Indiana Election Commission
Minutes
February 24, 2022

Members Present: Zachary E. Klutz, Proxy for Paul Okeson, Chairman of the Indiana Election Commission ("Commission"); Suzannah Wilson Overholt, Vice Chair of the Commission; Karen Celestino-Horsemann, member; Abhilash Reddy, Proxy for Litany A. Pyle, Member.

Members Absent: Paul Okeson, Chairman of the Indiana Election Commission; Litany Pyle, Member.

Staff Attending: J. Bradley King, Co-Director, Indiana Election Division of the Office of the Secretary of State (Election Division); Angela M. Nussmeyer, Co-Director of the Election Division; Matthew Kochvar, Co-General Counsel of the Election Division; Valerie Warycha, Co-General Counsel of the Election Division.

Others Attending: Ms. Lauren Box; Dr. Bryan Byers; Mr. Marc Chatot; Ms. Jen Dunbar; Mr. Jake German; Mr. Tyson Gosch; Mr. Bernie Hirsh.

1. Call to Order:

The Chair called the February 24, 2022 meeting of the Commission to order at 1:30 p.m. EST in Conference Room A, Indiana Government Center South, 402 West Washington Street, Indianapolis.

2. Transaction of Commission Business:

The Commission proceeded to transact the business set forth in the Transcript of Proceedings for this meeting prepared by Maria W. Collier, RPR, CRR, of Stewart Richardson and Associates, which is incorporated by reference into these minutes.

The Commission adjourned its meeting at 3:21 p.m. EST.

Respectfully submitted,

J. Bradley King
Co-Director

Angela M. Nussmeyer
Co-Director

APPROVED:

Paul Okeson, Chairman
In the Matter Of:

INDIANA ELECTION COMMISSION PUBLIC SESSION

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Transcript of Proceedings

February 24, 2022

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INDIANA ELECTION COMMISSION
PUBLIC SESSION

Conducted on:  February 24, 2022

Conducted at:  Indiana Government Center South
402 West Washington Street, Conference Room A
Indianapolis, Indiana

A Stenographic Record by:

Maria W. Collier, RPR, CRR

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APPEARANCES

INDIANA ELECTION COMMISSION:
Zachary Klutz as Proxy for Paul Okeson - Chairman
Suzannah Wilson Overholt - Vice Chairman
Abhilash Reddy as Proxy for Litany Pyle - Member
Karen Celestino-Horseman - Member

INDIANA ELECTION DIVISION STAFF:
Angela M. Nussmeyer - Co-Director
J. Bradley King - Co-Director
Matthew Kochevar - Co-Counsel
Valerie Warycha - Co-Counsel
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CHAIRMAN KLUTZ: Okay. Good afternoon. We'll call the meeting to order. This is the meeting of the Indiana Election Commission, public session dated Thursday, February 24, 2020, at 1:30.

For purposes of the record, I'll note the following members of the Commission are present: Myself, Zach Klutz, serving as proxy for Chairman Paul Okeson; Vice Chairman Susan Wilson Overholt --

VICE CHAIRMAN OVERHOLT: Suzannah.

CHAIRMAN KLUTZ: I'm sorry. Suzannah.

VICE CHAIRMAN OVERHOLT: That's okay.

CHAIRMAN KLUTZ: I do know that. Commission Member Karen Celestino-Horsemann; and to my right, Abhi Reddy, proxy for Member Litany Pyle. Also in attendance are Indiana Election staff: Co-Director Brad King, Co-Director Angie Nussmeyer, Co-General Counsels Matthew Kochevar and Valerie Warycha. Our court reporter today is Maria Collier from Stewart Richardson Deposition Services.

First item is documentation of compliance with Open Door. I'll request the co-directors confirm that the Commission meeting has been properly noticed as required under Indiana's Open Door Law.

MR. KING: Mr. Chairman, members of the Commission, on behalf of myself and Co-Director
Nussmeyer, I certify that proper notice of this meeting was given in accordance with Indiana's Open Door Law.

CHAIRMAN KLUTZ: Thank you, Brad.

Next item is the administration of oaths. Any person who plans to testify at today's meeting on any matter, please stand and, if you are able, respond "I do" upon the reading of the oath.

I now recognize Matthew Kochevar to administer the oath.

MR. KOCHEVAR: All those who will testify before the Indiana Election Commission, please raise your right hand and say "I do" after recitation of the oath.

Do you solemnly swear or affirm the testimony you are about to give to the Indiana Election Commission is the truth, the whole truth, and nothing but the truth? Please say "I do."

ALL: I do.

CHAIRMAN KLUTZ: Thank you, Matthew.

As we begin the next item, the applications for recertifications, I want to propose or make a motion for a procedural process that I hope will allow for an orderly and open meeting. I move for the following procedures to be adopted:
For each applicant, I will first recognize the co-directors of the Election Division and then representatives from VSTOP, which is Indiana's Voting System Technical Oversight Program, to present information regarding the applicable application for certification or recertification of a voting system before the Commission. The documents provided by the Election Division and VSTOP regarding these systems will be incorporated into the records for this proceeding.

I will then recognize any representative of the applicant, meaning a voting system vendor, to testify regarding this matter for up to 3 minutes. This time limit can be extended by the consent of this body and will not include time spent answering questions posed by a Commission member.

I will then recognize any interested party or member of the public in the audience who wishes to testify or provide comments, again up to 3 minutes. It's my understanding a sign-up sheet has been distributed before this meeting convened, and I will recognize individuals to speak in the order the individual signed in. Again, the time limit can be extended on consent of the Commission and will not include time for questions posed by a
Commission member.

With respect to those procedural proposals, is there a second to my motion?

VICE CHAIRMAN OVERHOLT: Second.

CHAIRMAN KLUTZ: Any discussion?

All in favor say "aye."

VICE CHAIRMAN OVERHOLT: Aye.

MS. CELESTINO-HORSEMAN: Aye.

MR. REDDY: Aye.

CHAIRMAN KLUTZ: Aye.

Opposed?

The "ayes" have it. The motion with respect to these procedures is adopted.

We have before us three different types of applications. We have applications for recertification; we have applications for change order, engineering change orders; and we have an application for a new certification. We will take these in order by vendor and, it appears, alphabetically, so we'll be hearing all recertifications and change orders by vendor, first by Hart InterCivic.

So the first matter of business for consideration is Hart InterCivic Voting System 2.3, application for recertification of the voting
system. Similar to the procedures we just adopted, 
for purposes of commencing this discussion and 
testimony, I'm going to make a motion that the 
application submitted by Hart InterCivic for 
recertification of the Voting System 2.3 be 
approved for marketing and use in Indiana for a 
term expiring October 1, 2025, and subject to any 
restrictions set forth in the report submitted by 
VSTOP. And that motion is to commence discussion 
and presentation. Is there a second?

VICE CHAIRMAN OVERHOLT: Second.

CHAIRMAN KLUTZ: Any discussion?

All in favor say "aye."

VICE CHAIRMAN OVERHOLT: Aye.

MS. CELESTINO-HORSEMAN: Aye.

MR. REDDY: Aye.

CHAIRMAN KLUTZ: Opposed?

The "ayes" have it.

At this time I'll ask Brad King and Angie 
Nussmeyer to confirm proper document compliance 
with Indiana Code 3-11-7-19 regarding the filing of 
the application for Hart InterCivic Voting 
System 2.3 and to confirm proper notice of the 
application was provided to the applicable county 
clerks in Indiana and to provide us with any
written correspondence received from those clerks regarding this specific application.

MR. KING: Thank you, Mr. Chairman, members of the Commission. I'll begin and then defer to Ms. Nussmeyer for additional information she may wish to provide.

MS. CELESTINO-HORSEMAN: Excuse me. Can we turn this down a little bit? There's a hum.

MS. WARYCHA: I will do my best, but IDOA set it up, and I don't know exactly what I'm doing.

MS. CELESTINO-HORSEMAN: I'm sorry. There's like a reverb coming through.

MR. KING: Thank you, Mr. Chairman, members of the Commission. The first of the two Hart InterCivic applications are included in the binders behind the white tab with the label "Verity Voting System 2.3." The vendor, Hart InterCivic in this case, has submitted the IEC-11 application with the applicable fee required by statute and the information required under the applicable statutes, 3-11-7.5-28 in particular, but also the others referenced in the application.

As the Chair noted, we have given notice to the clerks of Cass County and Monroe County, who are currently using Version 2.3, for them to
provide input regarding the recertification process
of this system and have included the IEC-23,
Statement of Voting System Foreign National
Ownership or Control of Vendor document, all of
which, again, are in the binder.

And I'll defer to Ms. Nussmeyer.

MS. NUSSMEYER: Thank you, Mr. King.

Mr. Chairman, members of the Commission, the
only thing I would add is that we had the
opportunity to review the report from VSTOP, and in
addition to all the documentation Mr. King
mentioned, we confirmed that the information
provided by the vendor or those documents that we
requested in the protocol and any questions that
staff had regarding the responses in the report
were adequately addressed by VSTOP and the voting
system vendor.

CHAIRMAN KLUTZ: Thank you.

I will now recognize the VSTOP representatives
here this afternoon to present VSTOP's findings
regarding this application. Please proceed.

MR. CHATOT: Thank you.

CHAIRMAN KLUTZ: As a preliminary comment,
before you speak -- and this goes to each audience
member -- please state your name for the record,
the organization you're with, and speak clearly so that the court reporter can hear you, especially with the mask on.

MR. CHATOT: Sure. Marc Chatot with VSTOP. That is M-a-r-c, C-h-a-t-o-t.

Okay. The Verity Voting 2.3 software includes four core components: Verity Data, Verity Build, Verity Central, and Verity Count. The type and quantity of Verity devices will vary by jurisdiction and may include Verity Controller, Touch, Scan, Touch Writer, Touch Writer Duo, and or Print devices. The current Verity 2.3 version to certify is identical to the Verity 2.3 version that was previously certified for use in Indiana on July 26, 2019. This system was certified by the U.S. Election Assistance Commission on March 15, 2019, and is compliant with the Voluntary Voting System Guidelines.

Changes being introduced in this voting system are ECO No. 1492, which adds additional orderable parts, approved by the EAC on August 12, '21; ECO 1496, which updates the Verity Duo Series power regulator circuit that was approved by the EAC on September 13 of 2021; ECO 1500, which supports Duo and Duo Standalone on Tabletop, this was approved
by the EAC on October 1st of 2021; and ECOs 1447 and 1494, which are both improvements to the ballot box, this was approved by the EAC on October 19, 2021.

Findings and limitations. The Verity Touch Writer Duo is a series of up to 12 ballot marking devices connected to a daisy chain network. VSTOP's findings are that the network is closed and poses no additional vulnerability or threats without having direct physical access to the hardware.

Recommendation. On the basis of VSTOP's review and evaluation, we find the voting system referenced herein, and with the scope of certification and the limitations therein, meets all requirements of the Indiana Code for use in the state of Indiana. This finding includes compliance with legal requirements for voters with disabilities.

Would you like me to go into the ECOs at this point or pause for comment?

CHAIRMAN KLUTZ: The engineering change orders?

MR. CHATOT: Yeah, for this --

CHAIRMAN KLUTZ: I think we want to keep this
strictly to the recertification.

MR. CHATOT: Okay.

CHAIRMAN KLUTZ: Are you saying that the engineering change orders are part of this particular recertification?

MR. CHATOT: Yes.

CHAIRMAN KLUTZ: Okay. Perhaps a summary of those, I think, would be appropriate.

MR. CHATOT: Okay. So these do apply to both 2.3 and 2.5 voting systems. ECO 1447 and 01494 makes mechanical improvements to the components of the ballot box in response to feedback received from customers and manufacturer. There are no electrical changes associated with this ECO. All proposed changes are mechanical improvements to the equivalent components of the ballot box.

Unused rivets are removed from the bill of material, and unnecessary lumber is removed from the top center rear of the ballot box and replaced with a panel plug to improve the cable insertion experience when Verity Scan is mounted. And an approved manufacturer list for panel plugs used for the ballot box is updated to add a part with more market availability.

ECO 1492 adds additional orderable parts to
the approved manufacturing list, AML, for Hart Part No. 1005808, the power controller used on Verity Duo devices. The added orderable part numbers are from the same existing approved manufacturer's part and vary only by component package and shape. An interposer is used to fit the component package on the existing Duo PCDA base cord with no changes needed for the board.

ECO 1496 modifies the power regulator circuit designed on the Verity Touch Writer Duo series base ports to move away from Linear Tech LT8711 power controller and instead use the more widely available Texas Instruments TPS552882 series part. This modification described in this ECO is intended to mitigate the effects of the global electronic component shortages.

And finally, ECO 1500 describes a modification to allow for the optional tabletop deployment of standard Verity Touch Writer Duo and Touch Writer Duo standalone devices rather than only on a Verity standard booth. There are no changes to the voting device hardware or software to support this change. This change is driven by supply chain challenges with raw materials required to manufacture our standard voting booths.
The modification described on this ECO affects deployments of Verity Touch Writer Duo and Touch Writer Duo standalone devices only in a standard configuration only. Hart will continue to require Verity-accessible booths for all accessible configurations. There are no changes to the voting devices or voting device software to support this change.

And that is all applicable part ECOs.

CHAIRMAN KLUTZ: Thank you. And I probably didn't respond to your question do you want to go through the change orders now correctly.

MR. CHATOT: You did want me to.

CHAIRMAN KLUTZ: I did, and I said it incorrectly. So what I was -- the current motion before us is simply with respect to the recertification of the 2.3. I realize the 2.3 has recertification and change orders, but I think what we would like to do is take these separately.

MR. CHATOT: Okay. Sorry about that.

CHAIRMAN KLUTZ: So while we won't ask you to do the summary again, we probably will ask questions when we get to the change order provision. Right now, I think, for purposes of our questioning and our discussion, I will turn to the
Commission for questions of VSTOP, knowing that we're going to limit it to just the recertification process and application.

MR. CHATOT: Okay.

CHAIRMAN KLUTZ: So at this time I'll ask my fellow Commission members if they have any questions for the VSTOP representatives.

VICE CHAIRMAN OVERHOLT: I guess for clarification, my understanding is that this system does not include a retraction method. Is that correct?

MR. CHATOT: That is --

VICE CHAIRMAN OVERHOLT: I should say for absentee ballots scanned before Election Day.

MR. CHATOT: So that would be -- the process for spoiling a ballot would be that.

Is that correct? One second.

CHAIRMAN KLUTZ: The next portion of this process, while we're going to ask questions, the next portion is for me to recognize a representative from Hart InterCivic.

MR. CHATOT: Oh, yes, please.

CHAIRMAN KLUTZ: So if we would like to have that person come up now to assist, we could probably do joint questions with VSTOP and Hart
MR. CHATOT: That would be great.

CHAIRMAN KLUTZ: Just please state your name for the court reporter.

MR. GOSCH: My name is Tyson Gosch. I'm a certification project manager with Hart InterCivic.

VICE CHAIRMAN OVERHOLT: I guess I'll put my question to you since it looks like VSTOP is turning to you to answer the question. Am I correct in understanding that a retraction method is not being offered with this system for absentee ballots scanned before Election Day?

MR. GOSCH: No. It does offer -- is this in regards to the state law if a person passes away before Election Day to be able --

VICE CHAIRMAN OVERHOLT: Yes.

MR. GOSCH: -- to pull the ballot back?

VICE CHAIRMAN OVERHOLT: Yes.

MR. GOSCH: Yes, we can do that. That's been part of the system since Version 2.3 and up.

CHAIRMAN KLUTZ: And not to make this awkward, but does VSTOP agree with that conclusion?

MR. CHATOT: Yes.

MR. KOCHEVAR: If I may, really to address the vice chair's question, and I'm speaking for myself.
In reviewing this report on 2.3, while the vendor may say they have the ability to do it, it is not -- from my knowledge, VSTOP has not tested this, and to my knowledge, the system that was previously certified that expired on October 1, 2021, did not have anything expressly stated that that retraction method that is available on that voting system can be used in the state.

VICE CHAIRMAN OVERHOLT: Maybe my question wasn't -- maybe I asked the wrong question. So for purposes of certification, was the retraction method included as part of the system and was that something that was considered during the recertification?

DR. BYERS: We're looking. It should be there.

VICE CHAIRMAN OVERHOLT: Sorry. That was a severely simple question.

CHAIRMAN KLUTZ: Valerie, do you have any comment or thoughts?

MS. WARYCHA: The only thing I know for sure is that I do -- well, let me try and think how to phrase this. The ballot retraction, I think, may be a little different in this case than maybe other cases you're thinking of since they were
specifically talking to dead voters. I guess they're not really a voter once they're passed away, but it might be a little different than some of the other ballot retraction discussions that people have had. I'm not sure if I'm being very clear about that, Brad.

MR. CHATOT: Yes. So we did test this, and it would just be an update to the totals in the voting numbers to retract the votes.

CHAIRMAN KLUTZ: Can you direct us to the page you're looking at within the report.

MR. CHATOT: This was recorded in our video. That's what the note says. And the note, page 19 of Appendix A, the certification protocol. Let's see. It's the field-test protocol.

DR. BYERS: Our field test.

MR. CHATOT: Our field test, yes.

CHAIRMAN KLUTZ: My appendix are numbered.

VICE CHAIRMAN OVERHOLT: I'm assuming, is it Attachment 8 --

MR. CHATOT: Yes.

VICE CHAIRMAN OVERHOLT: -- to the report, which is Appendix A? So that would be page 19?

MR. CHATOT: Yes. Yeah, it says recorded on video, so this is something that we discussed and
recorded in the recording of the field test.

CHAIRMAN KLUTZ: This is Scenario 1 in the middle of the page?

MR. CHATOT: Correct.

MR. KOCHEVAR: Mr. Chairman?

CHAIRMAN KLUTZ: Yes.

MR. KOCHEVAR: Yeah. To provide some commentary on Scenario No. 1, this does not have to do with ballot retraction, retracting a voter's ballot. This particular scenario has to do with if you can adjust your -- the election management system when you canvass the ballots to adjust the vote count for when a candidate dies before Election Day and, if I'm thinking this is the right scenario, you replace the candidate before the election under a ballot vacancy law, which creates a scenario where ballots cast specifically for the deceased candidate don't count for the candidate who succeeded them on the ballot, but the straight party ticket has a different procedure.

That's what this is about. This is about ballot counting and how to read a ballot and apply that vote, as opposed to can we remove a voter's ballot from the system, can we cancel it, reject it because they are not a voter of -- a proper voter
or a voter of the precinct or had become deceased before Election Day.

MS. WARYCHA: Thank you, Matthew. That's what I was trying to get to, but I wasn't doing a very good job of it.

CHAIRMAN KLUTZ: Do you have a better example or better confirmation of this capability?

MR. CHATOT: Yes. So we can --

MS. CELESTINO-HORSEMAN: Can I ask a preliminary?

CHAIRMAN KLUTZ: Let's let him finish real quick.

MR. CHATOT: Oh, yeah. So, yes, that's possible within the software.

MR. GOSCH: That was part of the testing that we did when we were at VSTOP.

VICE CHAIRMAN OVERHOLT: Well, wait, I want to make sure we're talking about the right thing. So my question was not directed to these scenarios outlined on page 19. My question is directed to the scenario which, under the new state law, there would be a way to retract a ballot of someone who casts a ballot and then dies before Election Day or is disenfranchised -- what's the word? -- who is, for whatever reason, they're convicted and are no
longer allowed to vote between the time they cast their ballot and Election Day.

And so this is my very -- this is the 100,000-foot view of this, but just that was this system tested for the ability to retract, which is not, I don't think, defined in state law but to retract those types of ballots?

MR. CHATOT: Yes.

MS. CELESTINO-HORSEMAN: Okay. So then can you explain how it works, because there's nothing in any of the documentation that says how -- the basis upon which they can retract and at the same time protect the voter's privacy.

CHAIRMAN KLUTZ: And I think in the context of retraction, it's not only an early voter on a machine, but an early mail-in vote.

VICE CHAIRMAN OVERHOLT: Right.

CHAIRMAN KLUTZ: Is there a tracking mechanism for the mail-in paper ballot that's voted early to retract? Is there a tracer or a tracker?

MR. GOSCH: So there's a unique identifier with each ballot, and you can make that unique identifier human readable. That's an option in the system, and you can use that to track each individual ballot.
CHAIRMAN KLUTZ: When you say "ballot," are you speaking of both paper and electronic?

MR. GOSCH: Yes. So I was speaking of mail ballots, but, yeah, you can do it at a polling location as well. It's in the call retrievable ballots, and it prints a unique code on the ballot. And there's also a unique code that matches that that prints out that the poll worker would -- I'm not sure what the procedure would be. They would document that code to go back and retrieve that ballot.

CHAIRMAN KLUTZ: Okay. Any comments from VSTOP on that or do you agree with that?

MR. CHATOT: No. That's how we tested it.

MS. CELESTINO-HORSEMAN: Okay. So when you do the paper ballot, are you saying that, for every absentee ballot that goes out, the clerk, when they're printing off the ballots, they just have to hit a button and it automatically puts this unique voter ID on there?

MR. GOSCH: When the ballot is being built in the early stages in the software, it's just a simple check box to activate retrievable ballot codes.

MS. CELESTINO-HORSEMAN: Okay.
MR. GOSCH: And that will make it so that it
prints that code when that ballot is printed.

MS. CELESTINO-HORSEMAN: Okay. And so then
when you have it before -- in that period of time
before the official tally has come and it's been
early absentee vote not on paper but through ECR,
then that number there, what is that? That's
randomly generated as well voter ID or is it tied
into any, like, system?

MR. GOSCH: So I'm not sure if I understand
you correctly exactly, but it's a unique identifier
on the -- for that ballot. I'm not sure how it's
generated. It is random, as far as I know, but
it's unique to that ballot. It won't be repeated.

MS. CELESTINO-HORSEMAN: But it's not tied
into, like, SVRS or anything?

MR. GOSCH: I'm not sure what SVRS --

VICE CHAIRMAN OVERHOLT: The voter
registration system.

CHAIRMAN KLUTZ: Well, the voter registration
system is not necessarily necessary by the locals.

MS. CELESTINO-HORSEMAN: No, but we do have a
vendor who seems to imply that, but we'll get to
that.

VICE CHAIRMAN OVERHOLT: Well, what is the
number? So this random -- the number that's assigned to the ballot, is that number linked to anything in a voter record or is it specific to someone's voter record?

MR. GOSCH: It's not tied to a specific voter for voter privacy reasons. But when that ballot is printed in the polling location or anywhere else, my example here is at a precinct, the poll worker would have a code that prints out on their, what we call, controller. It's a poll-worker-facing device. But also the ballot, when it prints out after the voter has voted, would have that same matching code that's a unique code, so later on that could be matched up, if necessary.

VICE CHAIRMAN OVERHOLT: How, though?

MR. GOSCH: The code the poll worker has would document, but I'm not sure what the procedures are at the county level, if they would keep that little piece of paper that prints out or if they would just document it however they document it. I'm not sure what that process is. But they would document that number, and if they needed to go back to that ballot, they can go back into the system and find that ballot using that unique, retrievable ballot code.
VICE CHAIRMAN OVERHOLT: I guess, so -- I'm sorry. Go ahead.

CHAIRMAN KLUTZ: I'll ask the co-directors if they have knowledge -- I'll start with you, Brad -- of do counties have this process and procedure in place and are they aware of this ability and is this part of their standard protocol when someone votes absentee.

MR. KING: Mr. Chairman, members of the Commission, I think the answer varies depending upon the county and the type of voting system involved. There's a distinct difference between the direct-record electronic voting systems and the system that we're talking about here, which is legally an optical ballot card scan system.

With regard to the optical ballot card scan systems, no, I don't think that most counties are familiar with the technology. I would have a couple of questions to pose that might help flesh this out.

One is, I understood that, with regard to the Hart system, the code number, which I'll use for shorthand, requires the active intervention of an election worker who is providing an absentee ballot either for in-person early voting or through the
mail. It's not an automatic feature of the system.

And secondly, I note that the statute that we are referring to is Indiana Code 3-11.5-4-6, which was amended in 2021. So it's not been used in an election in almost every part of the state. It provides the county election board may scan an absentee ballot that's been voted not earlier than seven days before Election Day. But it adds the proviso that the ballot first may not be tabulated, despite being scanned, and secondly, the voting system has to be able to retract a previously scanned absentee ballot card of a voter who is later found to be disqualified for one of several reasons, such as moving out of state or death or disfranchisement due to imprisonment following a conviction.

So the summary answer is no, I don't think that the counties that are using the type of voting system that this particular vendor and others are bringing forward are familiar with that protocol and using it.

CHAIRMAN KLUTZ: I'll turn to you. So if they are instructed in that protocol, this system has the ability to do exactly what that statute provided?
MR. GOSCH: Correct, yes. And it's in our documentation. Whether they do it or not, I don't know, but it's in our admin guide on how to activate the retrieval of ballot codes. And it specifically mentions Indiana in the guide as it being a feature specifically for the state.


MS. NUSSMEYER: Thank you, Mr. Chairman. If I could just piggyback Mr. King's comments. I believe what's before you all today is a recertification of an existing system. And the system was certified in 2017; is that correct? The 2.3.


MS. NUSSMEYER: 2019. And was this a component that was approved by --

MR. CHATOT: Yes.

MS. NUSSMEYER: The retraction method, even though there was no law that existed on the books in 2019 regarding retraction of absentee ballots for optical scan ballot cards?

MR. CHATOT: I believe so. That was before my time with VSTOP, that report, but that is my understanding, yes.
MS. NUSSMEYER: So it may have been a feature of the election management software, but this Commission could not certify or otherwise allow for a procedure on a -- within a voting system that allowed for retraction because there was no state law that authorized retractions for optical scan ballot cards.

So I guess my question would be, since the law was passed in 2021 and this system expired October 2021 and is before this body today, I would make the argument that the retraction method should not be considered as part of the system that is before the Commission today because retraction method was not contemplated when the system was certified in 2019.

And further, your report does not explicitly state that this retraction method exists in the system because I reported to my commissioners it does not. Unlike other vendors where you say in your findings and recommendations that this retraction method under the statute was thoroughly tested and the vendor provided information regarding that retraction method, I don't see that type of documentation in the report that was provided to the Division staff and to the
Commission.

MR. CHATOT: Okay.

MS. CELESTINO-HORSEMAN: And also, you know, I think the concern too that we have here is we have no idea how your retraction system works. You have bare minimal -- I take it that's not your area of expertise. You have bare minimal knowledge of it, so we don't know what safeguards are taken to protect voters' information. We don't know whether these numbers -- well, you say they're randomly generated, so that would make an indirect association. We don't know -- our staff has not been able to look at -- I mean, they would have all kinds of questions.

So, I mean, I guess our choices are to vote to certify the system or vote to certify the system but not the retraction method and require them to work with the staff and provide them with information and everything so that that can get done, and VSTOP.

VICE CHAIRMAN OVERHOLT: Although I'm not sure that's appropriate here if it wasn't part of the initially approved --

CHAIRMAN KLUTZ: Let me ask VSTOP this: Is there a way to update and amend your current report
so that we have confirmation within the report that
this is or is not included and is or is not
compliant with this new statute?

DR. BYERS: Yes. We could do a supplemental
test of this particular feature.

VICE CHAIRMAN OVERHOLT: Although my thought
would be, if Angie is correct -- and maybe Brad can
weigh in on this -- sorry, Ms. Nussmeyer, Mr. King.
I mean, it would seem to me that I think the point
that this is a recertification, this is not a new
certification, so that if retraction was not part
of the initial certification and it seems to me
that what we're -- I mean, I thought I was asking
an easy, softball question, which is a little -- so
given this, if retraction wasn't part of that
previously certified system, Mr. King, do you agree
that it should not be part of this recertification
today?

MR. KING: And, Mr. Chairman, Vice Chair
Overholt, recertification implies that the
Commission has before it an identical voting system
from 2019. It also implies recertification of any
additional feature added between that initial
certification in 2019 and today.

And what I'm hearing from the representatives
of VSTOP and the vendor is that they're alleging that the retraction feature required by this statute, which was not originally adopted in 2021 but amended, as I indicated earlier, was included. Then I think it becomes a question of fact, which VSTOP has offered to address by a supplemental report that goes into more detail regarding precisely what the retraction method used is and whether or not that was included in the material presented to the Commission in 2019 or subsequently when the Commission voted to certify the system. So I hope that addresses the question that you posed.

CHAIRMAN KLUTZ: Let me ask this: How much time would be required to obtain additional clarity and facts and a supplemental report?

DR. BYERS: I would think that we could probably get that done within a couple of weeks.

MR. CHATOT: Yeah, definitely.

MS. CELESTINO-HORSEMAN: Mr. Chairman, the law didn't require retraction until last year, so the system that they got certified was in 2019. We would not be looking at the retraction method in that system in 2019, so it would be a new certification.
Additionally, the fact of whether -- what VSTOP is looking at apparently because -- and recertification was not described in the protocols for instructing VSTOP what they needed to look for and everything, so all they're simply looking at is whether it works, can you go in and retrieve the ballot that you need to retrieve, when there are other issues involved in it. Like I was saying, you need to know, okay, if these numbers are randomly generated, what are the levels of protection, who is going to have access to them. Because, I mean, if you don't have firewalls in there, someone could go in -- because they have to create a general log of the number and the name, and the number and the name means that they can go in and take a look at the ballot information, such as who they voted for and all that.

So we need to know how that all works, and this gentleman right here, I don't think he can explain that to us. And it needs to then be discussed with our staff members.

CHAIRMAN KLUTZ: Well, I mean, that's what I asked. I said how much time do you need for additional facts and clarity. That's a shorthand way of saying I agree with you.
And so I have no desire to hold things up and delay for delay. So I'd love for you to have it in a week or less, and we can get the meeting going again, and you can present and provide clarity and answer these questions. But, again, I'm not trying to kick a can down the road or delay and not make a decision. I'd love to make it soon. So I guess --

MR. KOCHEVAR: Yes, Mr. Chairman. Two small points on this. So we had to deal with the recertification, which back in 2019, the retraction should not have been available. That should not be a feature that, even if it was built into the system, should not have been available for use by election --

CHAIRMAN KLUTZ: Okay. We've discussed this. What's the new -- I need a new point.

MR. KOCHEVAR: So the new point will be that, even if you get this discussed, you can recertify with a modification. I think that's been done before. There are also two different questions that also need to be asked really of the vendor, was that even this -- again, going back, the feature was built into the system. Did the counties know about it and have instructions on how
to use it and did you market it for them to be used, this particular piece? Because if it wasn't certified by this state and you still marketed it anyway, that is a violation, unfortunately, of our Election Code.

I feel that I have to bring this up because this was brought up before with another vendor some years ago, and so I feel that we should still approach those same things. I'm not saying you should take action now, but those are questions that should probably be posed and at least get something on the record in this meeting or in a future meeting.

CHAIRMAN KLUTZ: Okay. Duly noted.

I'm going to withdraw my motion. I'm going to make a new motion that we table this recertification. I would ask VSTOP to expeditiously prepare a supplement to the report that addresses the questions regarding retraction that have arisen in this meeting. And once submitted, we will talk with staff about an appropriate time frame to review that before we schedule a new meeting. That's my motion. Do I have a second?

VICE CHAIRMAN OVERHOLT: Second.
CHAIRMAN KLUTZ: Any discussion?

MS. CELESTINO-HORSEMAN: I have a question, Mr. Chairman.

CHAIRMAN KLUTZ: Yes.

MS. CELESTINO-HORSEMAN: So does this mean they have to -- are they amending their recertification or are they filing a new certification on just the retraction? I don't know how the system works.

CHAIRMAN KLUTZ: I think we've given them enough fodder for what we have concerns about that. I would hope they would take it all in and figure out the best path for either recertification, addressing our concerns, what have you. Maybe they'll come and say we need more time. Maybe they'll come and say we did mess up. Maybe they'll come and say you guys have no idea what you're talking about, here it is, and we want recertified. That may all --

MS. CELESTINO-HORSEMAN: And it may not get recertification.

CHAIRMAN KLUTZ: It may play out that way.

MS. CELESTINO-HORSEMAN: I'd just like to say please make sure you talk with our staff when you're going through this, both VSTOP and your
company, because they are the ones who brief us
about this and they're the ones who are going to
have all the questions.

CHAIRMAN KLUTZ: There is a motion pending and
a second. All in favor signify by saying "Aye."

VICE CHAIRMAN OVERHOLT: Aye.

MS. CELESTINO-HORSEMAN: Aye.

MR. REDDY: Aye.

CHAIRMAN KLUTZ: Opposed?

The "ayes" have it. The motion passes and
this application has been tabled with further
instruction. And this did not address the
engineering change order. I know you've presented
on that, but we'll get to that in due course.

Okay. The recertification for 2.3 was tabled.
However, if there is anyone, an interested party
present in the audience who would desire to make a
statement for not more than 3 minutes regarding
this motion, I would now recognize you. I have one
individual, and I cannot read the writing.

MS. DUNBAR: I'm Jen Dunbar.

CHAIRMAN KLUTZ: Okay. Thank you. We're
going to take some public comment. Please stand,
identify yourself, talk clearly, spell your name,
and make sure that you know you're being recorded
by the court reporter right there, so she's the main person that needs to hear you.

MS. DUNBAR: Jen Dunbar, I'm a Hoosier citizen for most of my life. I'm an army brat so --

CHAIRMAN KLUTZ: Jen, real quick -- I'm sorry to interrupt -- can you please confirm you took the oath at the beginning of the meeting.

MS. DUNBAR: Oh, you know, I didn't know I was speaking for comments. I don't think I did that, but I would be glad to take an oath.

CHAIRMAN KLUTZ: Mr. Kochevar, would you mind?

MR. KOCHEVAR: Yes, sir.

CHAIRMAN KLUTZ: Thank you.

MR. KOCHEVAR: Do you solemnly swear or affirm under the penalties of perjury that the testimony you are about to give to the Indiana Election Commission is the truth, the whole truth, and nothing but the truth?

MS. DUNBAR: I do.

CHAIRMAN KLUTZ: Please proceed. Thank you.

MS. DUNBAR: Thank you, Commission. I appreciate your time and your service here.

It was very fortuitous that you brought up the retrieval method, for that is what I had -- one of my comments that I was going to speak on today. My
quote for the day, I try to do a quote. I think last time I did The Gambler with Kenny Rogers. And I'm going to do "Keep it secret, keep it safe." And that's a quote from Lord of the Rings from Gandalf to Frodo regarding the ring of power, which is very appropriate since we are talking about elections and the power in our state.

I bring up IC 22-6-5-2, and that is the right of any individual to vote by secret ballot. I always vote early absentee in person, and I was shocked to find out that there is such a retrieval method. So I think there is a contradiction in the law that there is even a retrieval method. I understand the rationale behind it, but I do find that it nullifies the secret ballot. I mean, right now you guys, you or the company, could go look up my name with the proper legal authority and find out who I voted for.

So I guess my question is, I would certify it without the retrieval method and to consider the contradiction in the law. You're saying I have the right to a secret ballot, but on the other hand, I think most Hoosiers would be shocked that you could look up my vote right now and see who I voted for. So that was number one.
Number two, that this actually happened in Fayette County in 2011. There was a mayoral recount where they were able to -- they disqualified the voters because of some paperwork, and they were able to pull those votes out. Both their names and who they voted for were made public at the Fayette County back in 2011.

So I would say that there is a contradiction in the law and that the retrieval method in all voting systems, whether DRE or optical scan, should be nullified. Thank you again for your time and service. I appreciate it.

CHAIRMAN KLUTZ: Thank you for your comments.

At this time I'll recognize Brad King and then Ms. Nussmeyer for any responses specifically as it relates to the secret ballot comments we just heard.

MR. KING: Thank you, Mr. Chairman, members of the Commission. I appreciate the lady's testimony in this regard. I believe that there's been a mistake in understanding the Indiana statutes involved here. What was quoted was Indiana Code Title 22, which is labor and employment law. And I'm not familiar intimately with Title 22, except to say that I suspect the language may be referring
to ballots conducted with regard to unionization or similar types of activities, not elections put on by the county election boards.

I would add, in addition, that because of the nature of the election process, it is impossible in every case to keep a ballot that a voter casts entirely secret. One actual example is there are precincts in Indiana in which only one person is registered to vote. And if that person casts an absentee ballot or votes in person, vote totals for that precinct have to be reported, and so, by default, that person's choices become a matter of public record if someone wishes to avail themselves of the opportunity to see those results.

And I'll yield to Ms. Nussmeyer for any further thoughts.

MS. NUSSMEYER: Thank you, Mr. King, Mr. Chairman. The only additional comments, I guess, I would offer is that, ultimately, if you vote on a ballot card or on an electronic voting system, that your right to secret ballot is maintained through our procedures. While your ballot card may be sealed for a period of 22 months, your individual choices should not be known to a person who wants to -- I don't know --
review an election 22 months down the road because they're in university and have access to the ballot.

So when a person's voting history is recorded in our Statewide Voter Registration System, it's simply an indication in a primary election which ballot the person selected. But otherwise, our federal and state laws do require us to balance the desire to run efficient and effective elections, but also maintain a person's right to secret ballot, and we have procedures in place to protect that right.

CHAIRMAN KLUTZ: Thank you. Anyone else from the public who has comments? If not, I'll close the public comment period and turn back to VSTOP, if there's any further comments before we move on to the next item.

Okay. We'll move on to the next item. However, I have a preliminary comment. This relates to Hart InterCivic Voting System 2.5, and in an attempt not to redo the entire conversation we just had, will we have the same issues with 2.5 in terms of retraction that we just had? And if so, I will likely make a motion that we table that as well. If there is some difference that we
should know about before we get into the
application, I'd be happy to talk about that as a
preliminary matter.

MR. CHATOT: I believe the retraction method
is the same between 2.3 and 2.5. Can you confirm
that, Tyson?

MR. GOSCH: I believe so. I'd have to
research a little bit to confirm that, but my
understanding is yes.

CHAIRMAN KLUTZ: It seems to me appropriate,
then, that I make a motion that this application
for recertification of the Hart InterCivic Voting
System 2.5 also be tabled and subject to a
supplemental report from VSTOP. I'd make that
motion and, if there's a second, open it for
discussion.

VICE CHAIRMAN OVERHOLT: Second.

CHAIRMAN KLUTZ: Second. Any discussion by
the Commission members? If this is just a
different version of the same system and the same
issue, I would rather not go through that.

No further discussion. All in favor signify
by saying "Aye."

VICE CHAIRMAN OVERHOLT: Aye.

MS. CELESTINO-HORSEMAN: Aye.
MR. REDDY: Aye.

CHAIRMAN KLUTZ: Opposed "Nay."

The "ayes" have it. The Hart InterCivic Voting System 2.5 application for recertification of voting systems is tabled pending further instructions, similar to the 2.3 voting system that was tabled earlier.

The next matter before the Commission is now an engineering change order. This is with respect to Hart InterCivic Voting System engineering change orders for 2.3, 2.5 voting systems identified as Change Orders 1447/1494, 1492, 1496, and 1500. For purposes of this consideration of a change order, while we have heard a summary of the change orders, I will now recognize the co-directors and then representatives from VSTOP and ask for confirmation by the Election Division regarding the filing of this application. Mr. King.

MR. KING: Thank you, Mr. Chairman. I'll begin and then happily yield to Co-Director Nussmeyer. The applications for these engineering change orders were submitted on the IEC-11 in accordance with statute and were complete with regard to the items required by that application in state statute.
CHAIRMAN KLUTZ: Thank you, Mr. King.

Ms. Nussmeyer.

MS. NUSSMEYER: Mr. Chairman, the only thing -- and I'll defer to Matthew because he will pull the statute up immediately. It's my understanding that a noncertified -- well, at this point both Hart systems are considered legacy systems and they cannot be modified. They have to stay in their existing form. And so I think these engineering change orders may be an improvement to the voting system, but you cannot improve a legacy system, of which both 2.3 and 2.5 would be, because they were both tabled today. At least that's my recollection of state law. Matthew's going to pull the statute. Mr. King might recall.

CHAIRMAN KLUTZ: Thank you. While he's looking for that, Mr. King, do you have any comments?

MR. KING: Yeah. Mr. Chairman, I believe that Co-Director Nussmeyer's point is well taken and that it is a recertification of two previously certified voting systems. Since you have tabled the one, tabled the main motion, if you will, for recertification, then logically, if you approve the engineering change orders, that's a modification
that would be contrary to what you've already done.

MR. KOCHIEVAR: I believe the best answer that I'm going to give you is going to be 3-11-7-15, which really talks about changes or modifications to a system. An ECO is also defined under state law as a non-de minimis change -- I had to think of the word for right there -- which is a change nonetheless. So you need to have an approved voting system to make changes to the system, so that is the statute.

CHAIRMAN KLUTZ: Any comments from the fellow Commission members?

VICE CHAIRMAN OVERHOLT: No. Seems like we should --

CHAIRMAN KLUTZ: At this time I would make a motion that the Hart InterCivic Voting System engineering change order for Verity 2.3 and 2.5 Voting Systems, Change Orders 1447/1494, 1492, 1496, and 1500 be tabled. Is there a second?

VICE CHAIRMAN OVERHOLT: Second.

CHAIRMAN KLUTZ: Any further discussion? All in favor signify by saying "Aye."

VICE CHAIRMAN OVERHOLT: Aye.

MS. CELESTINO-HORSEMAN: Aye.

MR. REDDY: Aye.
CHAIRMAN KLUTZ: Opposed?

The "ayes" have it. The application is tabled.

We will now move to the MicroVote application for recertification of the EMS 4.4-IN 4.4 Direct-Record Electronic Voting System. Similar to prior matters before us, I will first recognize the co-directors and then representatives of VSTOP to present information regarding this application for recertification of the direct-record electronic voting system previously certified by the Commission. The documents provided by the Election Division and VSTOP regarding this system will be incorporated into the records of this proceeding. I will then recognize representatives from MicroVote to testify regarding this matter and then recognize any interested party in the audience who wishes to also provide comment.

For purposes of commencing and discussion and beginning testimony, I'll make a motion that the application submitted by MicroVote for recertification of the EMS 4.4-IN 4.4 Voting System be approved for marketing and use in Indiana for a term expiring October 1, 2025, subject to any restrictions set forth in the report submitted by
VSTOP. Again, I'm making this motion to begin discussion of the application. Is there a second?

VICE CHAIRMAN OVERHOLT: Second.
CHAIRMAN KLUTZ: Any further discussion? All in favor signify by saying "Aye."

VICE CHAIRMAN OVERHOLT: Aye.
MS. CELESTINO-HORSEMAN: Aye.
MR. REDDY: Aye.
CHAIRMAN KLUTZ: Opposed?
The "ayes" have it.

Brad and Angie, please confirm for the Commission proper document compliance with Indiana Code 3-11-7.5-28 regarding filing of the application for MicroVote Direct-Record Electronic Voting Systems and note any written correspondence we received regarding this application.

MR. KING: Thank you, Mr. Chairman, members of the Commission. The documents referenced are behind the orange tab in the Commission members' binders. They include the IEC-11 application for voting system certification, which, as noted, is renewal of a previously certified voting system.
The application material was submitted in compliance with the applicable statutes, 3-11-7.5-28 in particular, and include a notice
that was given to the large number of counties that currently use the MicroVote Direct-Record Electronic Voting Systems advising them of this pending application.

And finally, the IEC-23 form of Statement of Foreign National Ownership or Control of Vendor has been submitted, all in compliance with state statute.

And I'll yield to Co-Director Nussmeyer for additional comments.

MS. NUSSMEYER: Thank you, Mr. King. I would just add, again, we had the opportunity to review the full report and appreciate both the vendor and VSTOP pulling together the additional documentation that we requested to perfect the filing with the Commission today.

CHAIRMAN KLUTZ: Thank you. I'll now recognize VSTOP representatives to present VSTOP's findings regarding this application.

MR. CHATOT: Thank you. This is for MicroVote, evaluation of a renewal of previously certified voting system for EMS 4.4-IN. The EMS 4.4 hardware, including the VVPAT software and firmware, is compatible with all existing Indiana certified hardware components. The current EMS 4.4
version to certify is identical to the EMS 4.4 that was previously certified for use in Indiana on July 27, 2020.

The EMS 4.4 revision includes an updated panel which includes the Windows 10 operating system with a bright color display. This system also includes election management software enhancements to provide equipment tracking and status and election night reporting by location.

In addition to the mandatory precinct reporting, the equipment is now optionally assigned to locations, and then election reports can be viewed for individual locations or aggregated across multiple selected locations. This system was certified by the U.S. Election Assistance Commission on March 1, 2020, and is compliant with the Voluntary Voting System Guidelines.

Changes in this voting system are: ECO 126, which improves the trapping of stray marks, that was approved by the EAC on July 14, 2020, and the IEC on August 14, 2020; ECO 127, display running precinct and count -- count and batch count, approved by the EAC on July 14, 2020, and the IEC on August 14, 2020; ECO 132, which is a plastic paper roll retaining clip for VVPAT, approved by
the EAC on March 12, 2021, and the IEC on August 18, 2021; ECO 134, the All-In Voting Station VB2, Revision A, approved by the EAC on August 18, 2021, and approved by the IEC on August 18, 2021; and new is ECO 135, is the 156K Tally card and updated Vote N card. This was approved by the EAC on November 9, 2021.

Recommendation. On the basis of VSTOP's review and evaluation, we find that the voting system referenced herein and with the scope of certification meets all requirements of the Indiana Code for use in the state of Indiana. This includes -- this finding includes compliance with the legal requirements for voters with disabilities.

CHAIRMAN KLUTZ: Thank you. Anything further?

MR. CHATOT: I'll hold the ECO for now.

CHAIRMAN KLUTZ: Yes, please.

I'll now open for discussion of commissioners.

VICE CHAIRMAN OVERHOLT: Well, I guess since we had to ask the last time, so was a retraction method -- does this system have a retraction method and was it tested as part of the recertification process?

MR. CHATOT: Yes. It does, yes.
CHAIRMAN KLUTZ: Can you just expand on that and provide us just the detail or commentary.

MR. CHATOT: Yeah. Okay. So this would be handled by the county board in a hand count for ballot retraction.

MS. NUSSMEYER: For what?
VICE CHAIRMAN OVERHOLT: Ballot retraction.
MS. CELESTINO-HORSEMAN: Just for a hand count?

MR. CHATOT: For the deceased candidate, it would be handled by --
VICE CHAIRMAN OVERHOLT: Wait, wait, wait. We're not talking about that. It's not the deceased candidate; it's a voter.

MR. CHATOT: Okay. Sorry. That would be manual count and remarking of the ballot prior to scanning.

CHAIRMAN KLUTZ: I do see a member of MicroVote. If you want to come up and we'll take questions.

MR. HIRSCH: Sure. Happy to answer your questions.

CHAIRMAN KLUTZ: Thanks. I think you heard the question pending. If you want to provide any commentary, that would be great.
MR. HIRSCH: I'm Bernie Hirsch with MicroVote, the CIO. So ballot retraction has been handled for many, many years, as you know, in Indiana with our system. For our DREs, which usually is 97 percent of the votes that come in, we have a special Vote N card where the jurisdiction can input an N number. Normally it's the voter ID, but it's separate from the voting system. That's determined usually by the e-poll book with the SVRS system. At any rate, it's separate from our voting system. A number is input when the voter votes early on a machine, and then that number can be used to retract their vote without ever knowing how they voted on Election Day.

For the paper optical scan ballots that are mailed in, which is normally about 3 percent of our volume, that's always handled on Election Day. We never even open those until Election Day. Now, there could be procedures that are implemented if the county wanted to open them early, but I don't really see that as happening, because even in 2020 when we had a great increase in the volume, our system just simply scaled up and they just had a few more counting boards to open more envelopes on Election Day. Either way, we were all done by 8 or
9 o'clock at night.

VICE CHAIRMAN OVERHOLT: I guess, if I might, I guess the question is, so on the paper ballots that go out for absentee voting, is there -- was part of this recertification any system for putting some sort of identifier on those paper ballots?

MR. HIRSCH: There's no accommodation for putting any kind of voter, indirect or direct, identification directly onto the ballot. I would suggest as a procedure which is outside of our voting system that you could put a voter number determined outside of our voting system on the secrecy envelope at the time that it's separated from the outer envelope where it contains the actual voter ID.

So you could have the direct information -- the voter's name, address, all that, birth date, signature -- verified, separate the secrecy envelope, write some voter ID number on that secrecy envelope, and if you wanted to scan those early, you hand that to the scanning team. They separate the ballot, scan it, put it back as they're doing it, because, remember, in our system, each individual ballot is scanned one at a time into our system. It's not done in batches. You
could take it out of the secrecy envelope and put it right back in.

CHAIRMAN KLUTZ: And that scenario would arise when a county elects to count within seven days prior to the election; correct?

MR. HIRSCH: Yes. And the wording you had was may, may count in seven days. So if they decided to do that, which I don't really see a county doing that, then that's how they could do it.

CHAIRMAN KLUTZ: And that's a procedural thing outside of the certification?

MR. HIRSCH: Right.

MS. NUSSMEYER: Sorry, Mr. Chair, but I just want to briefly point that 3-11-10-26.2 actually requires a direct-record electronic voting system, not the optical scan component but the actual touch-screen component, it requires that, if the DRE is going to be used for in-person absentee voting, that the county election board has to create a policy about how a spoiled absentee ballot is to be cancelled in a DRE voting system.

So that's different than an optical scan where you might print an identifier on the paper ballot card that's a permanent record of the voter versus entering that unique identifier to retract a ballot
in the electronic voting system where you don't have actual access to the voter's choices and how they picked.

CHAIRMAN KLUTZ: What are you differentiating from?

MS. NUSSMEYER: So I think what Mr. Hirsch is saying, there's two components, right. For the DRE voting system, if you want to vote on Election Day or during in-person absentee voting, right, state law, there's a commandment that that retraction method be available in the MicroVote voting system to be able to delete a ballot if a person passes away or is disfranchised or is challenged on residence; right.

MR. HIRSCH: Yes.

MS. NUSSMEYER: The optical scan piece is separate because the optical scan tabulators have their own separate laws where retraction really isn't defined or there's no commandment other than, if you want to prescan seven days before Election Day, you can.

So I just want to make sure that the Commission understood there is a statute that mandates that.

CHAIRMAN KLUTZ: Thank you.
Mr. King, any response to that?

MR. KING: Mr. Chair, members of the Commission, Co-Director Nussmeyer has accurately set forth the requirements and the statute that's applicable to the direct-record electronic, which, as I noted earlier, is a very different type of system than the optical scan ballot card voting system in this regard.

CHAIRMAN KLUTZ: So it seems to me also there will certainly likely be a new training item on clerks' agenda for upcoming meetings, I would assume.

MR. KING: Uh-huh.

MS. CELESTINO-HORSEMAN: So when you're talking about generating a voter ID number for the retraction, did I hear you correctly, did you say that that would be a number you could get from the SVRS or the voter ID that the clerk has or what?

MR. HIRSCH: So that's external to our voting system, whatever number is used. In Indiana, normally they've been using a voter ID number, but that, again, is a procedure outside of our voting system. We don't care what number they use as long as it's unique for that voter. And then on Election Day, if they need to retract someone, they
simply give us the list of numbers that they want to retract, and we have no idea. The people doing the work on Election Day can't link that number back to a voter unless they have access to a completely different system than ours.

MS. CELESTINO-HORSEMAN: So are you saying, then, that the county makes the decision whether they want to use the voter ID or social security number from the SVRS or that type of thing?

MR. HIRSCH: Correct.

MS. CELESTINO-HORSEMAN: And then they tell you that?

MR. HIRSCH: Correct.

MS. CELESTINO-HORSEMAN: And then you set it up so that the ballots print out that way?

MR. HIRSCH: No, no, no. There's no ballot to print.

MS. CELESTINO-HORSEMAN: Oh, yeah, that's right.

MR. HIRSCH: The number is input at the time the poll worker activates the voting machine for voting for that voter.

MS. CELESTINO-HORSEMAN: Okay. So that's the county's decision. So then when you go to -- you have to go in -- okay. So what kind of
protections -- and this is the same thing we asked the other. What kind of protections do you have? So if someone sitting in the clerk's office wants to get into a little mischief, particularly since now if they can tie it into the SVRS, they can go in there and look up the number and --

CHAIRMAN KLUTZ: Well, let me ask how that's relevant to a vendor who has a machine? How is a mischievous clerk employee relevant to this discussion?

MS. CELESTINO-HORSEMAN: Because it then provides an opening for the information, private information of a voter, and makes it possible for them to go in and look at the ballot. And as was explained, that is supposed to be our number one thing, privacy and the security of their ballot.

MR. HIRSCH: And, Commissioner, the answer to that question is, the person in the office can't see how the person voted. When they use the retraction feature, it only shows that they voted, not how they voted. That's never displayed in our EMS software to the user.

MS. CELESTINO-HORSEMAN: But is it possible --

VICE CHAIRMAN OVERHOLT: Karen, just to clarify, what I hear him saying, though, is that
it's not a function of their system. The way their system works, they're inputting numbers provided by someone else. So it really goes to the point of, if it's the county election board, the clerk's office, whatever providing the numbers, it's not a function of the system. They're providing a mechanism in the system for such numbers to be entered, but it's not the system that is doing anything about the numbers.

MS. CELESTINO-HORSEMAN: I know.

VICE CHAIRMAN OVERHOLT: So, to me, that is a question that goes back to the county election officials or whomever that they had --

MS. CELESTINO-HORSEMAN: No, no, because what it goes to is that when they've created -- they might give them the numbers, but those numbers go into their software. And they have to then in their software -- the county clerk has the name and the number, so the software then retrieves according to the number; correct? So if I'm --

MR. HIRSCH: When you say "retrieve," it doesn't show on the screen or in a printout how that individual ballot was cast.

MS. CELESTINO-HORSEMAN: And that's the question I'm trying to get to is that -- and that's
what I want to know. So in the act of retrieval, retraction, that doesn't show. But if I have that information and I'm able to get into the system, can I access it through another way or do you have firewalls built up in there?

MR. HIRSCH: We have protections to prevent a user from being able to see that information. It's not displayed on the software.

MS. CELESTINO-HORSEMAN: Okay. Great. And that was not tested by you all, right, because it wasn't part of the protocols?

CHAIRMAN KLUTZ: Well, it was tested to determine it was compliant with Indiana Code and all applicable regulations required for certification.

So my next question will be, I believe this was in your final statement, but your recommendation was, based upon your review and evaluation, that this machine is compliant with all applicable Indiana codes and regulations; is that correct?

MR. CHATOT: Correct.

CHAIRMAN KLUTZ: Any further discussion?

There's a motion on the table. All in favor signify by saying "Aye."
VICE CHAIRMAN OVERHOLT: Aye.
MR. REDDY: Aye.
CHAIRMAN KLUTZ: Aye.

Opposed?

MS. CELESTINO-HORSEMAN: I'm going to say no because I think they have the obligation to show that there's privacy and all that is protected and your ballot is protected. And that --

CHAIRMAN KLUTZ: Thank you. The motion passes.

MS. CELESTINO-HORSEMAN: And that wasn't done. And I'm allowed to finish my sentence as a member of this Commission.

CHAIRMAN KLUTZ: The next matter before the Commission is with respect to an engineering change order, MicroVote Direct-Record Electronic Voting System EMS 4.4 Engineering Change Order 135.

Similar to our prior format, I'll recognize co-directors and then representatives from VSTOP to present information regarding this application for approval of the change order. Documents provided by the Election Division and VSTOP regarding this engineering change order will be incorporated into the record. I will then recognize representatives of MicroVote to testify regarding this matter and
then anyone interested in the audience who desires to testify.

For purposes of commencing discussion and testimony, I'll move that the application submitted by MicroVote for approval of this engineering change order be approved for marketing and use in Indiana for a term expiring October 1, 2025, subject to any restrictions set forth in the report submitted by VSTOP. Again, I'm making this motion to commence testimony and discussion. Is there a second?

MR. REDDY: Second.

CHAIRMAN KLUTZ: Any further discussion?

Okay. At this time I will request that Brad and Angie confirm proper document compliance with Indiana Code 3-11-7.5-28.19 regarding the filing of this application for an engineering change order to the MicroVote voting system and that you please provide the Commission with any written correspondence it received regarding this specific application.

MR. KING: Mr. Chair, members of the Commission, to confirm, yes, the engineering change orders previously referenced by the Chair were properly submitted on the IEC-11 application.
Information was provided that was required by that application and is in the materials submitted by VSTOP and appears to be in compliance with Indiana statutes that you referenced.

CHAIRMAN KLUTZ: Thank you, Mr. King.

Ms. Nussmeyer.

MS. NUSSMEYER: I have nothing further, Mr. Chair.

CHAIRMAN KLUTZ: Thank you.

I'll now recognize VSTOP representatives to present VSTOP's findings regarding this application.

MR. CHATOT: Thank you. ECO No. 135 is the Model No. 156K Tally and Vote N card. The current Tally and Vote N card platforms are end of life with manufacturer. Therefore, functionality has been transferred to current manufacturing with Smartcard platform, while also increasing the capacity of Tally card with an additional 26,288 bytes of memory.

Members of the VSTOP team have reviewed the ECO and supporting documents and VS -- voting system testing laboratory reports. VSTOP finds that this ECO complies with the requirements for de minimis changes to hardware components. It was
determined that the submitted updates will not adversely affect system reliability, functionality, capacity -- capability -- excuse me -- or operation. No change to firmware or software is required. The ECO only applies to the specific EMS 4.4-IN Voting System noted in the table above. And MicroVote EMS 4.4-IN is EAC certified and was approved, and this ECO was also approved by the EAC.

CHAIRMAN KLUTZ: Thank you.

I'll now open it to fellow Commission members for any discussion.

VICE CHAIRMAN OVERHOLT: I actually -- so -- sorry. This goes back to the vote we just took because it affects the ability to approve the change order. I may have misunderstood kind of a material factor with respect to the MicroVote system, that I thought it was somehow different from Hart in terms of whether or not the retraction issue was part of the originally certified system.

And in looking at these materials again quickly, I don't think that it was, which I think raises that same issue that was presented by Hart as to whether we can actually recertify -- well, first of all, the question whether retraction is
part of this recertification and, if it is, if the retraction was included in the original certification of the system.

CHAIRMAN KLUTZ: Okay. Mr. King, do you have any comment on that?

MR. KING: Mr. Chairman, members of the Commission, my understanding from previous Commission consideration of the MicroVote system is the retraction feature that was described in MicroVote's testimony and VSTOP's presentation has been a part of the basic MicroVote system for many years and so is not, in fact, a new component that would not fall within the heading of recertification.

VICE CHAIRMAN OVERHOLT: And is it all right if I ask --

CHAIRMAN KLUTZ: Yes. Go ahead.

VICE CHAIRMAN OVERHOLT: I know you were shaking your head yes, but could you --

MR. HIRSCH: It's been a part of our system for over 20 years. Indiana has retracted votes as long as I've been at MicroVote, which is almost 20 years.

VICE CHAIRMAN OVERHOLT: I don't want to reopen the whole conversation. I just --
MS. CELESTINO-HORSEMAN: No. I agree. But there's a difference between being part of their system and being recertified. It could be part of their system for years, but we never looked at it before.

VICE CHAIRMAN OVERHOLT: Well, I guess has staff -- because I don't want to be confused on this. I don't want to belabor the point, but I also want to make sure I'm clear in my understanding of staff's understanding of what was being considered for this recertification.

MS. NUSSMEYER: Certainly, Commissioner. The statutes under which MicroVote operate as a direct-record electronic voting system are different than the statutes that an optical scan ballot card voting system operate under. And the retraction method under Hart, which is an optical scan voting system, the retraction method or the idea of retraction was a statute that was introduced in 2021.

The language that I mentioned under 3-11-10-26.2 has been around for a very long time. I don't know how many years but at least since DREs were approved for use in the state of Indiana. And that feature would have to have been incorporated
in any sort of certification before the Commission
because the county election board has a commandment
that, if you are going to use this system for
in-person absentee voting, you must be able to
assign a unique identifier to be able to delete the
ballot in a blind way from the system should the
person pass away, be found otherwise ineligible
before the election.

So there is a substantial distinction between
the two types of voting systems that we're
contemplating, and the optical scan component of
the MicroVote system does not contemplate a
retraction method because the system isn't set up
or designed to do that.

VICE CHAIRMAN OVERHOLT: Okay. Thank you. I
now feel much better about my understanding of the
situation, and just I'll state for the record it
appeared I do see a difference -- I thought I saw a
difference, and that has now been verified between
the MicroVote and the Hart.

MR. HIRSCH: I think the intent of that new
law was trying to reach equity between the optical
scan system and what the DREs were always able to
do.

VICE CHAIRMAN OVERHOLT: Thank you. All
right. I apologize, but thank you.

MS. CELESTINO-HORSEMAN: And I apologize for my confusion on that as well.

CHAIRMAN KLUTZ: Mr. King, any response or comment to Ms. Nussmeyer's?

MR. KING: Mr. Chairman, just to say I agree entirely with Ms. Nussmeyer's remarks.

CHAIRMAN KLUTZ: Thank you.

I have a question for VSTOP. Are these considered de minimis change orders or are these --

MR. CHATOT: Yes.

CHAIRMAN KLUTZ: They are?

MR. CHATOT: Yes.

CHAIRMAN KLUTZ: Any further questions on these pending change orders?

VICE CHAIRMAN OVERHOLT: None from me.

CHAIRMAN KLUTZ: At this time there's a motion on the floor. All in favor for approving the change orders before us signify by saying "Aye."

VICE CHAIRMAN OVERHOLT: Aye.

MS. CELESTINO-HORSEMAN: Aye.

MR. REDDY: Aye.

CHAIRMAN KLUTZ: Opposed?

The "ayes" have it. The change orders are approved.
Just give me one minute here.

You know, I apologize. I needed to open it up to the public as well and I did not. So we still want to hear from you if you want to please come up and state your name. I apologize for taking the vote before we had a chance to hear your comments.

MS. DUNBAR: Thank you. Once again, my name is Jen Dunbar. Thank you again for taking public comments. You all are appreciated.

Again, to the theme keep it secret, keep it safe, the one thing from the last one for the right of the secret ballot, that there is no, right now -- and I agree with Ms. Nussmeyer about the policies and procedures would help keep it secret and safe.

But the question is, how do we, when it's in a computer, follow that to make sure those policies and procedures are followed. There's no way. Like in the old days, if they were stuck in the ballot box or whatever, you could see that, like, oh, wait why are you... You could look at the names and say, hey, this person is not eligible to vote, et cetera.

But how do we know that somebody didn't look at my vote? You have to look at the logs in the
computers, and I don't know that that's ever been done or there's a mechanism to do that. You know, the risk-limiting audits won't find that if somebody's done something poorly and looked at who I voted for, so that would be my question, to in the future consider ways to make sure your policies and procedures for a secret vote are kept.

So in the keep it secret, keep it safe part, the safe part, I guess the question I have is that if you need VSTOP, if you need CISA, the Council on Cyber Security, and FireEye, is it really that safe in the beginning? You know what I'm saying? And then we hire FireEye and they're the company, the cyber security that's supposed to keep from hacking our systems, and they were hacked in 2020. So I just put that out there that I think we were safer with the hanging chads, the pull levers. I think we were safer with paper ballots.

So the last thing I'll say, because I'm not sure if there's another public speaking, was there's something miraculous that occurred that all the election integrity groups, including Indiana Vote by Mail, Free Speech for People, the League of Women Voters, and Verified Voting and Indiana First Audit, which is the citizens group that I volunteer
with, they all -- they recently submitted a letter
both to legislation, the county clerks for
supporting paper ballots over machines.

So, again, thank you for your service. I
appreciate your time and hearing me. Thank you.

CHAIRMAN KLUTZ: Thank you for your comments
and participation in this hearing.

I'll now turn to our co-directors to see if
they have any responses or comments.

MR. KING: No. Thank you again to the lady
for participating and offering remarks, but I have
nothing to add.

CHAIRMAN KLUTZ: Ms. Nussmeyer.

MS. NUSSMEYER: I have nothing further to add.
Thank you, Mr. Chair.

CHAIRMAN KLUTZ: Thank you.

Moving on, final matter before the Commission
with respect to recertification -- or certification
is the Unisyn OpenElect 2.2 Voting System.

Before I get into this, however, let me ask
this question to the staff: We've heard of kind of
two statutory regimes based upon the machines and
based upon the retraction issue. Can you provide
us which regime statutory construct this falls
within?
MR. KING: Mr. Chairman, thank you for that complicated but very important question. The answer is the Unisyn system is described on the agenda itself as a hybrid voting system, but under Indiana law, it's defined as an optical scan ballot card system. And therefore, it is under the same statutory provisions of Hart InterCivic as opposed to MicroVote Corporation.

CHAIRMAN KLUTZ: Okay.

MS. NUSSMEYER: And, Mr. Chairman, if I might, as a reminder, this is not a recertification of the Unisyn system. This is a new application for a voting system, although I entirely agree with Mr. King that this is an optical scan voting system and those statutes would apply here.

CHAIRMAN KLUTZ: As opposed to starting this with a motion, I'll propose that we start simply with the presentations and then open it for discussion, and we can determine the appropriate motion at the time.

So as we've handled all these prior today, I will recognize the co-directors and then representatives from VSTOP to present information regarding this application for approval of a new type of optical scan voting system. The documents
provided by the Election Division and VSTOP regarding the system will be incorporated into the records of this proceeding. I will then recognize any representative from Unisyn to testify regarding this matter and then open the floor to the public who wishes to provide comment.

For purposes of commencing this process, I will ask Brad and then Angie to confirm proper document compliance with Indiana Code 3-11-7 and Indiana Code 3-11-7.5 regarding the filing of an application for Unisyn Open Elect 2.2 Voting System and to provide -- and to please provide the Commission with any correspondence you received regarding this application. Mr. King.

MR. KING: Thank you, Mr. Chairman, members of the Commission. The material regarding this voting system can be found behind the second white tab labeled "Unisyn OpenElect 2.2" in your binders.

The material includes the IEC-11 application, which, as was noted, is for certification of a new voting system. The application with the required payment of fee was submitted to the Election Division and reviewed by VSTOP for completeness, and we are advised that the application material referenced in the IEC-11 is complete.
There are approximately six counties in Indiana that use another version of the Unisyn voting system, but they were not specifically notified regarding this application for a new voting system because, again, it's not a recertification.

We've also included the IEC-23 -- oh, I should mention -- I'm sorry -- in the material, the list of existing counties using other versions are Floyd, Jackson, Montgomery, Posey, St. Joseph, and Vigo Counties.

And then the vendor has submitted the IEC-23, Statement of National Ownership or Control of Vendor, and I believe the vendor has submitted a complete application in accordance with the statute you referenced earlier.

CHAIRMAN KLUTZ: Thank you.

Ms. Nussmeyer, do you have any comments?

MS. NUSSMEYER: The only other comments I would make, Mr. Chairman, is again thanking VSTOP and the vendor for addressing the additional questions we posed as part of the report packet, and those questions were answered, so thank you.

CHAIRMAN KLUTZ: Thank you.

I'll now recognize VSTOP representatives to
present their findings with respect to this application.

MR. CHATOT: Thank you. This is for Unisyn Voting Solutions, Incorporated, certification of a new voting system. The Unisyn OpenElect Voting System, here forward called OVS, provides a complete system for election definition, ballot printing, voting at the polls, scanning and tabulation of ballots, as well as early voting and handling absentee and provisional ballots at the central site for tabulation, accumulation, and reporting results.

The OVS is a ballot precinct voting system that offers both precinct and central tabulation. The OVS consists of the OpenElect central suite, OCS, installed at an election headquarters location; the OpenElect voting devices, OVDs, for use at the polls and for early voting; and the OpenElect voting central scan, OVCS, bulk scanner for use at a central location.

This system was certified by the U.S. Election Assistance Commission on November 18, 2021, and is compliant with the Voluntary Voting Systems Guidelines. The Voting System is a modification of OpenElect 2.1, which was certified in Indiana until
that certification expired on October 1, 2021.

Changes introduced in this voting system are ECO No. 17120, which adds a Dell Latitude 5220 to OpenElect. This was approved by the EAC on November 22, 2021.

Findings and limitations. Previous certification of OpenElect listed the limitation to disable electronic ballot adjudication. This limitation is now subject to IC 3-11-15-13.8.

VSTOP has verified that the adjudication software is a part of the election managements system, EMS, certified by the Election Assistance Commission as part of the voting system. Such adjudication must be conducted in compliance with Indiana law. The FET is capable of ballot retraction as allowed in SV260 in 2021 legislation IC 3-11.5-4-6. More information on that process is included in the Attachment 11.

On the basis of VSTOP's review and evaluation, the voting system referenced herein and with the scope of certification meets all requirements of the Indiana Code for use in the state of Indiana. This finding includes compliance with the legal requirements for voters with disabilities.

And if you would like me to address the ECO
now, I can, or I can wait.

CHAIRMAN KLUTZ: We have an ECO for this?

MR. CHATOT: Yes.

VICE CHAIRMAN OVERHOLT: How can there be an ECO if it's a new system? I guess I don't understand that. Sorry, Mr. Chairman.

CHAIRMAN KLUTZ: Mr. King, I don't recall having an ECO in this.

MR. KING: No, Mr. Chairman, there is no ECO on the agenda with regard to Unisyn.

CHAIRMAN KLUTZ: Okay. With that, anything further from VSTOP?

MR. CHATOT: No.

CHAIRMAN KLUTZ: I'll open it to fellow commissioners for any questions or discussions.

VICE CHAIRMAN OVERHOLT: Well, I mean, my understanding is that this system is one where the retraction issue that we discussed with respect to Hart InterCivic and the same requirements apply, and I've got similar concerns just about -- I know this is a new system, but as to what processes might have been used to review the retraction process.

And I think I would like for this to go back to VSTOP, you know, for us to be able to gather
some more information because I feel like we're acting and it's a new realm here, a new statute, and I feel like we need some more information before we are in a position to actually decide whether to approve the system. That's my comment.

MR. CHATOT: Retraction was tested during the field test, and the final attachment in this application details the process, Attachment No. 11.

VICE CHAIRMAN OVERHOLT: I guess in looking at that, I'm just concerned about specificity in terms of the guidelines that are going to be used, what protocols are going to be followed in terms of determining what individual identifiers are going to be used, whether they link in any way to an individual voter, the protections that may be in place, those types of issues, and I don't see that addressed here.

CHAIRMAN KLUTZ: Okay. So we have the same issue. I do see representatives from Unisyn or counsel for Unisyn, if you want to state your name and respond to any comment of the Commission.

MS. BOX: Thank you, Mr. Chairman, members of the Commission. My name is Lauren Box, B-o-x, like cardboard. I'm an attorney at Barnes & Thornburg. This is my colleague Jake German, G-e-r-m-a-n, like
the country. We are here representing Unisyn. And we were not planning on making a formal presentation, but we are certainly happy to try to address any questions or concerns that you might have.

CHAIRMAN KLUTZ: Thank you. Well, so we have a whole issue of just understanding the retraction and understanding how this works and seeking additional information from VSTOP. I mean, I also have items that I want to understand and diligence as it relates to filings that were included with this, specifically the IEC-23. I just -- there's a reason those are required to be filed. I want to understand and talk to the appropriate people about that filing, so there's a second reason that I am particularly not ready to vote on this. So stating that for the record simply that I would support a motion to table this.

Having said that, if there's any information that VSTOP would like to provide us now about the retraction or if you believe it would be more appropriate in a supplemental, I'd be happy to listen to that as well. Or, Ms. Box, if you have comments as well.

MS. BOX: Could I just ask a clarification
question, Mr. Chairman?

CHAIRMAN KLUTZ: Sure.

MS. BOX: So my understanding is that VSTOP, because this is a new application, that VSTOP did, in fact, review and test the retraction process and provided a review and investigation of that as part of the application. I don't know if that's a question best posed for you or for VSTOP.

VICE CHAIRMAN OVERHOLT: We understand that -- I mean, yes, so we have information here indicating that VSTOP did -- that there was testing for the retraction process. I guess I should be more clear the concern I have is that this is a new -- so it's a new law, that for other requirements that apply to voting systems, the Commission -- the Election Division staff and VSTOP have kind of worked together and developed protocols for testing systems on these various state law requirements and that this particular -- you know, there are not specifics included in the testing protocols, the certification protocols that address the statute that was passed -- or that went into effect last year.

So my concern is that, when we were talking about a method of tracking ballots, which is what
this retraction -- I mean, it's imposing a method
of tracking certain types of ballots for very
specific purposes, and I think it's critical to
understand how those requirements are going to be
implemented, what type of information is going to
be tied to a ballot or to that number and kind of
what happens with those. I mean, basically it
comes to, you know, to make sure that that -- if
it's a deceased voter, that the world isn't able to
figure out that that deceased voter voted for Joe
Smith right before the voter died, to simplify it,
because that's about the level I can understand it
at this point.

CHAIRMAN KLUTZ: And the other thing I think
we're looking for is confirmation of the scope of
testing for the withdrawal of the ballot in terms
of we would like confirmation -- there's a variety
of ways a ballot can be retracted, and we want
confirmation that each scenario was tested.

Brad, maybe you can provide some of those
scenarios, but we need confirmation that that
testing, in our minds, was adequate and covered the
full scope. Can you give some examples.

MR. KING: Yes. Thank you, Mr. Chairman,
members of the Commission. In discussions with
VSTOP, which I understand reflect information obtained from the vendor, it was my understanding that the Unisyn system does have the ability to retract an absentee ballot -- or retract a ballot that is voted in person, whether that's on Election Day or prior to Election Day during early voting, by the addition of a code number to thermal paper that would then allow the ballot of the disqualified voter to be extracted from the system. But I also understand that this retraction feature is not in place with regard to absentee ballots that are sent through the mail to voters who are, by definition, not appearing in person.

So my understanding is that there is a retraction method more detailed than what was before the Commission with Hart InterCivic's application, but not comprehensive with regard to any type of absentee ballot that might be scanned and, therefore, would be subject to the retraction procedure specified by state law.

MR. GERMAN: And just to elaborate a bit more, it does seem like that there is a distinction between the issues that were raised earlier and the issues that have been raised for the Unisyn system in that it is a very limited, limited necessarily
retraction piece. I think that's what Mr. King was getting at there.

CHAIRMAN KLUTZ: Well, yeah. He's getting at what we would like more confirmation from VSTOP on that the retraction that's required covers the full scope of possible retractions, i.e., not only in-person machine, but also mail-in absentee.

MS. BOX: And we can speak generally to how the process would work, but as to the testing and the scope of the testing, all of those questions would have to be directed to VSTOP.

MS. CELESTINO-HORSEMAN: Mr. Chair?

CHAIRMAN KLUTZ: Yes.

MS. CELESTINO-HORSEMAN: Can we call upon Co-Director Nussmeyer to address the concerns that are present regarding the lack of documentation and such in the report.

CHAIRMAN KLUTZ: In the VSTOP testing report?

MS. CELESTINO-HORSEMAN: Yeah.

CHAIRMAN KLUTZ: Well, I hope she does because that would give clarity to what we would like in the supplemental. And, again, I hope we can have this hearing very soon.

MS. NUSSMEYER: Thank you, Mr. Chair, Commissioner. In addition to the points Mr. King
raised, which were concerns raised by myself and my
team as well at least reading the report, there
have been representations made by RBM that the
voter identification number found in SVRS would be
the unique identifier that is printed on the ballot
card and that would be the recommendation of the
vendor to use.

And in my view, linking a number directly out
of our Statewide Voter Registration System in such
a way and printing it on a ballot card that is a
permanent record that is maintained by the county
is not maintaining a voter's right to secret ballot
because that permanent record exists on the ballot
card. And it's my understanding, based on emails
that we reached out -- my team and I reached out to
vendors last summer regarding retraction features,
that the ballot image itself would also maintain
that unique identifier and those images would be
available to staff to look at as well.

So those are concerns, and I think VSTOP
probably needs to give some recommendations to the
Commission so that we can provide best practices to
counties that, if they're going to employ
retraction methods for optical scan ballot cards,
that we're doing it -- and even DRE systems, that
we're doing it in a way that maintains the voter's right to secret ballot.

While I understand the system is built against the Voluntary Voting System Guidelines 1.0, the 2.0 standards do talk about a recallable ballot, which is generally applied to provisional ballots, but the guidance in the VVSG 2.0 say that a recallable ballot should not use direct voter information like a voter's first name, last name, driver's license number, or voter ID number.

And so whatever instructions that the vendor is providing to the counties, I think, needs to be contemplated by the Commission as part of their purview, but also some reassurance that the numbers being used by county election administrators are not those that are directly linkable to a voter because the county voter registration file and an individual voter registration record are public information.

CHAIRMAN KLUTZ: Thank you, Ms. Nussmeyer.

Brad, would you like to add any comment?

MR. KING: Yes. Thank you, Mr. Chairman, members of the Commission. Again, I'm in general agreement with Co-Director Nussmeyer regarding the points raised.
I would add for perspective that, in the past when the Commission has considered the approval of voting system application or recertification of a voting system, that the Commission, in my view, has acted within its scope by imposing conditions upon recertification that the vendor must meet. For example, one vendor many years ago was required to post a sizable performance bond because the Commission had a concern regarding whether particular functionality that the voting system vendor was providing would be fully functional and be in compliance with statute.

And so I bring this before the Commission as a matter for a future meeting. If you receive information regarding these systems from the VSTOP program, I think you do have the legal authority to impose conditions upon the vendor within the framework of Indiana statues.

CHAIRMAN KLUTZ: Thank you, Mr. King. Anything else from VSTOP regarding this matter?

MR. CHATOT: No, not at this moment.

MS. BOX: I would just ask, Mr. Chairman, my understanding is that there were questions that were posed to Unisyn throughout the process about
additional information that was requested. My request here would be, are we going to receive a list of the additional questions or information that you need or how will we receive that so that we know that we're fully complying with the request of the Commission?

CHAIRMAN KLUTZ: Yeah. That's a good question. Brad, I think what we should do is if you could work with the staff on kind of summarizing the Commission's concerns that you heard here today as it relates to compliance with the retraction and the scope of retraction in terms of not only machine, but the paper early ballots. And I think it goes to more of what we want VSTOP to show us in terms of their testing as opposed to specific questions, but we'll -- and it may morph as we work with VSTOP on that.

I guess I would also ask VSTOP -- I hate causing delays, and so I feel like I am causing delays. So if we could do this as quickly as possible, and then we'll try to get this scheduled right away.

DR. BYERS: We want it to be right.

CHAIRMAN KLUTZ: Correct, yes.

MS. CELESTINO-HORSEMAN: Mr. Chairman, since
we have two co-directors, can we have them work
equally together on that, please?

CHAIRMAN KLUTZ: Yes. When I said "staff," I
was hoping it would be the co-directors. That
would be the desired method.

MR. KING: Mr. Chairman, just to respond, it
was my intent to work with Co-Director Nussmeyer in
crafting a letter that we could both agree to that
would summarize the subject matter that the
Commission is requesting additional information
about.

CHAIRMAN KLUTZ: And so, again, to harp on I
hate causing delays, these two companies have
economic interests in getting this done quickly, so
I want to be back here as soon as possible.

DR. BYERS: Mr. Chairman, with the blessing of
the Commission, we would like to propose, should
additional testing be needed, that we be able to do
it remotely in order to expedite the process of
testing as much as possible. There is some
precedent for doing this with electronic poll book
testing, and we would like to be able to implement
that, if you would approve. That would save a lot
of time with regard to the transportation of
equipment. We could do it electronically through
Zoom, and we could videotape it the same way or very similarly as we would an in-person test.

CHAIRMAN KLUTZ: Thank you for the request, and I'll ask the co-directors if they see any issue with allowing that. I have none.

MR. KING: Mr. Chairman, no, the Commission, I think, certainly has the ability to authorize the type of testing that's being requested by VSTOP.

CHAIRMAN KLUTZ: Did you mention utilizing Zoom or Teams or --

DR. BYERS: Yes, something of that nature.

CHAIRMAN KLUTZ: -- something that could be recorded so you could preserve the record?

DR. BYERS: Yes. And we have secure VPN.

CHAIRMAN KLUTZ: Ms. Nussmeyer.

MS. NUSSMEYER: The only issue, if I might, Mr. Chairman, would be -- I don't have an issue with the remote testing, but if there's an issue or concern that is raised during field tests and you need to get your hands on the equipment and have it transported to your offices, that, you know, you do your due diligence and that, if that is required, that that be followed through on.

DR. BYERS: Absolutely.

MS. NUSSMEYER: But otherwise, I don't have an
issue with remote testing.

DR. BYERS: We will absolutely do that.

CHAIRMAN KLUTZ: Any further comments from the Commission?

MS. CELESTINO-HORSEMAN: I think there was also a question about a ballot card that you all produced that didn't have the party designation next to each candidate. So I was just wondering if there was something -- there was no explanation as to why that was missing.

MS. BOX: I think if you could just include that as part of the additional information that you're requesting, we would be happy to provide whatever additional information that you need.

MS. CELESTINO-HORSEMAN: Okay.

CHAIRMAN KLUTZ: Anything else?

At this time I'll open this matter, this application for voting system certification, to the floor. I have one individual who has signed up, and three minutes for public comment.

MS. DUNBAR: I just have one sentence. Again, Jen Dunbar. The question -- I don't know if this is for the Commission or for more of a legislative thing, but I feel strongly that all of the firms, be it Unisyn, ES&S, MicroVote, Hart InterCivic,
et cetera, et cetera, their ownership structure should be available for the public to know since -- I mean, how do we know candidates don't own these? I just think transparency is key, which is there foreign ownership, is it American ownership, that that should be something that either VSTOP could find out or the Commission, or is that something that needs to be handled legislatively that it needs to be required that ownership structures of the companies should be put out there. And that's all.

Thank you again for your service. I appreciate it.

CHAIRMAN KLUTZ: Thank you for coming. I believe there are filings that you can look up to find out that.

MS. CELESTINO-HORSEMAN: You want the IEC-23.

MS. DUNBAR: Okay. Thank you.

CHAIRMAN KLUTZ: With that, we've concluded the business on the agenda. Any old business or --

VICE CHAIRMAN OVERHOLT: I don't think we voted. Did we vote?

CHAIRMAN KLUTZ: Oh, I'm sorry. We have not formally voted.

VICE CHAIRMAN OVERHOLT: Because we flipped
the order on that.

CHAIRMAN KLUTZ: I would make a motion that we table the pending application for voting system certification by Unisyn OpenElect 2.2 Voting System.

VICE CHAIRMAN OVERHOLT: Second.

CHAIRMAN KLUTZ: Any further discussion? All in favor signify by saying "Aye."

VICE CHAIRMAN OVERHOLT: Aye.

MS. CELESTINO-HORSEMAN: Aye.

MR. REDDY: Aye.

CHAIRMAN KLUTZ: Opposed? The "ayes" have it. The motion is tabled.

The Indiana Election Commission has finished its business for the day. Is there a motion to adjourn?

VICE CHAIRMAN OVERHOLT: So moved.

CHAIRMAN KLUTZ: All in favor?

VICE CHAIRMAN OVERHOLT: Aye.

MS. CELESTINO-HORSEMAN: Aye.

MR. REDDY: Aye.

CHAIRMAN KLUTZ: This meeting is adjourned.

Thank you.

(The Indiana Election Commission Public Session was adjourned at 3:21 p.m.)
STATE OF INDIANA
COUNTY OF HAMILTON

I, Maria W. Collier, a Notary Public in and for said county and state, do hereby certify that the foregoing public session was taken at the time and place heretofore mentioned between 1:30 p.m. and 3:21 p.m.;

That said public session was taken down in stenograph notes and afterwards reduced to typewriting under my direction; and that the typewritten transcript is a true record of the public session.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 16th day of March, 2022.

[Signature]

My Commission expires: December 5, 2024

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