

# Indiana Election Commission

## Minutes

February 10, 2017

**Members Present:** Bryce H. Bennett, Jr., Chairman of the Indiana Election Commission (the Commission); Michael A. Claytor, as proxy for Vice Chairman of the Commission S. Anthony Long; Suzannah Wilson Overholt, member; Zachary E. Klutz, member

**Members Absent:** S. Anthony Long, Vice Chairman of the Commission

**Staff Attending:** Angela Nussmeyer, Co-Director of the Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); Dale Simmons, Co-General Counsel of the Election Division; Matthew Kochevar, Co-General Counsel of the Election Division; Patrick Becker, Special Projects.

**Also Attending:** Dr. Jay Bagga; Dr. Bryan Byers; Aniketh Ramname; Ian Piper, Dominion Voting Systems; Kyle Conrad, GBS; Paula Lantz, White County Clerk; Laura Cosgray; Wendy Hudson, Elkhart County Clerk; Christopher Anderson; Christa Coffey, Tippecanoe County Clerk.

### 1. Call To Order

The Chairman called the February 10, 2017 meeting of the Commission to order at 1:00 p.m. in the in Indiana Government Center South, Conference Center Room 2, at 402 West Washington Street, Indianapolis, Indiana.

### 2. Transaction of Business

The Commission proceeded to transact the business set forth in the Transcript of Proceedings for the meeting prepared by Lisa C. Pierce of Connor Reporting. This document is incorporated by reference into these minutes, with the following corrections.

Page 7, Line 12, replace "3410" with "3.4.1.0"

Page 9, Line 20, replace "IDC" with "IED"

Page 10, Line 24, replace "3rd" with "30th"

Page 12, Line 11, replace "ECUs" with "ECOs"

Page 13, Line 24, replace "State" with "straight"

Page 13, Line 25, replace "State" with "straight"

Page 14, Line 9, replace "State" with "straight"

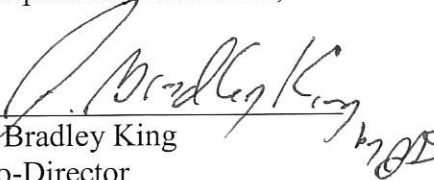
Page 14, Line 20, replace "off" with "op"

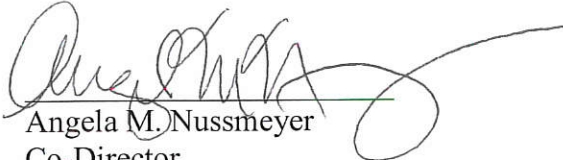
Page 17, Line 9, replace "then tech" with "they intend"

Page 35, Line 4, replace "GPS" with "GBS"


Page 37, Line 22, replace "VREs" with "DREs"  
Page 37, Line 23, replace "ob" with "op"  
Page 37, Line 25, replace "DR" with "DRE"  
Page 41, Line 25, replace "Lance" with "Lantz"  
Page 42, Line 2, replace "Lance" with "Lantz"  
Page 42, Line 12, replace "Lance" with "Lantz"  
Page 43, Line 3, replace "Lance" with "Lantz"  
Page 43, Line 6, replace "Lance" with "Lantz"  
Page 43, Line 8, replace "Lance" with "Lantz"  
Page 43, Line 13, replace "Lance" with "Lantz"  
Page 43, Line 17, replace "Lance" with "Lantz"  
Page 43, Line 21, replace "Lance" with "Lantz"

Respectfully Submitted,

  
\_\_\_\_\_  
J. Bradley King  
Co-Director

  
\_\_\_\_\_  
Angela M. Nussmeyer  
Co-Director

**APPROVED:**

  
\_\_\_\_\_  
Bryce H. Bennett, Jr.  
Chairman

*In the Matter Of:*

INDIANA ELECTION COMMISSION HEARING

TRANSCRIPT OF HEARING

February 10, 2017



**CONNOR REPORTING**

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Transcript of Hearing  
February 10, 2017

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INDIANA ELECTION COMMISSION  
PUBLIC SESSION AGENDA

Conducted on: February 10, 2017

Conducted at: Indiana Governmental Center  
402 West Washington Street  
Conference Room 2  
Indianapolis, Indiana 46204

A Stenographic Record By:  
Lisa C. Pierce

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A P P E A R A N C E S

INDIANA ELECTION COMMISSION:

- Mr. Bryce Bennett - Chairman
- Mr. Michael Claytor - Proxy for Vice Chairman  
S. Anthony Long
- Mr. Zachary Klutz - Member
- Ms. Suzannah Overholt - Member

INDIANA ELECTION DIVISION STAFF:

- Ms. Angie Nussmeyer - Co-Director
- Mr. Dale Simmons - Co-Legal Counsel
- Mr. Matthew Kochevar - Co-Legal Counsel

1           CHAIRMAN BENNETT: At this time I'd like to  
2 call to order the meeting of the Indiana Election  
3 Commission for Friday, February 10th, 2017. And  
4 the time is 1:00 p.m. At this time we will call  
5 to order the meeting. And then in terms of a  
6 determination of the quorum, I would introduce  
7 myself, Bryce Bennett, Chairman of the Indiana  
8 Election Commission. We have Mike Claytor as  
9 proxy for Vice Chairman Anthony Long. We have  
10 member Suzannah Wilson Overholt with us. And we  
11 have member Zachary Klutz.

12           The Indiana Election Division staff is our  
13 Co-Director Angela Nussmeyer. And Brad King  
14 Co-Director is absent due to illness.

15           Co-General Counsels, we have Matthew Kochevar  
16 and Dale Simmons. The court reporter today is  
17 Lisa Pierce of Connor & Associates.

18           Before we begin I want to remind everyone, on  
19 behalf of the court reporter, to identify yourself  
20 when you begin to speak; spell your name. And  
21 when you identify yourself, speak clearly. And do  
22 not speak at the same time as others. I would  
23 like a Documentation of Compliance with the Open  
24 Door Laws and I call upon Miss Nussmeyer and  
25 Mr. Simmons for that.

1 MR. SIMMONS: Yes. Mr. Chairman, we have  
2 complied with the Open Door Law and notice had  
3 been posted outside our offices as well as on the  
4 internet. So we would -- we've complied with the  
5 -- with the law.

6 CHAIRMAN BENNETT: Very well, thank you.  
7 With that we will proceed to ratification of  
8 campaign finance settlements. We will consider  
9 ratification of those settlement agreements, and I  
10 would ask for a presentation by Miss Nussmeyer and  
11 Mr. Simmons regarding these agreements.

12 MS. NUSSMEYER: Okay. Thank you,  
13 Mr. Chairman. If you look under your tab, under  
14 the pink tab for the CFA settlements, you'll  
15 notice there are a number of committees who have  
16 now paid their fines for campaign finance reasons.  
17 And we would recommend the Commission approve of  
18 those agreements.

19 CHAIRMAN BENNETT: Is there a motion to  
20 ratify the settlement agreements as presented?

21 VICE CHAIRMAN PROXY CLAYTOR: Mr. Chairman, I  
22 am embarrassed to say that, once again, I am one  
23 of the miscreants listed on the settlement  
24 agreements, by way of disclosure. But that will  
25 not stop me from voting or making a motion to

1 approve this settlement agreement.

2 CHAIRMAN BENNETT: Which one is --

3 ~~VICE CHAIRMAN PROXY CLAYTOR: The Gregg for~~  
4 Indiana. Way down by the bottom.

5 CHAIRMAN BENNETT: And do you have -- move to  
6 ratify these settlement agreements?

7 VICE CHAIRMAN PROXY CLAYTOR: I have.

8 CHAIRMAN BENNETT: Is there a second?

9 COMMISSION MEMBER KLUTZ: Second.

10 CHAIRMAN BENNETT: Motion is seconded. Any  
11 discussion?

12 (No response.)

13 CHAIRMAN BENNETT: Hearing none, all in favor  
14 say "Aye."

15 THE COMMISSION: Aye.

16 CHAIRMAN BENNETT: All opposed say, "Nay."

17 (No response.)

18 CHAIRMAN BENNETT: Ayes have it. The  
19 ratification of the settlement agreements is  
20 approved.

21 Everyone who is present today that plans to  
22 testify before the Election Commission regarding  
23 any matter, please stand now for the  
24 administration of the oath. And I recognize Dale  
25 Simmons to administer the oath.



1 MR. SIMMONS: Please stand, raise your right  
2 hand. Say "I do" after administrating of the  
3 oath.

4 Do you solemnly swear or affirm, under the  
5 penalties of perjury, the testimony you're about  
6 to give the Commission, Indiana Election Committee  
7 is the truth, the whole truth and nothing but the  
8 truth? Say "I do."

9 (Consent by all.)

10 CHAIRMAN BENNETT: Thank you. We will now  
11 begin consideration on several voting system  
12 matters on our agenda. Recognize Jay Bagga and --  
13 as far as presentation and recognition to election  
14 system and software change orders. Dr. Bagga.

15 DR. BAGGA: Thank you, Mr. Chairman. I'm Jay  
16 Bagga, B-a-g-g-a, a Co-Director for VSTOP. And  
17 before we present our formal report, I'm pleased  
18 to introduce two other VSTOP members that are  
19 present here: Dr. Bryan Byers. He's a professor  
20 of criminal justice and criminology. He's a new  
21 VSTOP Co-Director. Dr. Joe Losco had retired at  
22 the end of December last year.

23 Then we also have with us Mr. Aniketh Ramname  
24 who is a project manager for VSTOP.

25 So the first report we would like to present

1 is an ECO report from ES&S. Election Systems &  
2 Software has formally requested approval of ECOs,  
3 Engineering Change Orders, to their certified  
4 voting systems in Indiana. Each of the ECOs in  
5 the list that we have presented to you has been  
6 evaluated by VSTOP team according to the protocol  
7 approved by the Indiana Election Commission.

8 Members of VSTOP team have researched these  
9 ECOs and the corresponding VSTL report, and we  
10 find them in compliance with requirement for  
11 de minimis changes to hardware components that are  
12 compatible with Unity 3410 and EVS 5200 voting  
13 systems certified for use in Indiana as listed  
14 below. We recommend approval by the Indiana  
15 Election Commission.

16 CHAIRMAN BENNETT: Is there a motion to  
17 approve the election system software change orders  
18 as presented and recommended by VSTOP?

19 VICE CHAIRMAN PROXY CLAYTOR: I so move.

20 CHAIRMAN BENNETT: We have a motion. Is  
21 there a second?

22 COMMISSION MEMBER KLUTZ: Second.

23 CHAIRMAN BENNETT: Motion and a second. Any  
24 discussion?

25 (No response.)

1 CHAIRMAN BENNETT: Hearing none, all in favor  
2 say "Aye."

3 THE COMMISSION: Aye.

4 CHAIRMAN BENNETT: All opposed say "Nay."

5 (No response.)

6 CHAIRMAN BENNETT: Ayes have it. Motion is  
7 approved.

8 I will now recognize Jay Bagga for a  
9 presentation and recommendation with respect to a  
10 test plan to comply with the Commission's  
11 Resolution 2016-3 and Senate Bill 61 enacted in  
12 2016.

13 DR. BAGGA: Thank you, Mr. Chairman. I next  
14 present a report which is an update on Resolution  
15 2016-3, Hart InterCivic. In that resolution there  
16 are two sections that we've been following.

17 Section 2A was a section that applied to  
18 manual procedures being applied for elections in  
19 2016. Hart did comply with all the deadlines.  
20 They submitted to VSTOP documentation by  
21 August 26th of 2016 that they had notified all the  
22 counties of the manual procedures. These manual  
23 procedures were also tested by labs and were found  
24 to -- in compliance and were approved by VSTOP.  
25 And we reported this in an earlier meeting of IC

1 on September 23rd, 2016.

2 On December 2nd VSTOP asked Hart for an  
3 assessment of how the manual procedures were  
4 carried out, and we did receive -- receive a  
5 report from Hart. And they pointed out to us that  
6 only one county, Monroe, had one paper ballot that  
7 was an over-voted ballot, according to 3-12-1-7  
8 Section F of IC Code. And that ballot was  
9 properly handled according to the manual  
10 procedures that were tested.

11 I'll next move on to our report on Section 2B  
12 of the Resolution 2016-3. That section was  
13 concerned with a -- a manual -- a -- a plan for  
14 product enhancement. Hart did comply with that  
15 deadline, namely September 30, 2016. And they  
16 submitted to VSTOP a product enhancement plan.  
17 VSTOP requested some clarification on some parts  
18 of the plan. And Hart did supply that  
19 clarification which was subsequently approved by  
20 VSTOP for recommendation to IDC. And VSTOP did  
21 send a -- a communication to Indiana Election  
22 Division recommending that the plan be approved.  
23 Subsequently Hart also submitted a test plan  
24 and a script at the beginning of January, on  
25 January 10th, 2017. Should the Commission approve

1 the product enhancement plan, then this test plan,  
2 which is also a part of that plan, will be carried  
3 out, and the testing will be done at the lab.

4 Subsequently that plan was revised. On  
5 January 31st we received a revised plan, and we  
6 have included the plan with the report that we are  
7 presenting to the Commission. We are prepared to  
8 recommend that that test plan be carried out,  
9 should the Commission approve the product  
10 enhancement plan and the test plan.

11 CHAIRMAN BENNETT: Is there a motion to  
12 approve the test plan presented by VSTOP for Hart  
13 InterCivic?

14 VICE CHAIRMAN PROXY CLAYTOR: So moved.

15 CHAIRMAN BENNETT: We have a motion. Is  
16 there a second?

17 COMMISSION MEMBER KLUTZ: Second.

18 CHAIRMAN BENNETT: Motion and a second. I  
19 have one question. Materials that we have states  
20 that if Indiana approves the final test report by  
21 January 30th, 2000 -- 2017, Hart InterCivic plans  
22 to complete the task during the first two weeks of  
23 February. And we have -- we are beyond  
24 January 3rd of 2017. Is this going to present any  
25 problem?

1 DR. BAGGA: That's right. So we have a -- an  
2 e-mail from Hart that came yesterday to the  
3 Indiana Election Commission Co-Directors. And  
4 that e-mail asserts, and I'll report that as part  
5 of our report, that should the test be carried out  
6 and be approved by VSTOP a -- a week from today,  
7 then Hart intends to meet the -- meet the  
8 March 1st deadline but would like to request  
9 March 3 be the day. And they are saying that they  
10 can meet the deadline of implementation in the  
11 counties by March 3rd.

12 MR. SIMMONS: Mr. Chairman.

13 CHAIRMAN BENNETT: Yes.

14 MR. SIMMONS: One of the issues that staff  
15 has -- has discussed with respect to  
16 implementation, when we were reviewing the  
17 materials, it mentioned software modification.  
18 Some of the other vendors had programming  
19 modifications. If this is a software  
20 modification, that would require a application,  
21 payment of a fee and approval certification  
22 process.

23 So it might be good to try to clarify, before  
24 we discuss any implementation, whether we have a  
25 programming change or an actual software

1 modification. And -- and that's something maybe  
2 VSTOP can address.

3 DR. BAGGA: This -- this indeed is a software  
4 modification in V -- in Hart's systems.

5 MR. SIMMONS: Okay.

6 DR. BAGGA: So -- so we intend to go through  
7 dealing with it as a software modification.

8 MR. SIMMONS: Have they applied?

9 DR. BAGGA: They have not applied for new  
10 certification. Software modification can be  
11 handled through ECUs as a non de minimis  
12 modification.

13 CHAIRMAN BENNETT: Is that --

14 MR. SIMMONS: Mr. Chairman, we have a  
15 de minimis statute that defines de minimis,  
16 3-5-2-6-16.3 that says, The following are not  
17 de minimis changes: Software and firmware  
18 modifications. So that's -- that's what sort of  
19 raised the question with staff. We have a legal  
20 definition that says a de minimis change does not  
21 include a software modification.

22 DR. BAGGA: That -- if I may. This would not  
23 be a de minimis change; it will be a non  
24 de minimis change which requires the software  
25 modification. And since this software

1 modification is being made, or has been made as  
2 Hart asserts, it doesn't have to be tested at the  
3 VSTL, at the lab. And that testing will be  
4 carried out once the Commission approves.

5 MR. SIMMONS: Mr. Chairman, can I ask a  
6 follow-up question?

7 CHAIRMAN BENNETT: Yes.

8 MR. SIMMONS: So is -- is approval of a -- a  
9 non de minimis software change through an ECO, is  
10 that part of the ECO protocol the Commission has  
11 approved?

12 DR. BAGGA: It is. It is, sir, yes.

13 MR. SIMMONS: Okay.

14 DR. BAGGA: And I have a copy here of that  
15 Commission -- of the -- the protocol. So the ECO  
16 protocol handles both de minimis as well as non  
17 de minimis changes.

18 CHAIRMAN BENNETT: Given the discussion that  
19 we've had, can you summarize the test plan that  
20 we're being asked to vote on at this point?

21 DR. BAGGA: Certainly. The test plan that  
22 we'll be testing in the lab, after it's been  
23 approved, would test the Section 3-12-1-7(f) of  
24 Indiana Code which relates to over-votes for State  
25 party. So if a voter votes two State parties, for



1 example, then the entire ballot is considered to  
2 be void except for questions and school board  
3 candidates. All the parties and candidates, the  
4 voting becomes void, even if the voter has marked  
5 some of those.

6 So according to the SEA-61 changes in Indiana  
7 law, this process should be automatic; that is, if  
8 a ballot is fed through the voting system with an  
9 over-voted State party ballot, then all of the  
10 partisan votes have to be voided. And this  
11 software change will make that happen and still  
12 needs to be tested.

13 COMMISSION MEMBER KLUTZ: Automatically.

14 DR. BAGGA: Automatically.

15 COMMISSION MEMBER KLUTZ: Without manual.

16 DR. BAGGA: Automatically. Yes. So the  
17 manual procedures that were in place for the 2016  
18 election went as follows: If there is an  
19 over-voted paper ballot -- now, this only applies  
20 to off scan machines and paper ballots. DRE don't  
21 have to -- they're already satisfied 'cause they  
22 don't allow over-votes.

23 So for a paper ballot, if a paper ballot is  
24 fed through the system, it is not accepted because  
25 it's over-voted, then there are a couple of

1 choices a voter has. Either the voter can correct  
2 the ballot, that over-voted ballot, and -- and --  
3 and submit a corrected ballot, which will then be  
4 received and submitted. If the voter decides not  
5 to correct the ballot, the manual procedures  
6 require a poll worker to segregate that ballot to  
7 be adjudicated later on. That's -- that's the  
8 manual procedure that was followed in the 2016  
9 election.

10 But Indiana law requires that -- that it not  
11 be manual, that it be automatic. So if the voter  
12 decides to feed that ballot anyway, it will be fed  
13 through the machine and then to the voting system.  
14 And then only the school board candidates and  
15 questions will be counted. It will void all the  
16 other ballots. So that's the automatic part of  
17 the process, yes.

18 CHAIRMAN BENNETT: And this test plan  
19 includes the understanding that the system will be  
20 tested and a determination whether it's in  
21 compliance with -- with the Election Code and the  
22 Senate Bill 61 and will be completed by March 3rd  
23 of 2017; is that correct?

24 DR. BAGGA: Yes, Mr. Chairman. The -- the  
25 test plan that's included in the report that VSTOP

1 submitted to the Commission has the details of how  
2 the test plan will be carried out at the lab.  
3 Subsequent -- subsequently to that the -- the --  
4 the test report will come to VSTOP. And VSTOP  
5 will review the report. And then we'll make a  
6 determination whether it met -- whether it  
7 complies with the law.

8 And at that point we, VSTOP, will -- if it  
9 does comply, then VSTOP will submit a report to  
10 the Indiana Election Commission and to the  
11 Commission stating that the -- the test was  
12 successful. And at that point we will recommend  
13 that this be approved. And subsequent to that  
14 this will then be implemented in the field, in all  
15 of the jurisdictions where Hart's voting systems  
16 are.

17 CHAIRMAN BENNETT: If it's approved by the  
18 Commission.

19 DR. BAGGA: If it's approved by the  
20 Commission.

21 CHAIRMAN BENNETT: Okay.

22 COMMISSION MEMBER KLUTZ: From the time the  
23 March 3rd test takes place, how long till you get  
24 your report to review do you anticipate?

25 DR. BAGGA: So according to this e-mail that

1 Eddie Perez sent yesterday to the Division -- and  
2 we have a copy here, and I -- I believe that's a  
3 copy that you -- you -- you will have -- his  
4 timeline or Hart's timeline is that if the  
5 Commission were to approve the -- the test plan  
6 today, they -- they will have it tested early next  
7 week in the lab.

8 In fact, the lab already has a copy and the  
9 test plan. And then tech to send the test reports  
10 to us by the middle of next week. And they're  
11 asking VSTOP to review the test reports by a week  
12 from today, February 17th. And they are saying  
13 that if that happens, then they'll have time to  
14 meet the implementation deadline by March 3rd  
15 instead of by March 1st.

16 CHAIRMAN BENNETT: Any other questions?

17 MS. NUSSMEYER: Mr. Chairman, if I may,  
18 though. The Commission would have to meet to  
19 approve that final plan from you before Hart could  
20 actually roll the new software to the equipment in  
21 the counties.

22 DR. BAGGA: Essentially, yes. Because VSTOP  
23 will only make a recommendation to the Division  
24 and the Commission.

25 MS. NUSSMEYER: Okay.

1 DR. BAGGA: It will be up to the Commission  
2 to -- to accept that.

3 MS. NUSSMEYER: So that would mean we would  
4 need to meet in the near future or be amenable to  
5 delaying the full implementation to the counties  
6 if we were to meet after February 17th, is the way  
7 I understand the timeline to be. I don't know if  
8 Mr. Simmons agrees.

9 MR. SIMMONS: Yeah. That's the way --  
10 Mr. Chairman, that's the way I understand it too.

11 DR. BAGGA: Yes.

12 MR. SIMMONS: We -- we -- we get a test  
13 recommendation and then final approval for  
14 implementation from the Commission.

15 CHAIRMAN BENNETT: And that implementation --

16 MR. SIMMONS: Install it, I think is what  
17 they're --

18 CHAIRMAN BENNETT: Yeah. That comes from the  
19 Commission. And that has to be before February  
20 17th?

21 MR. SIMMONS: Well, no. To meet the  
22 Commission's deadline you have to come sometime  
23 before March 1st --

24 DR. BAGGA: March 1st.

25 MR. SIMMONS: -- according to the resolution

1 or March 3rd according to what they're saying they  
2 can do.

3 MS. NUSSMEYER: But March 3rd is when they  
4 believe they will have it fully implemented at the  
5 county, in other words installed.

6 MR. SIMMONS: They can start --

7 MS. NUSSMEYER: They could -- right. So if  
8 we -- if we don't meet in the next few weeks, then  
9 they are delayed in rolling out the new product to  
10 their counties. Because they couldn't deploy the  
11 new coding to the equipment until the Commission  
12 agrees that their test plan -- their final product  
13 meets our criteria.

14 VICE CHAIRMAN PROXY CLAYTOR: But in their  
15 e-mail they're saying we would have to meet and  
16 approve it February 17th.

17 MS. NUSSMEYER: Right. In order for them to  
18 meet --

19 VICE CHAIRMAN PROXY CLAYTOR: In order for  
20 them to start rolling it out.

21 MS. NUSSMEYER: Correct, Mr. Claytor. And  
22 part of that too is they came to the Division in  
23 January to try to -- to get the test plan and  
24 didn't realize they needed the Commission's  
25 approval of their test plan in order to move

1 forward with rolling out the new product. So  
2 there was a bit of a delay on our end, I believe,  
3 because they were --

4 DR. BAGGA: Yes.

5 MS. NUSSMEYER: -- ready to -- to move  
6 forward.

7 CHAIRMAN BENNETT: So we either have to meet  
8 by the 17th or extend the deadline imposed by the  
9 -- the order -- order.

10 MS. NUSSMEYER: That's how -- that's how I  
11 understand it.

12 VICE CHAIRMAN PROXY CLAYTOR: But then we'd  
13 have to extend the deadline anyway if we're going  
14 to let them go to March 3rd. Because I think  
15 their deadline is March 1st.

16 COMMISSION MEMBER KLUTZ: Do they need up  
17 until the 17th? I mean, are they being -- are  
18 they -- are they trying to get away with one date  
19 because they need up until the 17th? Or could we  
20 meet before the 17th?

21 DR. BAGGA: Our understanding is that they --  
22 they need some time after the Commission has  
23 approved the report to go implement it in the  
24 counties. And that to us seems like a period of  
25 about two weeks roughly.

1 MS. NUSSMEYER: Uh-huh.

2 DR. BAGGA: So --

3 MS. NUSSMEYER: Uh-huh. In -- in the e-mail,  
4 if I may, Mr. Chairman, it says if VSTOP and/or  
5 the IEC is able to issue final approval of the  
6 test report by Friday, February 17th. So,  
7 Commissioner Klutz, to your question, if we met  
8 before the 17th, then it appears that they would  
9 be able to roll it out by the March 1st deadline,  
10 assuming that the VSTL report comes back by  
11 February 10th. Which -- well, it comes back in  
12 the early part of next week.

13 DR. BAGGA: Right. So it's also -- if -- if  
14 I may -- sorry.

15 CHAIRMAN BENNETT: How likely is that  
16 assumption?

17 DR. BAGGA: If I may, Mr. Chairman. This  
18 would be contingent upon the lab completing its  
19 test and sending VSTOP the report in time for  
20 VSTOP to review the report and go back to the lab  
21 in case there are any questions and then bring the  
22 report and our recommendation back to the  
23 Commission. So we would say at least a week for  
24 that, starting from the day the tests begin.

25 MS. NUSSMEYER: And, Mr. Chairman, if I may,



1 for the record, I know that Mr. Perez from Hart  
2 was intending to be here today. But with all of  
3 the snow he was concerned about -- 'cause he would  
4 have to fly into Chicago -- that he would not be  
5 able to be down here today. So that's why he  
6 e-mailed Dale and I and also then spoke to the two  
7 of us yesterday. And we knew that he would not be  
8 here today.

9 CHAIRMAN BENNETT: Well, if we have to end up  
10 modifying our resolution anyway because all these  
11 pieces of the puzzle don't fall into place, it  
12 seems to me that it might be less disruptive for  
13 the Division and the Commission to extend our  
14 resolution deadline as opposed to trying to fit  
15 this meeting into the existing resolution.  
16 Discussion on that?

17 COMMISSION MEMBER KLUTZ: I have no issue  
18 with that.

19 MR. KOCHEVAR: Mr. Chairman.

20 CHAIRMAN BENNETT: Yes.

21 MR. KOCHEVAR: If I may, 'cause I'm actually  
22 looking at that part of the resolution under  
23 Section 2. And that's in Paragraph B.

24 COMMISSION MEMBER OVERHOLT: There are two  
25 Paragraph Bs.

1 MR. KOCHEVAR: Yeah. It's supposed to be the  
2 actual Paragraph B that has the --

3 COMMISSION MEMBER KLUTZ: You know, the other  
4 resolutions aren't like that. I wonder what  
5 happened.

6 MR. KOCHEVAR: The part I'm referring to, it  
7 says, The plan must, one, provide for all  
8 necessary testing and implementation of necessary  
9 modifications no later than March 1, 2017. And,  
10 two, be reviewed by VSTOP and submitted to the  
11 Indiana Election Commission for approval.

12 I think there are two ways of looking at that  
13 part of the resolution and -- and interpreting it.  
14 One is I think the -- the way that Hart's looking  
15 and it and what we discussed, is it's saying that  
16 their -- their changes must be implemented by  
17 March 1, 2017. I think another way of looking at  
18 it is saying that the plan that Hart had submit  
19 had to -- they had to build a plan where -- where  
20 essentially everything that was under their  
21 control, all of their -- their testing, what they  
22 could implement could be done on March 1, 2017, if  
23 the Indiana Election Commission was able to meet  
24 at various amounts of time to -- to approve  
25 what -- what you need to approve to have that

1 change implemented.

2 So taking that reading, essentially you can  
3 view it as, well, they come to us with their test  
4 plan, assuming that you approve it today, it would  
5 appear that they have met -- they have met the --  
6 the requirements under this section. They are  
7 prepared with everything that's under their  
8 control to make an implementation by March 1st.  
9 But for the Commission having to meet and to make  
10 that final -- to review the final test results and  
11 make the approval of the modification, they --  
12 they can't implement them on March 1.

13 I hope that made sense. I -- I -- I think  
14 I -- I lost -- I lost a little bit towards the  
15 end, sorry. But -- and I'll -- I'll defer to  
16 Mr. Simmons if he gets what I'm saying. I know we  
17 discussed this a little bit outside of -- as we  
18 were prepping for the meeting.

19 MR. SIMMONS: Mr. Chairman, and -- and I  
20 think that this sum total of what I think we're  
21 all saying is: Our understanding of the  
22 assumptions in their plan, that the Commission  
23 could be very flexible and meet on -- very quickly  
24 to approve at different stages of the process, you  
25 know, test plan, implementation or reviewing after

1 the test and saying, Yes, implement.

2 So I think they built that into their  
3 assumptions. And so they're kind of looking at us  
4 saying, Well, we're -- we're sorry we didn't know  
5 the Commission was not that flexible, but we're  
6 hoping you don't hold that -- that against us.  
7 Because we -- we -- according to our benchmarks,  
8 if they had been available to meet and approve of  
9 at every point according to the plan, we would  
10 have made the deadline. So they're -- they're  
11 sort of -- that's sort of where they are.

12 CHAIRMAN BENNETT: This appears to me to be a  
13 situation where Hart is working in good faith and  
14 trying to get this done according to the  
15 resolution. I'm trying to figure out the best way  
16 to reward that diligence without disrupting the  
17 Commission or the Division in -- inordinately.

18 Couldn't it all be solved if we were to amend  
19 our resolution to extend that March 1st deadline  
20 by some reasonable period of time?

21 MR. SIMMONS: Sure.

22 VICE CHAIRMAN PROXY CLAYTOR: I -- I don't  
23 know, Mr. Chairman. I -- that certainly makes  
24 sense. I don't know if we need to do that on this  
25 resolution. We can certainly. And then that

1 makes the most sense and gives them some comfort.  
2 But I don't think the resolution approving them  
3 going forward is determinative of giving them more  
4 time in going forward with --

5 CHAIRMAN BENNETT: On the test plan you mean?

6 VICE CHAIRMAN PROXY CLAYTOR: On the -- on  
7 the -- right. Approving the -- the test plan. We  
8 don't necessarily have to go to March 3rd. I  
9 think the problem is, if we can't meet on the 17th  
10 and something happens and then they need to extend  
11 it to March 5th or some crazy time, we could have  
12 gone ahead with just approving the plan today.  
13 And then at our next meeting, when we have to  
14 approve their implementation, we could change the  
15 target date. And I don't --

16 CHAIRMAN BENNETT: Even if that -- even if  
17 that occurred after March 1st?

18 VICE CHAIRMAN PROXY CLAYTOR: Even if that  
19 occurred after March 1st. I'm certainly willing  
20 to go either way.

21 CHAIRMAN BENNETT: Well, I think we take a  
22 two-step process. I mean, there is a motion on  
23 the -- on the table that has been seconded and  
24 we've had a lot of discussion about the test plan.  
25 So we can resolve that at this point in time.

1 Unless there's any further discussion on that.

2 COMMISSION MEMBER KLUTZ: No.

3 CHAIRMAN BENNETT: So we have a motion and a  
4 second to approve the test plan. All in favor say  
5 "Aye."

6 THE COMMISSION: Aye.

7 CHAIRMAN BENNETT: All opposed say "Nay."

8 (No response.)

9 CHAIRMAN BENNETT: The ayes have it. The  
10 test plan is approved.

11 And I understand there's a suggestion that we  
12 just go about our business and take this up at our  
13 next meeting. And that sort of leaves open the  
14 question, I suppose, of whether the resolution was  
15 complied with because it probably won't be done by  
16 March 1st.

17 COMMISSION MEMBER KLUTZ: I would think Hart  
18 would want some assurances that -- or an  
19 acknowledgement by the Commission that we are  
20 extending this deadline stated in the resolution.

21 CHAIRMAN BENNETT: Can we do that informally  
22 by stating it on the record without a -- a formal  
23 amendment of our resolution? Or do we need to  
24 formally --

25 MR. SIMMONS: Yeah. Mr. Chairman, yeah,

1 certainly we'd be willing to communicate that.

2 I -- I think their -- their major concern is that  
3 they don't miss that deadline under the current  
4 status that they not be punished for that. And I  
5 think that's been the will of the Commission as  
6 expressed by the Commission here today. And I'd  
7 be willing to communicate that to Hart.

8 CHAIRMAN BENNETT: Do we want to phrase that  
9 or frame that in terms of a -- an extension of two  
10 weeks? Or do we just give them an open-ended  
11 pass?

12 MR. SIMMONS: Or at least until they can --  
13 at least as long as they continue to diligently  
14 pursue their implementation that --

15 MS. NUSSMEYER: Because they would be before  
16 the Commission by October 1st, correct, to  
17 recertify their systems for the next period of  
18 time as well. So --

19 COMMISSION MEMBER KLUTZ: I don't want to  
20 lose any momentum here. I mean, I'd -- I'd like  
21 to have it -- something on the books so that  
22 there's this -- not this October 1 outside date,  
23 and reports get put on a shelf and people forget  
24 about this. I -- my preference would be to say  
25 that we acknowledge their good faith efforts in

1 attempting to comply with this resolution. We --  
2 we realize that the March 1st deadline, that their  
3 planning was based upon the assumption that we  
4 could meet quickly. And while we can, seven days  
5 with multiple schedules is difficult.

6 So I guess I would say that -- that -- make a  
7 motion that we extend the March 1, 2017 deadline  
8 as provided in Section B1 to March 15th, on or  
9 before March 15th. And we would agree to meet by  
10 then. That would be my motion.

11 VICE CHAIRMAN PROXY CLAYTOR: I would second.

12 CHAIRMAN BENNETT: The motion is seconded.

13 Discussion? Any further discussion?

14 (No response.)

15 CHAIRMAN BENNETT: Anything from the floor  
16 with regard to the ability to comply with the  
17 March 15th deadline if it is extended?

18 DR. BAGGA: Mr. Chairman, we would like to  
19 recommend that the Commission not have a date for  
20 next meeting until we've seen the report and  
21 reviewed it, and then we can send to the  
22 Commission for approval. We expect that to happen  
23 within the next week. But when tests are done and  
24 if things are not the way they are and we want  
25 more information from the lab on the tests, then



1 we -- that may take a little bit longer time,  
2 although we don't expect that. The tests are  
3 straightforward and they should go through. But  
4 we won't be able to make a recommendation until we  
5 have reviewed the test report. Which, again, is  
6 expected to happen next week.

7 COMMISSION MEMBER KLUTZ: And my -- and my  
8 motion wasn't intended to schedule a meeting for  
9 March 15th. It was just that we --

10 DR. BAGGA: Oh.

11 COMMISSION MEMBER KLUTZ: -- would like to  
12 meet on or before March 15th as soon as we hear  
13 back from you.

14 DR. BAGGA: Yes, that's good. I'm happy with  
15 that.

16 CHAIRMAN BENNETT: My question is: Can we  
17 expect to hear become from you before March 15?

18 DR. BAGGA: Almost certainly, yes.

19 CHAIRMAN BENNETT: Okay. And all in favor of  
20 the motion presented by Commissioner Klutz say  
21 "Aye."

22 THE COMMISSION: Aye.

23 CHAIRMAN BENNETT: All opposed say "Nay."

24 (No response.)

25 CHAIRMAN BENNETT: Ayes have it. Motion

1 carries. Thank you.

2 At this point I'd like to call on Dr. Bagga  
3 again to provide a report and recommendations with  
4 regard to Dominion Voting Systems.

5 DR. BAGGA: Thank you, Mr. Chairman. This  
6 next report is an update on Resolution 2016-1 on  
7 Dominion's compliance with Indiana Code  
8 Section 3-12-1-7(f). Dominion has AccuVote/GEMS  
9 voting systems in twenty counties in Indiana.  
10 And, again, we will address Section 2A and  
11 Section 2B of the resolution independently. We'll  
12 begin with Section 2A.

13 We have reported to the Commission in its  
14 September 23rd, 2016 meeting that Dominion  
15 complied with the manual procedures process for  
16 Section 2A of the resolution. On December 2nd  
17 VSTOP asked Dominion to provide to us an  
18 assessment of how the manual procedures worked in  
19 the 2016 election, November 2016 election.

20 And on January 26th we were told that -- in  
21 an e-mail that GBS, Governmental Business Systems,  
22 which is a service provider to Dominion in  
23 Indiana, did do a survey of the twenty counties  
24 regarding how the manual procedures worked. Seven  
25 ballots were found in three counties which were

1 over-voted. And those were handled properly  
2 according to the manual procedures.

3 Ten counties reported that there were no  
4 affected ballots found in those counties for any  
5 of these over-voted ballots. Seven counties did  
6 not respond. So we believe that Dominion complied  
7 with Section 2A of the resolution.

8 Now we'll move on to Section 2B of the  
9 resolution which is a software modification. We  
10 did receive from Dominion a letter on  
11 September 30th. That was the deadline imposed by  
12 the resolution for a plan. And the letter is  
13 included in the report we submitted to the  
14 Commission in an Appendix B.

15 The letter in Appendix B was from the  
16 Regional Manager of Sales from Dominion. And it  
17 informed us that at that point Dominion was still  
18 evaluating what software modifications might be  
19 necessary and that they would like to discuss this  
20 further with VSTOP prior to December 31st, 2016.

21 Subsequently VSTOP did communicate with  
22 Dominion on several occasions and asked for a more  
23 detailed plan. Because the letter of  
24 September 30th did indicate that they were working  
25 on a plan, but we have not received a copy of the

1 plan. Subsequently we sent reminder to Dominion  
2 for the plan, and we had a phone conference with  
3 Dominion very recently, on -- on January 27th. Is  
4 that right?

5 And in that phone conference we spoke with  
6 representatives from Dominion who indicated to us  
7 that they were still exploring options. And they  
8 have certain reasons for asking that they be given  
9 time to comply with the SEA-61 sections, but they  
10 asked for more time. Subsequent to that we did  
11 receive an e-mail from Dominion that they were  
12 going send a representative to this Commission  
13 meeting. And we see that we do have a  
14 representative from Dominion, Mr. Ian Piper.

15 And in the letter that we received from  
16 Dominion dated February 3rd, Dominion laid out a  
17 number of reasons for their exploration of  
18 software modifications indicating that these  
19 working systems are approximately 20 years old.  
20 They were manufactured by Global Election Systems,  
21 the GEMS, in the early 1990s. They used older  
22 versions of software and hardware. And Dominion  
23 is now exploring how to find help in getting that  
24 software modified.

25 So we are at the stage where we -- we have

1 all these communications, but we have not seen a  
2 plan yet for product enhancement.

3 CHAIRMAN BENNETT: And when was that plan  
4 due?

5 DR. BAGGA: The plan was due on  
6 September 30th last year.

7 CHAIRMAN BENNETT: Anything else in your  
8 report?

9 DR. BAGGA: That's it for the Section 2B,  
10 Mr. Chairman.

11 CHAIRMAN BENNETT: All right. Is there a  
12 representative from Dominion that would like to  
13 speak?

14 MR. PIPER: Sure. Ian Piper, I-a-n,  
15 P-i-p-e-r. I'm the Director of Federal  
16 Certification for Dominion.

17 In regards to the equipment, it actually was  
18 designed back in the earl -- the late '80s. And  
19 Dominion does not have any staff on board right  
20 now that is familiar with those languages that  
21 were used for that code base. We have not been  
22 able to locate any of the previous Premier or  
23 Global staff that did work on the code base who  
24 are willing to actually work on this -- on these  
25 changes. And the changes definitely would require

1 code modification.

2 I've got a statement of work that we are  
3 using to work with an actual third-party software  
4 house that GPS and Dominion have located in  
5 Illinois and that they are -- they believe that  
6 they are willing and able to work with the  
7 code-based languages we have, which are Turbo C  
8 and Assembler as well as an early version of C.

9 So with that we are in the part of getting an  
10 NDA and a contract worked out with this software  
11 house. And we believe as well too that there are  
12 other situations that we need to consider as well  
13 for the code changes that may not have been  
14 considered previously. And that's something that  
15 we need to explore further with VSTOP in regards  
16 to how that's going to be managed.

17 CHAIRMAN BENNETT: Is there any plan prepared  
18 at this point in time?

19 MR. PIPER: We don't have a timeline on that  
20 because we have to get a -- a feasibility done by  
21 the actual software house in order for them to be  
22 able to say that, yes, they can go ahead and make  
23 these coding changes. We believe the GEMS changes  
24 are going to be relatively minimal, except for  
25 this new condition that might need to be

1 implemented which has to do with two-card ballots  
2 and the straight-party contest and the at-large  
3 contest.

4 But with the AccuVote Optical Scan System,  
5 that's sort of an unknown factor at this point in  
6 time until we're actually able to go ahead with  
7 that code and assess whether or not they'll be  
8 able to go ahead and make those changes.

9 CHAIRMAN BENNETT: Has Dominion submitted any  
10 written requests for an extension of time in which  
11 to submit its plan pursuant to the resolution?

12 MR. PIPER: Only the e-mail which Jay Bagga  
13 referenced from Monica Marics, who is the  
14 Executive VP of Engineering and Certification for  
15 Dominion.

16 CHAIRMAN BENNETT: What was the date of that  
17 e-mail?

18 DR. BAGGA: I have a copy right here, and  
19 I'll read from that. And I -- I believe that the  
20 Indiana Election Division has a copy that we sent  
21 to the Commission.

22 So towards the end of this document Monica  
23 Marics, the VP of the -- one of the VPs of  
24 Dominion has stated that while the State has  
25 requested completion of this work by March 1st,

1 2017, due to the items listed above -- and these  
2 are the items that Mr. Piper talked about --  
3 Dominions will -- Dominion will not be able to  
4 meet this time frame.

5 We understand the State's desire to have this  
6 automated fix, and we'll continue to work towards  
7 that goal. We will keep you apprised of our  
8 developments in these areas as they materialize.

9 CHAIRMAN BENNETT: My question was related to  
10 the plan that was due on September 30th, 2016.  
11 Was there any written request for an extension of  
12 that deadline?

13 MR. PIPER: I'm not aware of that myself.  
14 The -- the matter was handed to Gio Constaniello  
15 at that time.

16 COMMISSION MEMBER KLUTZ: Mr. Chairman, if I  
17 may.

18 CHAIRMAN BENNETT: Yes.

19 COMMISSION MEMBER KLUTZ: How many -- how  
20 many counties have Dominion machines?

21 DR. BAGGA: There are twenty counties that  
22 have Dominion systems. And Dominion has both VREs  
23 and ob scan systems. And we have a chart here  
24 that I'll read out from of the distribution among  
25 counties and between the TSX, which are the DR



1 systems, and operating -- the -- the OS systems.

2 Dominion has a total of 216 OS units spread  
3 across twenty counties. The largest one has  
4 25 units. And then they're all the way down to  
5 some counties with one unit. They also have 1,023  
6 DREs. But this does not apply to DREs. So it's  
7 216 units among the twenty counties that are  
8 affected.

9 COMMISSION MEMBER KLUTZ: If I may, to the  
10 staff. There's a representation in their letter  
11 that says, No elections will be affected in 2017  
12 within our customer base within those twenty  
13 counties. Do any of those twenty counties, do we  
14 know -- I mean, there could be referendums.

15 MR. SIMMONS: Right. I -- I think they're --  
16 Mr. Chairman, Members of the Commission, if I may.  
17 I -- I think their -- their response -- yes,  
18 you're right. There are referendums. White  
19 County -- I think the clerk from White County,  
20 here today, is having a referendum in May. I'm  
21 not sure what they're saying. I mean, certainly  
22 in a referenda the straight party wouldn't be a  
23 factor.

24 COMMISSION MEMBER KLUTZ: Correct.

25 MR. SIMMONS: In the, you know, that part of

1 the system, the logic won't impact referendum. I  
2 don't know if that's what they're saying.

3 ~~COMMISSION MEMBER KLUTZ: Okay. And then~~  
4 there's -- the last paragraph says that they look  
5 forward to talking with the -- the Division in  
6 detail prior to December 31st, 2016. Was that --  
7 was there a meeting? Did you attempt to schedule  
8 anything with us on or before the 31st.

9 MR. PIPER: I wasn't tasked with anything at  
10 that point in time.

11 COMMISSION MEMBER KLUTZ: When did you issue  
12 your work order with the third-party software  
13 house? When was the date of that issue?

14 MR. PIPER: That was back last -- beginning  
15 of February.

16 COMMISSION MEMBER KLUTZ: You mean within ten  
17 days ago?

18 MR. PIPER: Yes.

19 COMMISSION MEMBER KLUTZ: So September 30th  
20 of '16 you say you're working on it. And then  
21 ten -- within the last ten days you issued a work  
22 order to the third party?

23 MR. PIPER: Correct.

24 CHAIRMAN BENNETT: Does VSTOP have a  
25 recommendation with regard to compliance or

1 noncompliance?

2 DR. BAGGA: We have not seen the plan for  
3 product enhancement. So at this time we have no  
4 report on whether the system is compliant because  
5 we don't know what the plan is.

6 CHAIRMAN BENNETT: Okay.

7 COMMISSION MEMBER OVERHOLT: Mr. --

8 CHAIRMAN BENNETT: Go ahead.

9 COMMISSION MEMBER OVERHOLT: May I ask a  
10 question?

11 CHAIRMAN BENNETT: Sure.

12 COMMISSION MEMBER OVERHOLT: Do we know the  
13 -- the contracts that these counties have with  
14 Dominion, do we know what Dominion's obligations  
15 are to those counties to be able to update and  
16 maintain equipment to keep it compliant with  
17 Indiana law?

18 DR. BAGGA: So to answer that question, the  
19 way the compliance was carried out in the 2016  
20 election was to deploy the manual procedures for  
21 that Section 3-12-1-7(f). But the -- the Indiana  
22 Code requires automatic processing of that.

23 COMMISSION MEMBER OVERHOLT: No. I'm -- I'm  
24 -- I'm asking, I guess, and -- and I -- and this  
25 is probably beyond your purview. But I'm just

1 wondering if you have any knowledge of what the  
2 requirements are between the -- because there --  
3 there would have been at some sort -- at some  
4 point some sort of contractual obligation between  
5 Dominion and these counties to be providing -- to  
6 maintain the equipment in a manner that kept it  
7 consistent with Indiana law, regardless of what  
8 those requirements of Indiana law are.

9 And I'm just wondering if we know whether  
10 those contracts are still in force and effect or  
11 -- or what is going on with respect to those.

12 DR. BAGGA: So -- yes. So we can -- I -- I  
13 believe VSTOP can partially answer that question  
14 by pointing to an e-mail from -- again from  
15 Dominion to -- to VSTOP which says that currently  
16 none of the twenty AccuVote counties, Dominion  
17 counties in Indiana, are under contract for  
18 Dominion for any software maintenance.

19 COMMISSION MEMBER OVERHOLT: Oh. Okay, thank  
20 you.

21 CHAIRMAN BENNETT: Are there any clerks here  
22 in the counties who would like to speak? Would  
23 you state your name, please.

24 MS. LANCE: My name is Paula Lance, White  
25 County Clerk.

1 CHAIRMAN BENNETT: Do you have any questions?

2 MS. LANCE: I do have a concern. We have a  
3 referendum. I -- I do believe Christa Coffey from  
4 Tippecanoe County also too. How does -- how is  
5 this going to affect my election? If -- if our --  
6 if the system is not going to be in compliance,  
7 do -- do --

8 CHAIRMAN BENNETT: Well, my understanding  
9 from the conversation here today is that the  
10 referendums would not be impacted by the changes  
11 that are necessary.

12 MS. LANCE: And in -- in saying that --  
13 that -- because the -- the referendum would not  
14 affect the changes, that would still allow me to  
15 use this equipment?

16 CHAIRMAN BENNETT: If the equipment remains  
17 certified.

18 MS. LANCE: Thank you.

19 CHAIRMAN BENNETT: That's my understanding.  
20 If anyone in the room has a different  
21 understanding of how the straight-party ticket  
22 changes from Senate Bill 61 would impact the  
23 referendum, I'd be happy to hear from you.

24 COMMISSION MEMBER KLUTZ: If I may,  
25 Mr. Chairman. To the White County Clerk: How

1 many machines -- you -- you weren't the one county  
2 with twenty-five machines, were you?

3 MS. LANCE: No.

4 COMMISSION MEMBER KLUTZ: How many machines  
5 do you have?

6 MS. LANCE: Are you talking optical scan?

7 COMMISSION MEMBER KLUTZ: Yes.

8 MS. LANCE: We only use the optical scan  
9 during absentee voting. We only use paper ballots  
10 for absentee voting and military mail-out. We use  
11 the TSX machines in all of our vote centers.

12 COMMISSION MEMBER KLUTZ: Okay.

13 MS. LANCE: As well as our -- during our  
14 absentee time as well. But we do use -- we still  
15 use paper ballots through optical scan for --

16 COMMISSION MEMBER KLUTZ: -- absentees.

17 MS. LANCE: -- absentees.

18 COMMISSION MEMBER KLUTZ: Is there -- forgive  
19 me with this question. Is this an absentee  
20 process for referendums?

21 MS. LANCE: Yes.

22 COMMISSION MEMBER KLUTZ: Yes.

23 COMMISSION MEMBER OVERHOLT: So might the  
24 bigger question be then if the -- if the  
25 certification is currently into October, or

1 expires October 1, what's the -- what might the  
2 impact then be on the November elections? And I  
3 guess I don't know if there are November -- I  
4 mean, there aren't regular November elections.  
5 But are there any referenda -- are all the  
6 referenda and everything, is that all scheduled to  
7 occur in May and so that we don't have any  
8 activity in November? Or we -- we never know what  
9 we don't know.

10 COMMISSION MEMBER KLUTZ: I think they could  
11 file a referendum after the May --

12 MS. NUSSMEYER: Through October 1st, I  
13 believe.

14 MR. KOICHEVAR: August 1st.

15 MS. NUSSMEYER: August 1st. Thank you. I'm  
16 sorry. Thank you.

17 COMMISSION MEMBER OVERHOLT: Well --

18 MR. CONRAD: I can answer that question. My  
19 name's Kyle Conrad. I'm with Governmental  
20 Business Systems. We're the vendor for Dominion.

21 There will be no partisan offices in Indiana --

22 COMMISSION MEMBER OVERHOLT: Right.

23 MR. CONRAD: -- on any ballot, whether it be  
24 May or November. So the same theory for May  
25 election should apply to November.

1 MS. NUSSMEYER: Except your certification  
2 expires on or before October 1st, 2017.

3 MR. CONRAD: Correct. But as far as this  
4 software change -- as far as the operation of  
5 equipment is not -- not going to be impacted.

6 COMMISSION MEMBER KLUTZ: But uncertified  
7 machines would not be used after --

8 MR. CONRAD: I'm sorry?

9 COMMISSION MEMBER KLUTZ: But uncertified  
10 machines would not be used after --

11 MR. CONRAD: Correct.

12 CHAIRMAN BENNETT: Well, I would be remiss if  
13 I didn't express disappointment, as the Chairman  
14 of the Indiana Election Commission, that our  
15 Resolution 2016-1 regarding Dominion Voting  
16 Systems has not seemed to have been taken very  
17 seriously.

18 As you can tell from our discussions here  
19 with other vendors, we take every provision of  
20 that resolution seriously. This one has been  
21 flaunted and not even, in my view, a good faith  
22 attempt made to try to comply with it. And it,  
23 once again, puts the voters and the clerks in the  
24 State of Indiana in a very bad position that we do  
25 not like to see.



1 And does anyone have any other thoughts on  
2 that or have any motions about -- motion  
3 concerning where do we go from here?

4 COMMISSION MEMBER KLUTZ: Mr. Chairman, I  
5 would echo those comments. I think we will be  
6 meeting perhaps on or before March 15th. I would  
7 ask or perhaps make a motion, if the Commissioners  
8 would agree, that we ask our staff to look into  
9 the decertification process, the timeline and  
10 procedures, and report to the Commission as to  
11 what that decertification process looks like at  
12 our next meeting.

13 CHAIRMAN BENNETT: Is there a second to that  
14 motion?

15 VICE CHAIRMAN PROXY CLAYTOR: Second.

16 CHAIRMAN BENNETT: I have a motion and a  
17 second. Any discussion?

18 (No response.)

19 CHAIRMAN BENNETT: Hearing none, all in favor  
20 of the motion as presented say "Aye."

21 THE COMMISSION: Aye.

22 CHAIRMAN BENNETT: All opposed say "Nay."

23 (No response.)

24 CHAIRMAN BENNETT: Motion carries. Thank  
25 you.

1           The Indiana Election Commission has finished  
2   its business for today. Is there any motion for  
3   the Indiana Election Commission to adjourn?

4           VICE CHAIRMAN PROXY CLAYTOR: So moved.

5           CHAIRMAN BENNETT: Those in favor say "Aye."

6           THE COMMISSION: Aye.

7           CHAIRMAN BENNETT: Opposed, no.

8           (No response.)

9           CHAIRMAN BENNETT: The ayes have it. The  
10   Indiana Commission is adjourned.

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12           (Time Noted: 1:55 p.m.)

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1 STATE OF INDIANA )  
2 ) SS:  
3 COUNTY OF HAMILTON )  
4

5 I, Lisa C. Pierce, a Notary Public in and for  
6 the County of Hamilton, State of Indiana at large,  
7 do hereby certify that the foregoing hearing was  
8 taken on behalf of the Indiana Election Commission  
9 at the Indiana Government Center, 402 West  
10 Washington Street, Conference Room 2,  
11 Indianapolis, Marion County, Indiana, on  
12 February 10, 2017, commencing at the hour of  
13 1:00 p.m., pursuant to Rules of Applicable  
14 Procedure;

15 That said hearing was taken down in  
16 stenographic notes and afterwards reduced to  
17 typewriting under my direction, and that the  
18 typewritten transcript is a true record of the  
19 testimony given by said participants;

20 That the parties were represented by their  
21 aforementioned counsel.

22 I do further certify that I am a  
23 disinterested person in this cause of action; that  
24 I am not a relative or attorney of any party, or  
25 otherwise interested in the event of this action,

1 and am not in the employ of the attorneys for any  
2 party.

3 IN WITNESS WHEREOF, I have hereunto set my  
4 hand and affixed my notarial seal this \_\_\_\_ day  
5 of \_\_\_\_\_, 2017.

6

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9

*Lisa C. Pierce*

10

NOTARY PUBLIC

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14 My Commission Expires:  
15 March 14, 2021

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17 County of Residence:  
18 Hamilton

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