Local Governments and the Governor's Budget

The Summary Report from the Committee Briefings

Wednesday, February 20, 2002 State Capitol, Room 112 Sacramento, California

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On Wednesday morning, February 20, 2002, the Senate Local Government Committee sponsored three briefings at the State Capitol in Sacramento to review the 2002-03 State Budget proposed by Governor Gray Davis, and its effects on cities, counties, and special districts. Five State Senators received testimony from the Legislative Analyst, legislative advocates, and local government associations. The Committee's briefings began at 10:05 a.m. and continued until 11:50 a.m. About 45 people attended the session. The five Committee members who participated were:

Senator Tom Torlakson, Committee Chair

Senator Bob Margett, Vice Chairman

Senator Dick Ackerman

Senator Michael J. Machado

Senator Nell Soto

This summary report contains the Committee staff's explanation of what happened at the hearing [see the *white* pages], reprints the briefing paper that the staff wrote for the Committee [see the *blue* pages], and reproduces the witnesses' written materials [see the *yellow* pages].

Staff Findings

Any attempt to distill all of the presentations and discussions into a summary must necessarily gloss over important details and subtle nuances. But after carefully considering the witnesses' testimony and after reading the written materials, the Committee's staff identified four findings:

•*The budget deficit is worse than expected.* Despite the projections of tough times in the Governor s January budget, new numbers forecast an even grimmer fiscal situation one in which Governor Davis and the Legislature must make hard choices to balance the budget. They must solve fundamental structural problems caused by unstable revenue streams and historic patterns of state spending.

• *Local governments want stability and predictability in revenues.* Fiscal stability would allow local officials to plan responsibly for the future in their communities without worrying about revenues that rise and fall sharply because of forces outside their control.

• *Local officials didn t ask legislators to suspend many mandates.* While local officials often criticize the Legislature for passing unfunded state-mandated local programs, their representatives did not offer lists of mandated programs that they want suspended or repealed.

•Local governments view their proposed ballot initiative as a starting point for fiscal reform, not the solution. Participants repeatedly stressed that before real reform can occur, local agencies need a base of guaranteed funding. A constitutional guarantee of funds can give them the fiscal security that will foster the kinds of foster risk-taking and creativity that are vital to reform.

The Witnesses

eight people addressed the Committee, all of whom offered written material that appears in the *yellow* pages at the end of this report.

Marianne O'Malley, Principal Fiscal and Policy Analyst*

Legislative Analyst's Office Michael Cohen, Senior Fiscal and Policy Analyst* Legislative Analyst's Office Steve Keil, Legislative Advocate* California State Association of Counties Dwight Stenbakken, Legislative Advocate* League of California Cities Ralph Heim, Legislative Advocate* California Special Districts Association Steve Szalay, Executive Director* California State Association of Counties Chris McKenzie, Executive Director* League of California Cities Catherine Smith, Executive Director* California Special Districts Association In addition to these eight witnesses, the Committee also received written materials from: Michael Dillon, Legislative Advocate* California Library Association Mike Pettengill, Analyst* Senate Republican Policy Analysis Unit

[* = Written material appears in the *yellow* pages.]

Introductory Remarks

Senator Torlakson opened the briefings by asking the Committee to "seize the opportunity" and use this morning to learn from others so that the Legislature would be more equipped to balance this year's budget with fairness and equity. He noted that many of the Committee members have lived through budget woes as local government officials, calculating that the members present had a combined 51 years of experience as city council members and county supervisors. Senator Torlakson stressed that he understood local governments worked where "the rubber meets the road and where the services are delivered" to citizens.

Senator Margett echoed Senator Torlakson's message, adding that he viewed the hearing as an "opportunity to look at and accept the challenge" of making sure local governments are not unjustly harmed as the state forms a budget. **Senator Ackerman** opened by saying that as a state legislator and as a former local elected official, he has gone through the debate on state-local fiscal reform many times. He said that many problems are identified and documented, but solutions remain elusive. He suggested we "start over again" and create a better system from the ground up. While acknowledging short-term winners and losers, he asserted that in the long run, the system would be better. **Senator Soto** emphasized that she hopes to find a win-win solution to the problem, and stated that no legislator ever forgets their experiences in local government.

THREE BRIEFINGS

Following the legislators' introductory remarks, the Committee members and the audience listened to three separate briefings about the Governor's Budget and its effect on local agencies.

How The Governor's Budget Affects Local Governments

The first panel began with a presentation by **Marianne O'Malley** from the Legislative Analyst's Office. She summarized the difficulties Governor Davis and the Legislature will have in balancing state budget this year, a situation which has deteriorated since the Administration made its revenue and expenditure forecasts. The Analyst estimates that the state will experience a 14% decline in revenues this year, producing the largest one-time budget shortfall since World War II. O'Malley, working from notes, explained that the Governor attempts to close the gap through spending cuts, funding shifts, federal funding increases, and loans, accelerations, and transfers. She reported that there are no major cuts to line items slated for local governments in the Governor's January Budget.

O'Malley told the Committee that new numbers show revenue estimates to be overestimated by about \$3.9 billion, and that expenditures are underestimated by about \$1.1 billion. She also added that transfers from the federal government are uncertain, and any loss of those funds will further exacerbate the deficit. These three factors create a larger problem than identified in January, and will need to be sorted out as the Legislature deliberates the 2002-03 state budget. O'Malley added that because California's state tax structure depends heavily on income and capital gains taxes, changes in the overall economy are magnified in the budget, producing exceptional changes the yearly fortunes of the state budget. If this underlying structural problem is not handled in the current year, it will persist and magnify.

O'Malley also provided updated 2002-03 ERAF figures, estimating the net shift from cities, counties, and special districts to ERAFs in each county to be about \$1.5 billion after offsets. The Legislative Analyst included Proposition 172, Trial Court Funding, and COPS funding in this estimate. O'Malley also provided information, at the Chair's request, for other programs such as the Juvenile Justice Grant Program, the Traffic Congestion Relief Program, booking fee reimbursements, property tax administration grants, the Public Library Foundation Program, park bond grants, increased fines and forfeitures, increased county authority over general assistance program, and public safety grants. Together, these programs provide more than \$600 million in targeted funds in 2002-03 to local governments.

Senator Torlakson noted that demographic trends in California show that many new jobs provide either very high or very low incomes, with not many jobs for middle income residents. **Senator Margett** asked how low interest rates and a surge in home refinancing has affected the economy in California. He emphasized that constant, reliable stream of income is essential for local governments.

Next, **Michael Cohen**, also from the Legislative Analyst's Office, briefed the Committee on the Vehicle License Fee (VLF). He provided a brief history of VLF reductions and the backfill that the state government subvenes to cities and counties for the resulting revenue loss. Many local officials worry, based on the ERAF experience of the early 1990s, that these backfill funds will be diverted in an attempt to balance a strained budget. Cohen reported that the Governor's budget includes full VLF backfill, but noted that the "insufficient funds" provision of the law, which triggers the fee increase in tough fiscal times, is "particularly ambiguous" in two ways:

1. State law fails to specify who decides if there are insufficient funds to continue tax relief.

2. State law fails to define "insufficient funds."

Cohen reiterated that the Governor's budget is "largely status quo," and that most major funding sources, with a few notable exceptions, are continued from the 2001-02 budget year. Among those exceptions are grants to the Public Library Foundation Program (see Michael Dillon's letter and chart in the *blue* section), and some cuts to county health and welfare programs.

Senator Soto wanted specific suggestions for clarifying the ambiguity in the law, and Senator Torlakson suggested that the Committee sponsor those changes. Senator Margett stated, "it seems like we're trying to placate local governments with park bonds," while money for "bare essentials" goes wanting.

How To Reduce The Budget's Effects On Local Governments

The second panel began with a presentation by **Steve Keil**, representing the California State Association of Counties (CSAC). Referring to written materials, Keil noted that the Davis Administration had embraced several of the recommendations from CSAC's State Budget Task Force. Counties are generally pleased with the Governor's Budget and its balanced treatment of counties. Nevertheless, the State Budget proposes to reduce funding for 11 county-run programs, including the Public Library Foundation Program. Keil raised two additional cautions: there is no certainty that California will capture the federal funds anticipated by the State Budget, and that the biggest threat to counties is political complacency.

Regarding Senator Torlakson's request to identify state-mandated local programs that might be repealed or suspended, Keil declared that CSAC does not want to repeat the 1994 experience. Counties learned that every mandated program has a political constituency. Counties also learned that there were "cynically" inflated claims of cost savings when the Legislature and the Governor suspended some second-tier mandates. Eliminating counties' duty to regulate pet birds was one example. Despite those misgivings, Keil reported that San Bernardino County officials are recommending a "Food Stamp Reporting Simplification" that may cut administrative costs.

In closing, Keil told the Senators that CSAC will soon finish its survey that compares ERAF losses to sales tax revenue gains under Proposition 172. He also provided the Committee with copies of CSAC's November 2001 report on VLF (see the *yellow* pages). Finally, Keil declared that counties are prepared to cooperate with legislators in their budget discussions.

Speaking for the League of California Cities, **Dwight Stenbakken** announced that municipalities are doing "as well as we can expect to be in these difficult times." Stenbakken took issue with some of the financing programs that the Legislative Analyst claims as offsets for ERAF cuts. City officials are concerned that the Governor's Budget proposes cuts in housing programs at a time when state officials are encouraging cities to develop additional affordable housing. Stenbakken urged legislators to use the proposed housing bond to renew their support for these programs. He provided the legislators with estimates of cities' increased security costs.

Echoing Keil's worry, he announced that cities are cautious about state officials overestimating cost-savings when the Legislature repeals mandated programs. Stenbakken acknowledged that some of the mandates that cities would like to see repealed tend to be very popular programs.

Stenbakken promised that the League will work with the Committee to strengthen the VLF Reverse Trigger language. That effort reflects the cities' view that fiscal "stability is at the top of our list" of budget goals.

Ralph Heim told legislators that the California Special Districts Association (CSDA) is "prepared to engage with you and the Administration" on budget questions. Heim lauded the thoughtfulness of the Committee's approach, compared to how state officials made decisions about ERAF in the early 1990s.

While CSDA is still developing a list of state-mandated local programs, Heim noted the problems that fire districts have had in implementing requirements to provide protective clothing to fire fighters. First enacted in the late 1980s but suspended in 1994, this mandate provides important protection but it came without state funds. In 2001, the Legislature required volunteer fire departments to supply protective clothing to their fire fighters, again without funding.

Heim also discussed a proposal in the Governor's Budget that would shift \$15 million from the State Water Resources Control Board to the applicants for wastewater discharge permits. Cost shifts like these may save money for state departments but they will increase local fiscal burdens. Similarly, the mandatory minimum penalty provisions for even technical violations of wastewater permits are having unintended negative effects in communities like Brentwood (Contra Costa County) and Palo Alto (Santa Clara County). He advised legislators to expect a reform bill.

Senator Torlakson asked Heim to examine the LAO's table that reports special districts' losses to ERAF. **Senator Soto** told Heim that she was interested in legislation to restore local discretion. **Senator Margett** announced his concern about the costs of providing increased security and urged local officials to train and organize volunteers for tasks such as the daily inspection of water facilities. It's important, Senator Margett said, to "stretch those hometown dollars."

Proposed Voter Initiatives On State-Local Finance

Steve Szalay, Executive Director of the California State Association of Counties, opened the third panel to discuss a proposed state initiative that would constitutionally guarantee a base amount of local government funding. He stated that his organization's top priority is state-local fiscal reform, and that while there have been many commissions and studies that have produced "fairly uniform" recommendations, there has been no real action on the issue. Szalay noted that predictability is a necessary precursor to meaningful reform and that until local governments could feel secure in a base of funding, any discussion of reform is stifled by uncertainty and the potentially destructive results of change. He told the Committee that CSAC and the League of California Cities have put together an initiative that guarantees local revenues that will allow state and local governments to "meaningfully engage in the debate" over state-local fiscal reform. Mr. Szalay reminded

the Committee that the mission of local governments is to provide services to residents, and that those services require adequate resources.

League of California Cities Executive Director **Chris McKenzie** began by stressing the tremendous common ground that cities, counties, and special districts have in seeking to protect a stable revenue base. Working from a chart, he pointed out that cities have experienced an actual decline in per capita revenue from 1977-78 to 2000-01. He also showed that sales taxes were no more important today than they were in 1977-78, stressing that this statistic shows how the "fiscalization of land use" is an overstated phenomenon. He said that cities have been charged with being unresponsive to affordable housing needs and with chasing big box retailers, but the facts show otherwise. He also noted that except for very expensive homes, the cost of providing new services far exceeds the increased revenue that a new home brings to its service providers. Mr. McKenzie stated that it was futile to just "rearrange the chairs on the deck of the Titanic," and that real reform was needed to "keep the ship from sinking."

Speaking as the Executive Director of the California Special Districts Association, **Catherine Smith**, reiterated the point that districts needed to count on a stable and predictable source of funds to provide essential services. After 50 unsuccessful bills relating to ERAF, local governments have shifted their focus to guaranteeing the funds they already have. The product is the proposed initiative. She emphasized that instability hurts innovation and strategic planning, and that special districts have a tough time because their powers are even more limited than counties and cities' powers. Smith noted that public fiscal accountability is a priority, and discussed it as a key component of the proposed initiative.

Senator Torlakson cautioned local government leaders to be careful that the initiative doesn't leave an impression that the problem has been solved if the effort is successful. He also thanked all participants for their involvement and invited their continuing dialogue.

Local Governments and the Governor's Budget

Briefings for the Senate Local Government Committee

10 a.m., Wednesday, February 20, 2002

State Capitol, Room 112

On Wednesday, February 20, the Committee will receive three briefings on how the 2002-03 State Budget may affect counties, cities, and special districts. This background paper prepares the Committee members and the witnesses for the three segments of the morning session. The paper suggests questions that the Senators

may wish to ask the witnesses.

What The LAO Thinks

Following opening remarks by Senator Tom Torlakson, the Committee's chair, and Senator Bob Margett, the vice-chairman, the Legislative Analyst's representatives will brief the Committee members. Earlier that morning, Legislative Analyst Elizabeth Hill will release her formal <u>Analysis</u> of the 2002-03 State Budget proposed by Governor Gray Davis. Her staff will brief the Committee on the local government highlights of the LAO's new report.

The LAO's staff will describe how the Governor's Budget proposes to treat counties, cities, and special districts during the 2002-03 fiscal year. Committee members and other observers should remember that uncertain and rapidly changing conditions in the national economy and the federal budget influenced the assumptions that the Davis Administration used in preparing its proposed budget. The revisions that the Administration will release in the middle of May will be more important than the assumptions of late 2001.

Senators should give particular attention to two sets of policy issues:

1. <u>What happens to the offsets</u>? ERAF and the value of the offsetting actions continue to be political irritants in the state-local fiscal relationship. State law still shifts property tax revenues from counties, cities, and special districts to the schools via the Educational Revenue Augmentation Fund (ERAF). The Legislature and the Governor have ameliorated some of the costs by providing exemptions and exceptions to the ERAF shifts, as well as fiscal mitigation with:

- \circ A ¹/₂¢ state sales tax allocated to counties and cities for public safety.
- State funding for trial courts.
- The Citizens' Option for Public Safety (COPS) program for local police.
- Fines and forfeitures for cities.
- Reimbursement to cities for booking fees paid to counties.
- State funding for counties' property tax administration costs.

? Does the Governor's Budget cut state funding for any of the ERAF mitigation measures? If so, which measures and by how much?

? Does the Governor's Budget cut state funding for other state programmatic subventions to counties, cities, and special districts? For example, what does the Governor's Budget propose for the Library Foundation Program? ? Does the Governor's Budget propose changes to funding for countyrun programs in public health and social welfare?

2. <u>What are the other points of budgetary vulnerability</u>? Since 1935, the state government has levied a state excise tax on motor vehicles in-lieu of local property taxes, sending the resulting revenues to counties and cities. Starting in 1999, the Legislature and the Governor cut the motor vehicle in-lieu tax or "Vehicle License Fees" (VLF) that vehicle owners pay to the state government. The statute promised to backfill counties and cities for these reduced state revenues. Further, the statute contains a "reverse trigger" that requires state officials to hike VLF fees whenever the State General Fund lacks money to pay for the reimbursements. (See *Appendix A* for the text of Revenue and Taxation Code §10754 [a][1.3][C].)

Now that the economy is in recession and the state government faces budget deficits, counties and cities worry that Governor Davis and the Legislature may renege on their commitment to backfill the VLF subventions. For months, they have been asking state officials to guarantee that the state tax relief will not affect local budgets. Some observers worry that the statutory reverse trigger may not be binding.

? Will the State General Fund have enough money in 2002-03 to backfill counties and cities for the state's VLF cuts?

? Is the statutory language for the reverse trigger strong enough to require state officials to raise VLF rates if the State General Fund runs out of money to backfill counties and cities? Should the Legislature amend the reverse trigger language?

? Are there other subvention payments and programmatic formulas that might be vulnerable to budgetary cuts if the economy doesn't improve by the May Revise?

? What are the specific points of potential budget vulnerability that legislators should watch?

How To Reduce The Budget's Effects On Local Governments

The second briefing on Wednesday morning will be from a panel of legislative advocates representing counties, cities, and special districts. In his letter inviting their participation, Senator Torlakson asked these local lobbyists to share their advice on how the Legislature could reduce the effects of the Governor's Budget on their clients. ? If the Governor's Budget shifts costs to local governments, what specific programmatic changes should the Legislature adopt to mitigate those costs?

? If the Governor's Budget cuts local governments revenues, what specific statutory changes should the Legislature adopt to mitigate those cuts?

? Will local governments have enough money to pay for the costs of increased public security resulting from terrorist threats?

Senator Torlakson's invitation also reminded the lobbyists that last October he invited their associations to recommend state mandated local programs that the Legislature should suspend or repeal. During the 1990s, Governor Wilson and the Legislature suspended several state mandates, arguing that the severe recession justified avoiding these costs. For example, state officials suspended the requirement for counties and cities to revise their general plans' housing elements. Further, state law requires the Senate Local Government Committee to hold an annual hearing to consider any recommendations to repeal state mandated local programs. (See *Appendix B* for the text of the statute requiring legislative hearings.) The Committee has not received any recommendations for several years.

should suspend?

? What state mandated local programs do counties, cities, and special districts want the Legislature to suspend or repeal?
? Are there procedure requirements that the Legislature

? Are there state-required reports that have outlived their usefulness?

? Are there unjustified limits on how local officials can spend funds that they receive from the state government?

? How much money would these suspensions or repeals save?

On December 27, 2001, the State Department of Finance submitted its annual report on new legislation with state-mandated local program implications. As required by statute, the Department's report and detailed appendices reviewed the 948 statutes enacted during 2001, and identified the bills that avoided providing state reimbursement for new local costs.

> ? Do counties, cities, and special districts recommend the suspension or repeal of state mandated local programs listed in the Department of Finance's annual report?

? How much money would these suspensions or repeals save?

Proposed Voter Initiatives On State-Local Finance

The third and final briefing on February 20 will come from the executive directors of the trade groups representing counties, cities, and special districts. Frustrated by the Legislature's inability to pass comprehensive intergovernmental fiscal reform bills, these associations may turn to direct democracy to achieve their goals.

As chronicled in the Committee's March 2001 report, <u>Tension & Ambiguity</u>, legislators have received plenty of sophisticated advice about how they should change the state government's fiscal relationship with its counties, cities, and special districts. (See *Appendix C* on how to order a copy of <u>Tension & Ambiguity</u>.) Besides listing over 50 bills that would have reformed ERAF and the fiscal relationship, the Committee's report also summarized eight thoughtful reform proposals:

- Legislative Analyst, <u>Making Government Make Sense</u>. 1993.
- California Constitutional Revision Commission, <u>Final Report and</u> <u>Recommendations to the Governor and the Legislature</u>. 1996.
- Public Policy Institute of California, <u>The State-Local Fiscal</u> <u>Relationship in California: A Changing Balance of Power</u>. 1999.
- State Controller Kathleen Connell, <u>SMART</u> and <u>SMARTER</u>. 1999.
- Speaker's Commission on State and Local Government Finance, <u>Final</u> <u>Report of the Speaker's Commission</u>. 2000.
- Legislative Analyst, <u>Reconsidering AB 8: Exploring Alternative Ways</u> to Allocate Property Taxes. 2000.
- California State Association of Counties, <u>A Dollars and Sense Plan for</u> <u>Local Government</u>. 2000.
- League of California Cities, <u>Report of the League Special Task Force</u> on Fiscal Reform. 2000.

Legislators and executive branch leaders do not lack for good ideas. What's lacking is the political power to implement reforms.

? What will local officials propose to California voters?

- ? When will an initiative measure appear on a statewide ballot?
- ? How will an initiative campaign affect legislative reform efforts?

APPENDIX A: The VLF Reverse Trigger

Revenue and Taxation Code §10754 (a)(1.3)(C)

10754. (a)

(1.3)

(C) During any period in which insufficient moneys are available to be transferred from the General Fund to fully fund the offsets required by subparagraph (A), within 90 days of a reduction of funding, the department shall reduce the amount of each offset computed pursuant to that subparagraph by multiplying that amount by the ratio of the amount of moneys actually available to be transferred from the General Fund to pay for those offsets to the amount of moneys that is necessary to fully fund those offsets.

APPENDIX B: Recommendations To Repeal State Mandates

Government Code §17562

17562. (a) The Legislature hereby finds and declares that the increasing revenue constraints on state and local government and the increasing costs of financing state-mandated local programs make evaluation of the cumulative effects of state-mandated local programs imperative. Accordingly, it is the intent of the Legislature to establish a method for regularly reviewing the costs of state-mandated local programs, by evaluating the benefit of previously enacted mandates.

(b) (1) A statewide association of local agencies or a Member of the Legislature may submit a proposal to the Legislature recommending the elimination or modification of a state-mandated local program. To make such a proposal, the association or member shall submit a letter to the Chairs of the Assembly Committee on Local Government and the Senate Committee on Local Government specifying the mandate and the concerns and recommendations regarding the mandate. The association or member shall include in the proposal all information relevant to the conclusions. If the chairs of the committees desire additional analysis of the submitted proposal, the chairs may refer the proposal to the Legislative Analyst for review and comment. The chairs of the committees may refer up to a total of 10 of these proposals to the Legislative Analyst for review in any year. Referrals shall be submitted to the Legislative Analyst by December 1 of each year.

(2) The Legislative Analyst shall review and report to the Legislature with regard to each proposal that is referred to the office pursuant to paragraph (1). The Legislative Analyst shall recommend that the Legislature adopt, reject, or modify the proposal. The report and recommendations shall be submitted annually to the Legislature by March 1 of the year subsequent to the year in which referrals are submitted to the Legislative Analyst.

(3) The Department of Finance shall review all statutes enacted each year that contain provisions making inoperative Section 2229 or Section 2230 of the Revenue and

Taxation Code or Section 17561 or Section 17565 that have resulted in costs or revenue losses mandated by the state that were not identified when the statute was enacted. The review shall identify the costs or revenue losses involved in complying with the provisions of the statutes. The Department of Finance shall also review all statutes enacted each year that may result in cost savings authorized by the state. The Department of Finance shall submit an annual report of the review required by this subdivision, together with the recommendations as it may deem appropriate, by December 1 of each year.

(c) It is the intent of the Legislature that the Assembly Committee on Local Government and the Senate Committee on Local Government hold a joint hearing each year regarding the following:

(1) The reports and recommendations submitted pursuant to subdivision (b).

(2) The reports submitted pursuant to Sections 17570, 17600, and 17601.

(3) Legislation to continue, eliminate, or modify any provision of law reviewed pursuant to this subdivision. The legislation may be by subject area or by year or years of enactment.

APPENDIX C: Copies of "Tension & Ambiguity"

In March 2001, the Senate Local Government Committee released <u>Tension &</u> <u>Ambiguity: A Legislative Guide to Recent Efforts to Reform California's State-</u> <u>Local Fiscal Relationship</u>.

Candace Carpenter authored this 45-page report which surveys the history, problems, and proposed solutions associated with the persistently contentious fiscal relationship between state government and its counties, cities, and special districts.

An electronic copy of <u>Tension & Ambiguity</u> appears on the Committee's website:

www.sen.ca.gov/locgov under "Publications."

Printed copies are available for \$3.23 (including tax and shipping) each from:

Senate Publications

1020 N Street, Room B-53

Sacramento CA 95814

Make checks payable to "Senate Rules Committee" and please ask for Stock Number 1075-S when ordering.

The Committee also received materials submitted by the witnesses. These materials could not be incorporated in this document. To view the written materials submitted to the Committee, please order a copy of the report "Local Governments and the Governor's Budget" report 1128-S.

The new report summarizes the witnesses' comments, includes the background policy paper, and reprints all of the hand-out materials.

Order copies of the summary report directly from:

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