHAIRMAN ROSS: Are there any other individuals
13 who have come in who would like to speak and have not
14 registered yet?

15 Seeing none, then let me call our public comment
16 section to an end.

17 And, Commissioners, I think that we have adhered
18 to the law of having heard public comments. I would
19 like for us to try to find a date that we can come
20 back together for final discussion and for a final
21 vote on what our final report will be. And my
22 opening comment, as stated, would be the 13th, but
23 there seems to be some conflict now with some of the
24 Commissioners as far as the date and time. Can I ask
25 you to look at your calendars, if you can? And what

1 about that following Monday that we could meet for
2 our final work to be done as we submit our resolution
3 and our report? Friday would be the 13th, so I'm
4 looking at that following Monday, around 8:30.

5 COMMISSIONER JAMES: The 16th?

6 CHAIRMAN ROSS: The 16th.

7 COMMISSIONER BERRY: It works for me.

8 VICE CHAIRMAN BANKS: So we have to go out from
9 the 13th or backwards? I don't read the law that
10 says we have to have a 10-day period between this
11 meeting and the next. Is that what we're doing?

12 CHAIRMAN ROSS: No. There were conflicting
13 dates --

14 VICE CHAIRMAN BANKS: Oh, okay.

15 CHAIRMAN ROSS: -- for the Commissioners --

16 VICE CHAIRMAN BANKS: Okay.

17 CHAIRMAN ROSS: -- is the reason we moved it
18 out.

19 VICE CHAIRMAN BANKS: All right. That's good by
20 me.

21 CHAIRMAN ROSS: So the 16th of March; I think we
22 had it slated for 8:30. If that will work for
23 everyone, then we will meet at that time.

24 MS. JENKINS: I need to make sure the room is
25 available on that day.

1 CHAIRMAN ROSS: Okay. That's after Ms. Melanie
2 checks to see that the room is --

3 ATTY. ROBSINON: Mr. Chairman, since we've
4 already scheduled that it would probably be better to
5 go ahead and take a motion and vote to reschedule it
6 so we have a record.

7 CHAIRMAN ROSS: Okay. All right. Let her check
8 and see if the room -- if this site is available that
9 day. If not, I'm sure there's some other venues that
10 -- well, and my apologies to the public; we thought
11 the 13th was a good day but as you well know, things
12 happen and we have to be flexible, have to readjust.
13 So as soon as Ms. Jenkins finds out, we'll go from
14 there. Any comments from anyone?

15 COMMISSIONER GRAVES: I'm assuming we're still
16 looking at 8:30?

17 CHAIRMAN ROSS: Yes. And that would give you
18 time to take into consideration all the public
19 comments. And I think coming back we'll do it on a
20 line-item. Counsel made that recommendation to us so
21 there will be no "ifs, ands, or buts." And then
22 we'll submit our final report to the proper
23 authorities and set some dates for when we can come
24 back together to try to set up some strategies for
25 moving forward.

1 VICE CHAIRMAN BANKS: When you use the term
2 "line item," are you talking about each category
3 again for a separate vote?

4 ATTY. ROBINSON: That's really up to you-all.
5 What we'll have prepared is a resolution to send to
6 the Auditor for approval, final approval. One of the
7 thoughts I had is if we think -- as there was before,
8 there was some variation in the votes on each
9 category, for, i.e., Judge, District Judge, Governor.
10 Then in order to have a final resolution approved by
11 this committee at the end, if there's going to be
12 some differences in the number of votes, like 4-3, 5-
13 2, however, it might be better for the Commission to
14 vote each item, line-item. That is completely up to
15 you-all. That was just a suggestion.

16 VICE CHAIRMAN BANKS: Well, I guess I just want
17 to be sure that I have clarity on whether the
18 Commission is considering this. And I have heard
19 what Mr. Chairman said earlier; this Commission has
20 worked awfully hard from the first, in February, and
21 the second, with complete transparency, with complete
22 diligence so that the public understands and knows
23 exactly what's transpired every second we've been in
24 here, and I couldn't echo what he said better. I
25 don't read the constitutional law giving us a legal

1 mandate to even extend, if we chose to, the next date
2 to meet beyond today. And I also do not read the law
3 to suggest that we're obligated by law, unless the
4 Commission decides it, to go back and re-vote what
5 we've already voted. The minutes show what the
6 distinction was and I think that it's a mistake to
7 try to go back and revisit the same arguments, the
8 same things we've already taken, unless there is new
9 information which has been derived from the 30-day
10 period, from the letters we've seen, from the
11 testimony we've heard, from the editorials we've
12 read, and from the comment of our fellow citizens.
13 So I just want to be very careful about trying to
14 revisit the same issues all over again in a manner
15 that's not consistent with the law that brings us
16 here.

17 CHAIRMAN ROSS: Any other comments?

18 COMMISSIONER GRAVES: I appreciate where you're
19 coming from, Vice Chair. We reviewed each of these
20 categories separately and I personally would feel
21 better if we voted on each category, those three
22 categories. I don't know that I'm going to confer
23 with any changes on any of those but I will be
24 looking at my notes, I will be looking at the
25 comments, and I just think we owe that to each other

1 and to the public at-large. Because I almost hear
2 you saying we could take that vote right now and I'm
3 not -- I would not be comfortable with that.

4 VICE CHAIRMAN BANKS: I'm not saying we could;
5 I'm saying we legally could if we thought that we had
6 sufficient information. I'm not ready to say where I
7 would vote on whether or not to do it by line item,
8 but I'm probably 95% sure that we've got ample proof,
9 ample argument, ample debate, ample dialogue to vote
10 it up or down the way we did before and not go back
11 through it by line item. In fact, I'll go on record
12 now and say I object and my position will be not to
13 re-analyze each group, each category, each salary,
14 and do this all over again.

15 CHAIRMAN ROSS: Any further comments? Okay. I
16 would simply say that it would be -- the final report
17 will be done on an itemized basis, that I don't think
18 we're going to go back and have to re-hash our
19 differences. I've stated on a couple of them I don't
20 -- I'm not sure what I may do going forward, but I do
21 think we owe the public at least time for us to
22 consider all that's been shared today and not to go
23 back and re-hash and re-debate, but at least to let
24 it soak in. Because this is the final report that we
25 will be moving forward. This is only our initial

1 report, as I understood is what the law calls for.

2 ATTY. ROBINSON: Mr. Chairman, the room is
3 available on the 16th.

4 CHAIRMAN ROSS: So let's take a vote if we would
5 move -- I would entertain a motion to move our date
6 from the 13th to the 16th.

7 COMMISSIONER TIPTON: So moved.

8 COMMISSIONER JAMES: Second.

9 MS. GRAVES: Second.

10 CHAIRMAN ROSS: It's been moved and properly
11 seconded. Further discussion? If not, all those in
12 favor let it be known by saying "aye."

13 (UNANIMOUS CHORUS OF AYES)

14 CHAIRMAN ROSS: Any opposed, "nay?" Motion
15 carries. We will meet at 8:30 on the 16th. Thank
16 you for that.

17 So those who would continue to like to use the
18 website to get information on the website is our
19 purpose; our handouts are there, our audio files are
20 there, our public comments are there, and the minutes
21 are there, the agendas are there if any member of the
22 public who would like to look at that, and we urge
23 you to do so.

24 With that, is there any other business before
25 the Commission at this time? If not, may I have an

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adjournment motion?

COMMISSIONER GRAVES: So moved.

COMMISSIONER JAMES: Second.

CHAIRMAN ROSS: Moved and seconded. All in favor, "aye?"

(UNANIMOUS CHORUS OF AYES)

CHAIRMAN ROSS: Any opposed, "nay?" The motion carries. We are adjourned. Thank you.

(The meeting was adjourned at 11:00 a.m.)