PROCEEDINGS

ACTING-CHAIRMAN KAUFMAN: All right. We're going
to call this meeting to order, sans our Chair for now.

Debbie, do you want to take roll call?

MS. PARSONS: John Perez is absent.

Stephen Kaufman.

ACTING-CHAIRPERSON KAUFMAN: Here.

MS. PARSONS: Michael Bustamante.

BOARD MEMBER BUSTAMANTE: Here.

MS. PARSONS: Tal Finney.

BOARD MEMBER FINNEY: Present.

MS. PARSONS: Carl Guardino is absent.

ACTING-CHAIRMAN KAUFMAN: Okay. Do we have any
public comment on matters other than 6A, which I think we
will hold? Any public comment on matters that are not on
the agenda?

Okay. Then let's turn to the adoption of the May
10, 2004, meeting minutes.

BOARD MEMBER FINNEY: I move that they be adopted.

BOARD MEMBER BUSTAMANTE: Second.

MS. PARSONS: I'll take roll.

Tal Finney.

BOARD MEMBER FINNEY: Aye.

MS. PARSONS: Michael Bustamante.

BOARD MEMBER BUSTAMANTE: Aye.
MS. PARSONS: Stephen Kaufman.

ACTING-CHAIRMAN KAUFMAN: Aye.

MS. PARSONS: Motion passes.

ACTING-CHAIRMAN KAUFMAN: The motion passes, the minutes are adopted.

The next item on the agenda is changes to policies and procedures. And we have proposed changes to the check distribution system. Do one of you want to just review where we're at with those changes?

MS. LEAN: That was an item that the Chair actually put on the agenda. He had some concerns regarding the length of time in which checks are distributed to the counties, the overall process, our internal accounting process, that the staff reviews the receipts and the invoices that come in.

Once they determined as acceptable under Proposition 41, they're sent to our accounting office to get the appropriate information to the State Controller's office. The State Controller's office then cuts a check. During this whole process, the staff notifies the executive staff when the claim schedule goes over to the State Controller's office and when it comes back. So we have a two-week period that we know when it's going to come and that's all we've done, because there's anticipation that there might be a press conference to release the check.
The Chair had some concerns over how long the checks were held before press conferences were potentially scheduled. And that was the change that he wanted to consider.

**ACTING-CHAIRMAN KAUFMAN:** And the issue was the checks coming straight back to staff here, correct?

**MS. LEAN:** Correct.

**ACTING-CHAIRMAN KAUFMAN:** As opposed to going through the Secretary of State's office?

**MS. LEAN:** Right.

**BOARD MEMBER BUSTAMANTE:** No. The question was, and I don't want to speak for the Chair, but as I recall, the issue for him was that you had a check that was ready to be disbursed and let to the counties, but there was a two week, sometimes month, period of time where the counties weren't receiving their funds because there was a hold up in the executive office.

**MS. LEAN:** That's correct, for the release of the checks.

**BOARD MEMBER BUSTAMANTE:** Okay. So I think what he was concerned about was the ability to actually release the checks when those funds are available, as opposed to waiting for two weeks to a month for the counties to receive their checks.

**MS. LEAN:** Yes. From conversations that I had
with the Chair, he suggested that he be notified when the
checks come in and be part of the approval for distribution.
Because that wasn't done, it was -- internally, you've kind
of given the authority over to the staff to disburse and to
let go and to send it out to the counties, but we've been
waiting for executive office approval in order to send them.
And so I think he wanted to be part of the process.

ACTING-CHAIRMAN KAUFMAN: And this two-week
reference though is merely just a procedure that's basically
been in place, it's not set in stone anywhere, which is why
it's been extended beyond that?

MS. LEAN: I don't understand the question.

ACTING-CHAIRMAN KAUFMAN: Well, the idea that the
checks were being held pending a press conference, was there
anything formal setting that out?

MS. LEAN: No.

BOARD MEMBER BUSTAMANTE: In fact, remember there
was a matrix that they gave us at the last meeting, and some
of them were two weeks, some of them were 30 days, some of
them were 40 days. You know, maybe we should hold this
until John gets here, he would probably want to have it put
on.

ACTING-CHAIRMAN KAUFMAN: Well, unfortunately, we
have a fairly large agenda, we wanted to hold 6 until the
Chair showed up and get through the rest of it.
BOARD MEMBER PINNEY: Did we have a staff recommendation with respect to this item? Weren't you supposed to look into something? I think I recall that we had asked that the staff look into the issue. Because it sounds like the action that is desired by the Chair is to include him in the distribution process on behalf of the Board.

ACTING-CHAIRMAN KAUFMAN: And I don't know what kind of formal action is even required on our part, because no policy per se is setting forth these procedures, other than making a request, if that's how it happened. I don't know whether that will solve the problem, but it will at least make this Board aware of when payments are coming in.

BOARD MEMBER PINNEY: And you don't think we need to take action to do that?

ACTING-CHAIRMAN KAUFMAN: Well, we, as a Board, can certainly make a motion requiring that the staff notify the Chair when the checks are received so that the Board, the Chair slash the Board, will be aware of that. But I don't know that there is anything mandating anything beyond that in terms of the check being released. Unless we want to institute some formal policy for doing that.

MR. STUART: No, not at this time.

ACTING-CHAIRMAN KAUFMAN: Yes. This Board would have to adopt a formal policy for releasing checks once they
arrived back at the Secretary of State's office, if we wanted to do anything beyond notification, which we can do.

BOARD MEMBER FINNEY: Well, maybe we should just do that, we should have the staff write something up so that at our next meeting we can approve it. And that way we are addressing the issue for the Chair in his absence. What do you think about that?

BOARD MEMBER BUSTAMANTE: This was an item that John felt pretty strongly about, I would like for him to have input on it.

BOARD MEMBER FINNEY: Okay. Well, why don't we try and maybe hold off on that until after 6 and see if he makes it. If he doesn't, then I'll make a motion if he hasn't shown up by that time.

ACTING-CHAIRMAN KAUFMAN: Okay. We'll defer that to the end of the agenda.

Then why don't we skip Number 6 right now and go ahead to Item 7, which is adoption of the Conflict of Interest Code.

MS. LEAN: It's actually not the adoption, I wanted to give you guys some updates on where that is. The Conflict of Interest Code is now out for public comment. It's a 45-day public comment period to end on August 16th. So at your August 19th meeting, you can formally adopt it, unless we get some public comment to
change the proposed Conflict of Interest Code.

ACTING-CHAIRMAN KAUFMAN: Okay. So we are still on schedule for the last scheduled meeting, that process has gone ahead?

MS. LEAN: Correct. It's gone over to the Office of Administrative Law, it's been published in the registry, and it is out now for public comment. It's on the website. Notices were sent out to the Board members and to our interested parties and to the counties letting them know it is out there for public comment. To date, I have not received any public comment on the Conflict of Interest Code. I did include a copy in your package for you to review. You reviewed it last time, approved it through the Board, so at the next meeting if we do not get any public comment, then it can be formally adopted by the Board.

ACTING-CHAIRMAN KAUFMAN: Any comments from Board members on that?

BOARD MEMBER PINNEY: No comment.

ACTING-CHAIRMAN KAUFMAN: Okay. Item 8. Is there any other business from Board members or staff that needs to be addressed other than the matters that we have to get back to on the calendar?

MS. LEAN: I might just remind the Board when the next meeting will be. The next meeting will be August 19th, 10:00 a.m., the Secretary of State's office in the
AUDITORIUM.

ACTING-CHAIRMAN KAUFMAN: Okay.

BOARD MEMBER FINNEY: What about 5B?

ACTING-CHAIRMAN KAUFMAN: There you go, we did skip something.

Okay, let's go to Item 5B on the agenda, which is the Adoption of Standard Agreement Language between the VMB and the Counties regarding the HAVA Section 102 money and the 3-to-1 match.

MS. LEAN: Correct. This item was brought up at the February 9th, 2004, meeting. It was a policy question that came before the Board. And at that meeting the members were asked to consider a policy question of whether or not the VMB should pay on unpaid invoices up to or equal to a county's funding award, with a promise from the county that they will pay their county match once they have received the HAVA 102 money. A motion was made by Michael Bustamante and seconded by Chair Stephen Kaufman to approve the policy. He requested that staff develop some specific language on what that agreement would be.

At the last meeting there was some questions as to adding some additional language in there. There was not an attorney present at the last meeting to address your concerns. We do have a new staff attorney, his name is Steven Stuart, and he will be taking over the VMB legal questions.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
It is before you again today because we did have some questions that were raised at the last meeting, but without counsel here to address them and to get a good interpretation of what you wanted, we need you to look at it again and give us some feedback.

ACTING-CHAIRMAN KAUFMAN: Okay. I had a couple comments so I'm just going to start. I know Mr. Finney had some particular concerns last time that he wanted to ask staff counsel about, if you recall. There was some conflict resolution issues I think that you had raised at the last meeting? You don't remember that?

BOARD MEMBER FINNEY: I'm trying to recall that discussion now.

ACTING-CHAIRMAN KAUFMAN: I think there was some concern about what if there was an issue that had to be resolved and how that issue would be resolved, whether there was a mechanism for it. I don't recall the exact nature of your concerns, but that was the general nature of it.

MS. PARSONS: Tal, you said it's missing language if there's a dispute situation. That was all you said about it.

BOARD MEMBER FINNEY: I'm trying to recall. I'll have to think about it while you're doing your thing.

ACTING-CHAIRMAN KAUFMAN: Okay. Well, I just had a couple of comments on the draft language that I don't
think is particularly substantive. But I did note that in paragraph 3, it talks about the HAVA money being provided, but it doesn't really say what it's to be used for. So I thought that for clarity that at the end of that paragraph it should indicate that it's to be used for the purchase of new voting equipment, whichever way we want to characterize the HAVA grant.

And then I also thought for clarity's sake that in paragraph 4 we start again at the top of the second page with furthermore. I thought that should be made a separate paragraph since paragraph 4 seems to deal with the determination by the Secretary of State section, and the next part seems to deal with a determination by this Board.

And I also think there's a typo in the second line there where the word and should be as determined by the Secretary of State. There's the lawyer in me coming out.

So former paragraph 5 would become paragraph 6. And I think that in the second line there where it's saying consideration of the determination by the VMB that the counties should be awarded money from the Voting Modernization Fund, I would like to reference the paragraph above there and say as set forth in paragraph 5 herein, so that it's clear that it really needs to be the determination that's made above and not somewhere else.

And then at the end of paragraph 6, sub D, where
we make reference to paragraph 4A through 4C, that should be
changed to 6A through 6C.

BOARD MEMBER FINNEY: How do you do that one
again? Describe that last one again?

ACTING-CHAIRMAN KAUFMAN: Paragraph 6, sub
paragraph D, it makes reference to conditions set forth in
paragraphs 4A through 4C, which is numbered. I'm assuming
that's referring to A, B, and C above; is that correct?

MS. LEAN: I didn't write this language, I don't
know.

ACTING-CHAIRMAN KAUFMAN: Steve?

MR. STUART: I'm not sure either.

ACTING-CHAIRMAN KAUFMAN: I'm assuming that the
reference to the conditions set forth in paragraphs 4A
through 4C inclusive of this agreement is a reference to the
preceding subparagraphs A, B, and C which appear in there.

MR. STUART: That's how I would read it.

ACTING-CHAIRMAN KAUFMAN: Okay. So in that case
it should --

MR. STUART: Be changed to 6.

ACTING-CHAIRMAN KAUFMAN: Yes, it should be
changed to 6.

So with those changes, unless there's any issue
with those, I guess I would look for a motion to approve the
language of this agreement from either of you.
BOARD MEMBER BUSTAMANTE: I will move the
agreement.

BOARD MEMBER FINNEY: And I will second it.

MS. PARSONS: Okay, I'll take roll.

Stephen Kaufman.

ACTING-CHAIRMAN KAUFMAN: Aye.

MS. PARSONS: Michael Bustamante.

BOARD MEMBER BUSTAMANTE: Aye.

MS. PARSONS: Tal Finney.

BOARD MEMBER FINNEY: Aye.

MS. PARSONS: Motion passes to adopt this
agreement.

BOARD MEMBER FINNEY: And when I remember my
issue, I'll just bring it up with staff and we'll put it
into the minutes for our next meeting. It was more
important to me that I just had it on the record.

ACTING-CHAIRMAN KAUFMAN: That's fine. I just
wanted to make sure the agreement addresses your concerns.

BOARD MEMBER FINNEY: Yes, we're fine.

MS. LEAN: So we can move forward and put this out
on our website for counties who are eligible for 102 money
to use this agreement?

ACTING-CHAIRMAN KAUFMAN: Correct.

MR. STUART: As modified.

ACTING-CHAIRMAN KAUFMAN: As modified by the
changes enunciated here, which you have copious notes about, correct?

MR. STUART: Right.

ACTING-CHAIRMAN KAUFMAN: Okay. That takes care of Item 5B. Unless we have any information to believe that our Chair is on the way, I think we should proceed with Item Number 6A. And we do have a lot of folks here who want to address the issue, but I would like to start with Jana providing the staff report on the issue.

MS. LEAN: The staff report was given to all of the members in their packages and the audience. I just wanted to make sure that you understand that this is information that you requested the staff to pull together, it's long and drawn out, but I think it's relevant that we go through it. So it might take a while. If you have any questions, please stop me and we'll continue.

ACTING-CHAIRMAN KAUFMAN: Okay, yes. We would like you to go through it in detail so everybody understands the issue and is making an informed decision.

MS. LEAN: The Voting Modernization Board was established by the passage of Proposition 41, with the Voting Modernization Act of 2002, which was approved by the voters in March of 2002, to sell 200 million in general obligation bonds to assist counties in the purchase of updated voting systems.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
The general authority of the VMB was given to reject any application for fund monies if they deemed it inappropriate, excessive, or that does not comply with the intent of the article.

The Act established the criteria of eligibility for the counties to apply for the money. One of them I'd like to highlight is that funds shall be used to purchase systems certified by the Secretary of State for use in California.

The VMB adopted policies and procedures that weren't necessarily exclusively set in the Act. So while the Act is specific regarding the eligibility requirements for counties to apply for the funds, it does not specify the operating procedures on how the funds will be applied for, timeframes in which the funds will be distributed, or the amount to be allocated to each county. The Secretary of State's office developed proposed operational procedures, policies and procedures for the VMB. These procedures were adopted by the VMB at their first meeting on June 6th, 2002, which all of you were present.

ACTING-CHAIRMAN KAUFMAN: I was not present.

MS. LEAN: No, you were not present.

The Act does not indicate a schedule for allocation of funds to counties to modernize their voting systems.
At the first meeting of the VMB, staff prepared a schedule of options for distribution of the funds. The staff recommended that the VMB adopt an aggressive schedule to get their funds to the counties as quickly as possible. This recommendation was largely based on the fact that counties would need an aggressive schedule to modify and convert systems, to train staff in order to have a successful conversion. Most specifically, nine counties in California, Alameda, Los Angeles, Mendocino, Sacramento, San Bernardino, San Diego, Santa Clara, Shasta, and Solano, were under an order of the federal court to convert their Votomatic and Pollstar Punch Card systems by the March 2nd, 2004, Presidential primary election.

After receiving the staff recommendation and strong support and public comment at the meeting, the VMB adopted an aggressive schedule to allocate and distribute these funds.

The VMB considered many different options to allocate funds to the counties. Once a formula was adopted, the formula allocations were established for each county, all 58 counties were invited to apply for the formula funding allocation. The staff developed a proposed funding application and procedural guide establishing a process for counties to apply for the funds and explaining the requirements to the counties to secure their funding.
Although the Act did not specifically require that new voting systems be accessible to the disabled community, the VMB requested that counties supply in their application an accessibility plan describing how their county will use the funds allocated by the Act to provide a meaningful voting opportunity for people with disabilities.

All 58 counties have submitted and the VMB have approved their application for funding consideration thus preserving their formula allocations. A Project Documentation Package detailing a county's voting system conversion plan and executed vendor contract is required as part of the application process. By requiring a detailed conversion plan and filing a vendor agreement before any fund awards and distributions occur, the VMB is able to ensure that the new voting systems and county plans to convert would comply with specific requirements of the Act.

As of May 2004, 21 counties have submitted their Project Documentation Package that have been issued funding award letters authorizing disbursement of specified funding allocations.

The Act also requires for the VMB to obtain the Governor's approval on a Statement of Plans and Projects. The Statement of Plans and Projects outlines the allocation criteria and specifies that the county allocations be set aside until the county submits a complete and acceptable
Project Documentation Package in order to establish a payment schedule for the county.

There was an issue of a paper trail. At the onset of the VMB meetings, it was determined that the paper trail eligibility requirement was satisfied because all certified direct recording DREs and touchscreen voting systems being sold for use in California could produce a paper audit trail for the ballot images stored in the unit and results could be produced for a manual tally for recounts. This interpretation of the paper audit trail requirement as applied to the administration of the Act is a policy of the VMB.

In November 2003, the Secretary of State instituted a directive that required all counties who used certified DRE units to retrofit their DRE units with an Accessible Voter Verified Paper Audit Trail, an AVVPAT, a paper record of a ballot printed for the voter to confirm before a voter casts his or her ballot, by July 1, 2006.

On April 30th, 2004, the Secretary of State superseded this directive by issuing orders decertifying the use of DRE voting systems in California, but allowed the counties to use DREs in the March 2nd, 2004, primary, and to use these systems in the November 2nd, 2004, general election, if they either installed an Accessible Voter Verified Paper Audit Trail before the November election or
if they met 23 security measures identified in the order.

The order decertifying all DRE systems in

California has a requirement that all new DRE voting systems

purchased in California after the April 30th, 2004,
directive must include an AVVPAT. While the decertification

of all DRE systems in California does not necessarily impact

prior actions taken by the VMB, it could impact the counties

who have not began the modernization of their voting

equipment, because it essentially places a moratorium on the

sale of DRE units in California until vendors can develop

and obtain certification for systems that meet the AVVPAT

requirement.

Given the Act's requirement that all fund monies

only be used to purchase systems certified by the Secretary

of State, until there are DRE units certified with an AVVPAT

component, the VMB will only be able to consider approving

allocations for counties who are upgrading to optical scan

voting system technology.

The Act does not specifically require any voting

equipment being purchased with the funds be accessible to

voters with disabilities. However, the VMB has recognized

the importance of the accessible voting equipment. As of

January 1, 2003, California state law under Election Code

Section 19227 requires the Secretary of State to adopt

regulations in consultation with representatives of the
blind, of consumer organizations and other experts, to make
all voting systems, except absentee systems, equally
accessible to persons who are blind or visually impaired.
This section further requires that at each polling place at
least one voting unit be accessible, as established for use
under the adoption of the Secretary of State regulations, to
individuals who are blind or visually impaired. Compliance
with this section is only required by local agencies and/or
counties. If sufficient funds are available via funds
received from the proceeds of the Voting Modernization Bond
Act of 2002 or the federal funds made available to purchase
new voting systems.

Any voting system equipment purchased by a county
before the effective date of January 1, 2003, would not be
required to comply with this section until such time as it
upgrades or replaces any already-purchased voting equipment.
However, a question has arisen whether any county using
funds from the Act to purchase new voting equipment after
the January 1, 2003, deadline would be required to comply
with this code section.

The Help America Vote Act does have a requirement
with the specifications of one DRE in every polling place be
adopted by January 1, 2006. It should be noted that the new
reformed Elections Systems Commission is required under HAVA
to develop voluntary voting system guidelines. These
guidelines could potentially impact the certification process of voting systems in California and would affect the VMB in as much as the VMB would only be able to allocate funding awards for purchasing of certified voting equipment.

Recognizing that modernizing voting systems is a large undertaking, the VMB has allowed counties to submit voting system conversion modernization plans to be implemented in phases. The policy to allow the counties to upgrade their voting equipment in multiple phases requires the counties adhere to state and federal accessibility requirements within one of their phases. Elections Code 19227(b) requires that funds received from the Act shall be used for the purpose of placing one accessible voting unit in each polling place. It could be asserted that funds from the Act will be used to comply with the state law as part of the phased county voting equipment modernization. Elections Code 19227(b) does not say that all funds received from the Act shall be used to comply with the accessibility requirement.

The VMB has awarded phased approach funding for eight counties. Funds made available to the counties from the VMB in multiple phases will be used to upgrade their voting systems and the accessibility requirements. Therefore, the phased approach for upgrading voting systems still appears to be acceptable under the newly imposed state
law requirements for accessibility.

It also should be noted that the Secretary of State has not developed the regulations that need to be in place in order for vendors to meet the accessibility requirement and no certified systems are currently available that have the accessibility requirement in them.

ACTING-CHAIRMAN KAUFMAN: Jana, before you go on, on that one point. Is there anything under foot or for the Secretary of State to adopt these regulations, are they in process? We know they're not in existence yet. Do you know anything about that?

MS. LEAN: I'll turn that over to our --

MR. STUART: No, I don't have any information that those have been started or are pending. I can go make further inquiry on that, but my understanding is that, no, they're not.

ACTING-CHAIRMAN KAUFMAN: Okay.

BOARD MEMBER BUSTAMANTE: John, do you have any additional information?

MR. MOTT-SMITH: They have been issued as standards, but they have not been through the regulatory process.

BOARD MEMBER BUSTAMANTE: So what is the timeline at the Secretary of State's office to lift the moratorium?

MR. MOTT-SMITH: For what?
BOARD MEMBER BUSTAMANTE: What is the timeline of the Secretary of State that the administrative office is using to deal with this?

MR. MOTT-SMITH: To --

BOARD MEMBER FINNEY: To lift the moratorium?

BOARD MEMBER BUSTAMANTE: Well, I'm sorry, not the moratorium, but to get the certification?

MR. MOTT-SMITH: His latest directive was all machines by July 1, 2006.

BOARD MEMBER BUSTAMANTE: No, no, I meant internally. I mean you have a process that you have to go through, right?

MR. MOTT-SMITH: To make the regulations for the standards?

ACTING-CHAIRMAN KAUFMAN: I think we're talking about two different things. One, there's the regulations, and, two, is whether or not certain counties are made certified for November.

BOARD MEMBER BUSTAMANTE: Oh, okay, I was thinking more about the machines than the counties.

MR. MOTT-SMITH: As was I. And, in fact, I'm not understanding.

BOARD MEMBER BUSTAMANTE: No, no, I think he and I weren't --

ACTING-CHAIRMAN KAUFMAN: I was focused on the
first, I thought you were going somewhere else, but maybe
not.

BOARD MEMBER BUSTAMANTE: Yes. So where are you
guys?

MR. MOTT-SMITH: The current environment is that
all DREs, as Jana summarized, were decertified. Some were
recertified, based on acceptance of security measures. And
that process we have recertified all but three of the 10
counties. Seven of the ten counties have been recertified
previously.

BOARD MEMBER BUSTAMANTE: Seven of the counties.

MR. MOTT-SMITH: We're very close to the other --
we have procedural obstacles, not any other obstacles that
I'm aware of for the other three. So in November we
anticipate all ten of the DRE counties that were not TSX
counties to be certified.

ACTING-CHAIRMAN KAUFMAN: And they are recertified
to the extent they're operating under the security measures
that have been dictated by the Secretary of State, correct?

MR. MOTT-SMITH: Correct.

ACTING-CHAIRMAN KAUFMAN: It's not that the
machines themselves are meeting all the new requirements,
it's that other safeguards are being put in place to provide
the security protection?

MR. MOTT-SMITH: Correct. And just to be clear,
the Voting Systems Panel did vote to recommend that the
changes necessary to recertify the TS system in three
counties, Alameda, Plumas, and Los Angeles, be recertified.
But that process hasn't been finalized yet by a certificate
from the Secretary.

MS. LEAN: I think the question that was brought
up in the staff report is just to make the Board aware that
the other 38 counties that haven't moved forward yet, they
cannot purchase a DRE system at this time. There is no
certified system that meets all of the accessibility
requirements.

ACTING-CHAIRMAN KAUFMAN: Regardless of what is
certified for November --

MS. LEAN: Correct.

ACTING-CHAIRMAN KAUFMAN: -- because that is based
on a host of other factors?

MS. LEAN: Correct. I just want to make that
point clear.

ACTING-CHAIRMAN KAUFMAN: And I didn't mean to
take you off track, but I wanted to deal with the issue as
it came up.

MS. LEAN: Okay. At the December 17th, 2002, VMB
meeting, the VMB adopted a January 1, 2005, deadline for
counties to receive approval from the VMB for Project
Document Package. Under this adoption, counties that did
not receive approval by the January 1, 2005, deadline
forfeited their approved allocations. The Act does not have
a deadline for when the funds need to be approved or
distributed to the counties. This deadline was adopted as
policy and could be reconsidered by the VMB at any time.

I just want to also say that HAVA does have a
deadline for compliance of their voting system standards and
that punch card systems be replaced by January 1, 2006.

The actions of the VMB to assist the counties in
meeting the new federal voting system requirements is good
public policy. However, the VMB is not strictly obligated
to do so under the act.

The Voting Modernization Fund and the HAVA Federal
Trust Fund are not linked together. Both HAVA and the
Voting Modernization Bond Act were passed to further the
overall advancement of modernizing voting systems, and while
both Acts afford money to be distributed to counties to
upgrade their voting systems, they are independent of each
other.

The requirement for counties to submit a Project
Documentation Package has been established by the VMB and
the adoptions of the Funding Application and Procedural
Guide, the Statement of Plans and Projects signed by the
Governor, and it is also incorporated in the VMB's
requirement for funding in documents submitted to the Voting
Modernization Finance Committee and to request a full-money investment loan to fund the Voting Modernization Fund.

The requirement for counties to submit Project Documentation Packages to the VMB has been incorporated as standard practice. The Act does not specify deadlines to allocate the fund monies. Therefore, the VMB could reconsider the January 1, 2005, deadline for counties to submit their Project Documentation Packages.

I do know we have quite a bit of public comment, if you would like to take that before we consider the options, or would you like to go over the options?

BOARD MEMBER FINNEY: Real quick before we do that. I found my conflict issue, I thought it was this, not the other one. But it's satisfied. I was concerned about the linkage of HAVA and of this Board. And that was addressed in a way that it was satisfied.

ACTING-CHAIRMAN KAUFMAN: Okay. Actually, I think it might be appropriate for you to run through the options so that members of the public can make reference to the options when they come up.

BOARD MEMBER FINNEY: That's a good idea.

MS. LEAN: Okay. The VMB may want to consider the following options before determining if a new project plan deadline should be instituted.

The first option. The VMB could maintain the
adopted January 1, 2005, project plan deadline and motion
that counties that do not receive approval by the January 1,
2005, deadline forfeit their approved allocations.
Maintaining this date could allow the VMB to conduct
additional funding rounds for money not used by the
deadline. The VMB could reallocate these reverted funds to
counties who have converted to new systems by the deadline
but did not receive enough funding to pay for their new
system. In addition, the reallocated funds could be used to
offset the costs to counties that have already converted to
DRE systems that are required to upgrade to a new AVVPAT
requirement.

Option Two. The VMB could maintain a January 1,
2005, deadline, but allow counties who have not entered into
a contract with a vendor to upgrade their new voting system
to submit a status report on their modernization progress.
If the county's status report is determined by the VMB to
show sufficient progress in modernizing their voting
systems, the VMB could allow the county to reserve their
approved allocation funding amount on a case-by-case basis.
This option would not be construed as a blanket exception to
all counties, but it could allow the VMB some leeway with
specific counties before their funds are reverted for a
second funding round.

Option Three. The VMB could move the deadline to
July 1, 2005, to better align with the counties with meeting the HAVA deadline. By moving the deadlines to July, it could assist the counties in their planning process to secure vendor contracts at least six months before the HAVA January 1, 2006, compliance deadline. On average a county's Request for Proposal process to enter into a contract with a vendor takes approximately six months to complete. By establishing this deadline, the VMB could compel the counties to meet the HAVA requirement and accelerate their voting system modernization process in California.

Option Four. The VMB could move the deadline to January 1, 2006, to assist with HAVA. By moving the deadline to January 1, 2006, it could assist counties who have been reluctant to begin modernizing their voting equipment due to the uncertainties of the standards to be applied to the new voting equipment technologies. The decision to decertify all DRE voting systems which essentially placed a moratorium on the sale of these systems in California could also warrant the extension. With more than half of the 58 counties yet to begin upgrading their voting systems and the counties vigorously supporting moving the deadline, extending the deadline to January 2006 could be considered a practical option.

Option Five. The VMB could move the deadline to January 1, 2006, making the compliance deadline consistent
with HAVA. By requiring each county to submit an Interim Status Report on their modernization status until they fulfill the Project Documentation Package requirement. While this option may not address the VMB policy for counties to move on an aggressive schedule, it would allow the counties additional time before they're required to upgrade to new voting technologies and to assure funds are being used appropriately.

This option could enable the VMB to address the concerns of the counties regarding the unknown availability of certified systems to be sold in California or giving them the ability to insure that counties are moving forward in development of their voting system modernization plans.

ACTING-CHAIRMAN KAUFMAN: Does staff have a recommendation on one of those options?

MS. LEAN: At the last meeting. Staff would like to continue its recommendation to move the deadline to January 1, 2006.

ACTING-CHAIRMAN KAUFMAN: Which would be Option Four?

MS. LEAN: Correct.

BOARD MEMBER FINNEY: Or Five.

MS. LEAN: Or Five.

ACTING-CHAIRMAN KAUFMAN: Why don't we actually take a few moments to see if any of the Board members have
questions of staff, and then we'll turn to members of the
public on this issue.

And I guess I just wanted to begin by asking, it
seems to me that the tension here is between the Board's
role in trying to encourage counties to move forward in
their efforts to upgrade their voting systems, and yet we
don't want to deprive anybody who is caught right now with
the issue of the decertification of voting machines. We
don't want to cut anybody off from potential funding.

Do you have any thoughts on that issue as relates
to input you may have received from the counties or the role
of this Board?

MS. LEAN: Well, where we were back in December of
2002 is not where we are now. With the new voting
equipment, voting system equipment that was certified for
use then and that is certified for use now is totally
different. So it might be something for you if you want to
consider that. I have gotten numerous phone calls and you
have in your package quite a few letters from the counties
that have not submitted Project Documentation Packages to
extend the deadline. And that is why staff recommended the
movement of the deadline.

ACTING-CHAIRMAN KAUFMAN: Mr. Bustamante.

BOARD MEMBER BUSTAMANTE: I just had a couple
questions myself.
There's no expiration on the Act, right?

MS. LEAN: Correct.

BOARD MEMBER BUSTAMANTE: Are there companies out there right now that can meet essentially the Secretary of State's directive?

MR. MOTT-SMITH: No, not as of yet.

BOARD MEMBER BUSTAMANTE: When? Do you guys have a timeline on that, do you have any idea?

MR. MOTT-SMITH: We're going to Nevada in September where a system potentially meets the directive.

But the process would be that they then would have to come forward in California for certification.

BOARD MEMBER BUSTAMANTE: Are there any machines in the country that would meet the Secretary of State's directive?

MR. MOTT-SMITH: It's our understanding that there are machines out there that have not yet come forward to --

BOARD MEMBER BUSTAMANTE: So the answer is no?

MR. MOTT-SMITH: -- certification. There is a certified system being used in Nevada which we're going to look at.

BOARD MEMBER BUSTAMANTE: Federally certified?

MR. MOTT-SMITH: Federally certified. Federally qualified.

BOARD MEMBER BUSTAMANTE: So basically the
MR. MOTT-SMITH: There is not one certified in California at this time.

BOARD MEMBER BUSTAMANTE: So what options do counties have today? Or do they have an option?

MR. MOTT-SMITH: They have an option that they can either get an optical scan system and supplement that when it's there with a paper trail or whatever kind of accessibility device, or they can wait for a paper trail DRE device.

BOARD MEMBER BUSTAMANTE: So counties today have an option? They have the option to be able to upgrade their voting equipment with an optical scan?

MR. MOTT-SMITH: They can do that. They still have until 2006 to --

BOARD MEMBER BUSTAMANTE: Right. Which is just a DRE in a polling place, not necessarily a wholesale replacement of all voting equipment with DREs?

MR. MOTT-SMITH: Correct. And it's not necessarily a DRE in a polling place. There are optical scan technologies that have come forward that provide accessibility.

BOARD MEMBER BUSTAMANTE: Okay.
ACTING-CHAIRMAN KAUFMAN: But a county taking that option would be going through a two-step process potential instead of a one-step process and a potentially costly second step?

MR. MOTT-SMITH: Well, Jana's report identifies as an example Mendocino where they purchased an optical scan system and as soon as a paper trail system is available for the accessibility, that's part of the contract involved.

BOARD MEMBER BUSTAMANTE: Just going off that point, I mean most counties, in fact, are really taking a two-step process in terms of their acquisitions of voting equipment, right?

MS. LEAN: Well, of the 20 that have come forward to use them so far, eight of them are doing that, the phased approach.

BOARD MEMBER BUSTAMANTE: But I mean even a lot of the counties are opting for two types of machines. I mean a lot of them are, right?

MS. LEAN: From the counties that I have talked to since the decertification order came out, that's what most of them are leaning towards.

MR. MOTT-SMITH: But I think of the applications that we've had, most of the ones that were brought scan equipment for counties that purchased the systems after the trigger date for eligibility for federal money, but before
HAVA is actually enacted. So it was a reimbursement of a
system that they had already purchased. Since then, most of
the counties are looking at touchscreen DRE technology.

BOARD MEMBER BUSTAMANTE: Okay.

ACTING-CHAIRMAN KAUFMAN: Mr. Finney.

BOARD MEMBER FINNEY: I don't have a question, I'm
ready to hear from the public.

ACTING-CHAIRMAN KAUFMAN: Okay. Let me just note
before we ask people to come up, the letters that have been
received, I'll run through them. And, Jana, if I miss any,
let me know. And I will just state for the record that
without exception, every one of the counties that submitted
something in writing were in favor of extending the deadline
either to January 2006 or some of them said to at least July
of 2005. We received comments from Imperial County, Sonoma,
El Dorado, Fresno, San Benito, San Luis Obispo, Tuolumne,
Yuba. Is that it?

MS. LEAN: And we also received one from Santa
Cruz at the prior meeting.

ACTING-CHAIRMAN KAUFMAN: So why don't we ask the
counties who would like to be heard on the matter to come up
and I'll call you in order. And I would ask as you come up
if you could perhaps address the issue that we raised here,
and that is your county's thoughts about undertaking a two-
step process and why that may or may not work in your
particular situation, if you were required to go forward at this point and submit documentation.

So let's start with Fresno County, Brandi Orth.

MS. LEAN: Can we ask also that they state their name and spell it for the court reporter?

ACTING-CHAIRMAN KAUFMAN: Did you all hear that? We'll give everybody two minutes.

Good morning.

MS. ORTH: Good morning. My name is Brandi Orth and I'm representing the Fresno County Clerk/Registrar of Voters. Thank you for allowing me a few minutes of your time this morning.

I believe that in your packet there is a copy of a letter from Fresno County Clerk Victor Salazar. And I'm here to reiterate Fresno County's position.

In June 1999, after a 15-month process, Fresno County purchased the Diebold optical scan voting system. It has performed well and accurately for Fresno County. However, we now find ourselves in a dilemma. Fresno fully intends to comply with the HAVA requirements regarding voting accessibility. However, with the current controversy surrounding the touchscreen voting systems, Fresno County is hesitant to choose this technology as its solution. Especially in these severe budgetary times, we want Fresno County to reap the benefits from the Prop 41 monies,
however, currently there is no other technology certified by the state that meets the accessibility requirements. Therefore, we request that your panel consider extending the deadline for the application of the Prop 41 monies. And I would be happy to answer any questions you might have.

ACTING-CHAIRMAN KAUFMAN: Questions?

BOARD MEMBER BUSTAMANTE: How do you currently meet the needs of the disabled community?

MS. ORTH: We have audio tapes from our office. We also provide assistance by our poll workers, according to election law, when they come into the polling place. Obviously an optical scan is a paper marked ballot.

BOARD MEMBER BUSTAMANTE: I thought there was an option in the optical scan that allowed also to address some disability issues?

MS. ORTH: Well, we did see a product last year that does allow a handicapped individual to mark a paper ballot and then for that paper ballot to be put into the Accuvote system into a regular voting system. That system, that product has not been certified by the state yet. That is something that we would be very interested in learning more about.

BOARD MEMBER BUSTAMANTE: Thank you.

ACTING-CHAIRMAN KAUFMAN: Thank you very much.
Next, Terry Hansen from Yuba County.

MS. HANSEN: Thank you, Board Members. My name is Terry Hansen from Yuba County. And I have the unique benefit of being newly elected to this position. I say that with tongue in cheek.

I do have the letter that I submitted to your panel on May 25th, and in that letter I alluded to the very limited resources that Yuba County has. There were anticipated deep, deep budget cuts. Well, those are no longer just a possibility, those have actually occurred in Yuba County. We have had multiple staff layoffs, we have absolutely no IT individual, Information Technology individual, allocated to our elections division that solely supports elections.

So I sincerely hope that you will consider our request for an extension, because we simply don’t have the resources to move forward by the December 31st deadline. We intend to fully comply with the HAVA requirements and wish to do so on a responsible, financially responsible basis. So I would support, I believe it's Option Four.

If you have any questions, I would be glad to respond.

ACTING-CHAIRMAN KAUFMAN: Thank you.

MS. HANSEN: Thank you.

ACTING-CHAIRMAN KAUFMAN: William Schultz from El Peters Shorthand Reporting Corporation (916) 362-2345
Dorado County.

MR. SCHULTZ: Good morning, Panel Members. My name is William Schultz, I'm the Recorder/Clerk/Registrar for El Dorado County, just getting the job the 9th of January.

You have my letter, I'm not going to read it. But the one thing that seems to be universal through this process is with the November election coming up, some of the counties, as you just heard, have kind of strained resources due to budgetary demands and whatnot. It just seems that it's almost a disservice to the public for us to try to get this done by December 31st. You know, we could probably do it if the panel stays with what they have, but Option Four, Five, or Six, it seems reasonable. And also even the state has requested an extension and received one for the voter registration method. So that's all we're doing is just trying to find a reasonable time of action.

And I would be happy to answer any questions.

BOARD MEMBER BUSTAMANTE: Did you mean Options Three, Four or Five?

MR. SCHULTZ: What did I say?

BOARD MEMBER BUSTAMANTE: You said Four, Five or Six.

MR. SCHULTZ: Yes, Three, Four, or Five.

BOARD MEMBER BUSTAMANTE: So Option Three or Four
or Five would be acceptable?

MR. SCHULTZ: Yes.

BOARD MEMBER BUSTAMANTE: Thank you.

ACTING-CHAIRMAN KAUFMAN: Actually, I had one question just before you leave. Did El Dorado County have a going forward plan in place before the Secretary of State's decertification orders?

MR. SCHULTZ: No. We were preparing to do the Project Documentation Package, however. But there really hasn't been any solid companies to go to for the project. I mean it makes it very difficult on the counties when there is really no certified company to approach. It puts us in a dilemma.

ACTING-CHAIRMAN KAUFMAN: I understand. Thank you.

MR. SCHULTZ: Thank you.

BOARD MEMBER BUSTAMANTE: Oh, I have one question.

ACTING-CHAIRMAN KAUFMAN: Sir, before you walk away.

BOARD MEMBER BUSTAMANTE: So before the Secretary of State decertified the machines, what were you thinking about doing? Because, I mean, the decertification has only been months long, this process has been ongoing now for two years. So what were you thinking about before the decertification process?
MR. SCHULTZ: Well, we were simply going to put together a Request for Proposal to whatever companies were certified.

BOARD MEMBER BUSTAMANTE: I guess my question is more along the lines of why the delay?

MR. SCHULTZ: You know, I think part of the problem is staffing. You know, it's not really an excuse, but the County before was preparing to do this, but then the Registrar decided to retire, I came on board. You know, trying to get my hands around it, but then all of a sudden these other things came into play, so now, you know, we're at the point where, okay, now what do we do.

BOARD MEMBER BUSTAMANTE: Thanks.

ACTING-CHAIRMAN KAUFMAN: Thank you.

Next is Conny McCormack from Los Angeles County.

MS. MCCORMACK: Can I wait until the end?

ACTING-CHAIRMAN KAUFMAN: Sure.

MS. MCCORMACK: So I can decide whether or not I'm going to speak.

ACTING-CHAIRMAN KAUFMAN: Ms. McCormack spoke at our last meeting, so we'll just put her at the end and you can decide if you want to come up.

Diane Fridley of Lake County.

Did I pronounce your name correctly?

MS. FRIDLEY: Fridley.
Hello, I'm Diane Fridley from Lake County. I am the Registrar of Voters. I would like to ask for your Board to consider an extension, and I opt for Option Number Four. We are a Mark-A-Vote county, so we already have optical scan. So we don't have to do Phase 1, but we do have to do the Phase 2 with the DRE machine. There is no machine out there obviously available to us, but we would like to look at a system that is compatible with our optical scan, which there isn't one just yet.

And also I would like to say that I'm from a small county, we only have around thirty-one to thirty-two thousand registered voters. There is only two permanent employees in our office, and quite frankly I'm very busy. We haven't had time to put together a package and there isn't anything to put together. I would like to request the extension so I would be able to put together a package for your Board.

Are there any questions?

ACTING-CHAIRMAN KAUFMAN: Thank you.

Next is Janice Atkinson from Sonoma County.

MS. ATKINSON: Good morning, Janice Atkinson, Assistant Registrar of Voters, County of Sonoma.

Sonoma County is also a Mark-A-Vote optical scan county, and as Diane Fridley was mentioning, we've already changed to optical scan long before there was a Voting
Modernization Board or any funds to do so. Our only hurdle now is to have the one unit per precinct for the impaired to vote on. And I am concerned that if we go forward with the plan as it is, I mean obviously there is no system right now to comply with our needs, that the funds will be used by counties going through the step one which we've already done at our own expense and there will be no funds left for those counties who need to comply with the HAVA requirements.

Of all the counties, I think that I ask for the most conservative extension. Sonoma County was only asking for maybe a three- to a six-month extension in the time necessary. And I think possibly what Diane was saying or perhaps your question to Bill Schultz, as to, you know, why the delay and what have you guys been doing. I don't have the luxury of Bill Schultz saying that I just started on January 9th, since I've been around a long time, but just if we could review the last six or eight months, these counties have been doing October 7th elections, the November election, the March 2nd primary. In my county we had an April election or July election, I've got two elections in August, and I'm preparing for the November election. To try to put together our package, do an RFP, review the systems, make a selection of some concept, because that's all we have at this point in time, and enter into a contract by January 1 is truly a virtual impossibility.
So we're here today to really ask you to consider extending this deadline to give the counties enough time and to give the vendors enough time to get these systems developed, but to give the counties enough time to prepare their packages, review the systems that are waiting to be certified and make a selection.

ACTING-CHAIRMAN KAUFMAN: Ms. Atkinson, what year did Sonoma County go to an optical scan system?


ACTING-CHAIRMAN KAUFMAN: '83?


ACTING-CHAIRMAN KAUFMAN: Wow.

MS. ATKINSON: I thought you were going to ask me what year I started at Sonoma County and I was going to decline.

(Laughter.)

ACTING-CHAIRMAN KAUFMAN: What manufacturer?

MS. ATKINSON: The manufacture was Mark-A-Vote voting system. And we were about the second or third county to go on to that voting system.

ACTING-CHAIRMAN KAUFMAN: How many voters do you have in Sonoma County?

MS. ATKINSON: Roughly 250,000, which, by the way, 40 percent are currently permanent absentee voters. So, you know, 40 percent of my voters will continue to vote on this
system regardless of any future decisions.

BOARD MEMBER BUSTAMANTE:  Do you have an election in the spring next year?

MS. ATKINSON:  Well, we never know until we read it in the paper.

BOARD MEMBER BUSTAMANTE:  Right.

MS. ATKINSON:  There currently is a petition being circulated in our county that would force a special countywide election in March.

BOARD MEMBER BUSTAMANTE:  Okay.

BOARD MEMBER FINNEY:  Do you have any others on the radar?

MS. ATKINSON:  I have 44 school districts.  There are a lot of them looking at March because they don't want to get lost in the November election.

ACTING-CHAIRMAN KAUFMAN:  Thank you.

MS. ATKINSON:  Thank you.

BOARD MEMBER FINNEY:  I have been meaning to ask that question of our other counties too.  I am going to assume that in today's day and age you can't predict what you're going to get.

ACTING-CHAIRMAN KAUFMAN:  Do you want to ask them?

BOARD MEMBER BUSTAMANTE:  Yes.

For El Dorado, do you have an election in the spring?
MR. SCHULTZ: Yes.

BOARD MEMBER BUSTAMANTE: Fresno.

MS. ORTH: Actually there is a good possibility.

BOARD MEMBER BUSTAMANTE: But you don't have anything scheduled right now?

MS. ORTH: Not at the moment.

BOARD MEMBER BUSTAMANTE: Then Yuba?

MS. HANSEN: Yes, there is a good possibility.

And I did read in the Sacramento Bee that Governor Schwarzenegger has a possibility of a special election to address the legislation for part-time legislators. And after October I believe it when I hear special elections.

BOARD MEMBER BUSTAMANTE: But right now you have nothing scheduled?

MS. HANSEN: We have some of our special districts.

BOARD MEMBER BUSTAMANTE: Oh, you do have something scheduled, okay.

ACTING-CHAIRMAN KAUFMAN: And Lake County?

MS. FRIDLEY: No, we do not have one scheduled.

ACTING-CHAIRMAN KAUFMAN: Okay. If in the future speakers could address that issue when they come up.

Laurie Cassady from Butte County.

MS. CASSADY: Good morning. I'm Laurie Cassady, Assistant County Clerk/Registrar of Voters for Butte County.
And I'm representing Candace Grubbs, the County Clerk.

Butte County is currently an optical scan county, we use Mark-A-Vote. We have been using that system I believe since the mid '90s.

Our plan included going totally touchscreen, but when the decertification occurred for the touchscreen systems, we couldn't move forward. We would benefit if you would consider Option Four or Five as this would provide the additional time for vendors to complete their development and certifications for touchscreens.

BOARD MEMBER BUSTAMANTE: What's wrong with Option Three?

MS. CASSADY: Pardon me?

BOARD MEMBER BUSTAMANTE: What's wrong with Option Three?

ACTING-CHAIRMAN KAUFMAN: That's the July 2005 option.

MS. CASSADY: I'm just a small staff and if we could move to 2006 that would be better. I have, including myself, five people in the office. We run a lot of extra help. Unlike Sonoma County, we don't have the special elections, but we still, you know, are busy trying to put on different programs within the office.

BOARD MEMBER BUSTAMANTE: Didn't you say though January 1 would allow the vendors? I thought she gave
January 1 --

MS. CASSADY: Well, yes. What I meant was it will
allow everybody time to get -- I don't know how long it's
going to take vendors to get certified, and if there are
other systems out there being developed.

BOARD MEMBER BUSTAMANTE: So your concern is not
so much the time, although that's a consideration, your
concern is more about the certification process?

MS. CASSADY: Right.

BOARD MEMBER FINNEY: How many voters do you have
registered?

MS. CASSADY: 114,000.

BOARD MEMBER FINNEY: And you are anticipating
elections in the spring?

MS. CASSADY: No. Not at this time.

BOARD MEMBER FINNEY: Okay. Thank you.

BOARD MEMBER BUSTAMANTE: Thank you.

ACTING-CHAIRMAN KAUFMAN: Kathleen Smith from
Nevada County.

MS. SMITH: Good morning, Kathleen Smith.

First of all, I'd like to say I've been in my
position since July 1st of this year.

ACTING-CHAIRMAN KAUFMAN: Congratulations.

MS. SMITH: Thank you. I was not previously in
the Elections office for Nevada County. I come at this from

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
a City Clerk perspective and municipal elections and special elections in a very small town.

We have not submitted a letter to the Board advocating anything, so I'm here today to tell you that we are in support of Option Four or Five. And I like to approach things especially in problem solving matters from an interest-based approach, and it certainly seems to me in the best interest of the voters and the vendors and the administrators and leaders that are having to implement the mandates, federally and statewide, to have sufficient time to get certified, to propose as many options as they can that can possibly be certified so that we have choices. And I think that's certainly in the best interest of voters.

I know that my predecessor was focusing on going to touchscreen voting, and, of course, when I came on board on July 1st, that couldn't fly at this point. We are an optical scan county and our vendor does have a HAVA compliant product that is certified, however, that's our only choice at this point.

I would advocate for flexibility and the time to make informed decisions. Thank you.

And I'm very afraid of the questions you might ask me since I'm so new. I have been informed by Placer County's Brian Ocker, who has been a great support and mentor to me, we share districts, that we do have a March
election in Nevada. I'm not even certain my staff knows that. I have three people on my staff that have never gone through a presidential election. Thank you very much.

ACTING-CHAIRMAN KAUFMAN: Actually, I only have one question and I'm not sure I want you to answer, and that's what were you thinking when you took the job?

(Laughter.)

MS. SMITH: I would share with you though in regards to the earlier question about why not the July date and why the preference to go through January, it's just that, people are getting out of elections, not into them. And so in my office, I've seen a great deal of transition. We have not filled a position because we could not find a qualified elections, senior elections, official to take that spot. And I was told that I have always been good in a snake pit, so maybe that's why I'm here.

ACTING-CHAIRMAN KAUFMAN: Well, welcome.

MS. SMITH: Thank you.

ACTING-CHAIRMAN KAUFMAN: Thank you and good luck.

MS. SMITH: Thank you.

ACTING-CHAIRMAN KAUFMAN: Last it's Conny McCormack from LA County.

BOARD MEMBER FINNEY: We've inspired you, hey, Conny?

ACTING-CHAIRMAN KAUFMAN: And as I mentioned,
Conny appeared at our last meeting and is here again. And I'm going to just throw something out that I think I asked you last time but would ask you to reiterate again, given that LA County has the largest amount of funding allocated to it and frankly has the largest potential need for funding and would benefit the most by a round two of funding and a reallocation, perhaps you could just address that issue and your feelings on that while you're up here discussing the extension of time.

MS. MCCORMACK: I thank you for that. I'm Conny McCormack, Los Angeles County Registrar and County Clerk, and as of last Thursday, President of the California Association of Clerks and Elections Officials.

And at that meeting, I'll just say that we did honor -- we have had registrar retirees this year, more than ten percent of the states' registrars in the past six months have left. Most recently, as of Monday night, Michelle Townsend of Riverside County. As some colleagues have mentioned, this is not a profession that people are flocking to. And I haven't met Kathleen yet, but I'm planning on asking her the same question, why would anybody want to do this. After 23 years this week in this profession, I have no other skills.

(Laughter.)

MS. MCCORMACK: So I can't go anywhere else.
I would like to mention before commenting on how I feel about the extension, because I'm a big supporter of it, and even all the way to the most liberal interpretation of it, but this concern about meeting requirements of having systems that are certified and that will work is a national issue. And I just came from the International Association of Clerks and Elections Officials conference in San Antonio yesterday, it's still going on through today. And at that meeting, the four members of the Federal Elections Assistance Commission were there on the panel, as well as a panel of NIST, National Institute of Standards and Technology, that are charged by the new Federal Elections Assistance Commission with formulating standards for voting equipment, new standards. The earliest they are going to be able to issue their recommendations for standards countrywide is next July. I mean we're talking July of '05.

Frankly, even if counties managed to get some equipment certified before that, there may be a situation could arise, and I think it's really likely that some of this equipment will have to go back through another level of certification or another level of invention to meet potential certification standards that will come out of those federal recommendations. They are not requirements, they are voluntary standards, but I think 40 of the states, almost all of the states have adopted them as a requirement,
including California. So whether or not they are voluntary
standards or not, in effect they are requirements because
the states say they won't certify a piece of equipment
without that federal standard being met.

So there is so much uncertainty in the whole
country that both the four members of the Elections
Assistance Commission and the registrars and clerks from
around the country were addressing these questions with the
eye of not having the capacity of beating the HAVA
requirements frankly. Clearly, though, Congress doesn't
want to open that up. But the bottom line is the
noncompliance possibility in this country on January 1st,
2006, in my opinion, with 3,000 election jurisdictions I
think it's going to be lucky if a third of them are
compliant. It's just going to be very difficult for
everyone to reach that compliance in the best of
circumstances and I don't care about any delays.

And as was mentioned, because HAVA had deadlines
that were blown by the Congress and the President in
appointing the appointees, nine months was lost. It's kind
of ironic or unfair that those deadlines were allowed to be
missed, but yet these deadlines are, and those were
statutory in the federal law, by these certain dates people
would be appointed and this is what they wanted. And so
it's going to be I think one of the defenses in the court
cases that are going to become of noncompliance, well, why
did counties have to comply when other -- you know, it's
going to be a real problem.

Now, I have echoed what everyone else said,
because everyone wants to comply. LA County wants to
comply. We've been in a quandary on how we're going to
comply, we're really concerned about it, frankly, and I
think so is everyone in the room. So I would certainly
argue for the most liberal extension possible, even to
possibly Number 6, but certainly to Number 5, recognizing,
of course, then you would have the capability -- you can
always open up the deadlines, but this is more flexible when
we've got a deadline with a time certain and I'm just glad
that it looks like maybe our primary aspects will be moved
back to June. That's going to give us a tremendous
difference in time for the March primary. In terms of LA,
we may have a cross election countywide in '05. I hope not,
but the cross on the seal there is a big controversy in our
county right now. So the turmoil and it's very real and now
they're out collecting signatures, so we could have a
countywide election next year. I certainly hope not.

The bottom line is everyone in this room needs the
extension. It's really hard for the large counties. So
when you asked, Mr. Bustamante, about why some of the others
counties hadn't done it, they do have a little bit easier
time with smaller to get a proposal together, but, again,
not any easier if you don't know if anybody is certified to
get a response. And our county has always required
certified vendors to respond. And I think that is what most
people are saying. It's really hard to put a proposal out
there and say, promise me you're going to do it.

And on the statewide data base, there's three
states in the last week have signed contracts with a promise
me you're going to do it vendor. And I hope our state
doesn't do that, but that's the kind of thing that's going
on in elections right now where vendors are promising sign a
contract and we'll deliver what you want. And we'd kind of
like to do it the other way, you know, show us that you can
do the product especially with our complexity with thousands
of ballots in other languages. We've always required the
vendor prove it and that's been a problem.

So that's probably more than you wanted to hear,
but that's sort of an update nationally, that this angst
isn't just in this room, it's in the whole country and it's
being addressed to the Federal Election Assistance
Commissioners who in that very meeting, they had the morning
session, bounced it to the NITS Panel, then the NITS Panel
bounced it back to them. Nobody wanted to respond whether
or not they would carry our word to Congress and say we
really need an extension on HAVA. It's not politically
correct to ask for it.  

But after this election come January, we're all facing that one-year deadline in the whole country and most of the country is not compliant and doesn't have RFPs on the street. And what about vendor depletion of resources. There's only a few companies and there's 3,000 election jurisdictions. So the problem is bigger than this room.  

And we're calling it ready, fire, aim, you know, it's kind of like the way it feels these days. Kind of out of sequence to the way you're supposed to be. Even some of my elected colleagues in San Antonio were saying they don't mind if they just don't comply, because they're going to say they don't think their voters want them to squander the money, it's one-time money, it needs to be spent appropriately on products that have been through a NITS process, National Institute of Standards and Technology, and they would rather take the guff because they think that the public would agree, why are we spending money for something that maybe won't be appropriately certified a year later, why don't we just wait a year and buy something that we know will be federally qualified. And they would rather take the hit on the lawsuit or whatever. Not that they want to get sued, obviously, but you know in LA we're always a target for that.  

We're still trying to become HAVA compliant with
right now another phase in our process of making Ink-a-Vote
last a little bit longer. But again we don't have a product
that's been certified to do that yet either. So I feel like
the tidal wave is here and we're all running, we know it's
going to get us, we just don't know if it's going to get us
before we can retire.

(Laughter.)

MS. MCCORMACK: And some of the registrars just
got out before the tidal wave hit them. Apparently the
people in this room don't have that option, myself included.

ACTING-CHAIRMAN KAUFMAN: Well, as always, Conny,
your insight is appreciated.

Are there any questions for Conny?

BOARD MEMBER BUSTAMANTE: I have a couple of
questions.

Do you have an election in the spring?

MS. MCCORMACK: We don't have anything planned
that we're responsible for conducting. Our cities, the City
of Los Angeles certainly has an election, a big election,
and 50 other cities in our county. And we support those
elections. It takes a lot of our staff to support those
with the voter database, we provide everything for them, but
we don't actually hire the poll workers and count the
ballots for which I'm eternally grateful.

BOARD MEMBER BUSTAMANTE: Do you have a problem
with Option Three?

MS. MCCORMACK: Well, personally for LA, because we're already grandfathered in as I managed to get on the record last time and is now in the staff report, personally we're taken care of. But as the president of this association in recognition of my colleagues' problems, I think a lot of them are concerned that that isn't long enough. But with the recognition that you could of course meet and extend it again, and I think they would like to have some assurance that if you were to pick that deadline, that you would be willing, if certain counties are still struggling with that, to open it back up. Because I'm not looking as Mr. Kaufman mentioned for LA to benefit on the backs of everybody else not getting their money. We'd be very happy eventually through all these phases we're going to be going through in LA to get our forty-nine point whatever million. We're not looking to get more than that on the backs of someone that can't meet a requirement.

BOARD MEMBER BUSTAMANTE: But I keep hearing from counties that it's a combination of things. It's not so much, I don't want to downplay it, I mean there's certainly a county resources issue, but the bigger issue is really the uncertainty with the Secretary of State's office.

MS. MCCORMACK: I think that's what created -- I know it created a problem with us and I think it's created a
problem with other people. You know, how do we put an RFP
on the street when you don't know who you're going to get
responses from, or if you have to open it up like someone
mentioned to people who might be promising you a
certification. That's sort of happened in San Diego and
we'll see what happened with that, it wasn't real positive.
It's not an environment I would want to enter and I have
never entered a contract and I don't think our Board of
Supervisors would sign it. I would venture they would vote
against it. So it's not a good environment to go out with
an RFP, that's for sure.

BOARD MEMBER BUSTAMANTE: I mean but for that
directive, all counties essentially would have the ability
to meet our requirements and HAVA, right?

MS. MCCORMACK: That's true.

ACTING-CHAIRMAN KAUFMAN: Anything else?

BOARD MEMBER FINNEY: I don't have any questions.

MS. MCCORMACK: I would like to make a comment
about the Nevada trip. We're very hoping to work with our
association and the Secretary to have a trip out to Nevada,
their election is September 7th, the first use in the
country of a now federally qualified and state certified DRE
with a V Pack, but whether or not it's an AV Pack, I don't
know. There is a vendor here that maybe could address that
from that company.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
But this Nevada requirement does not match the California requirement in terms of a standard that's been set that, as you mentioned, is not in a regulation yet, in that it doesn't have to be used as a vote or a potential ballot in a recount. That's not the way the Nevada system is set up. And I'm very concerned that in that trip that we have a opportunity to see a sample or simulation of that in at least one precinct. I don't think that the exercise is going to have much value without that, because otherwise it's just the front end without the back end, and as soon as the back end might happen in California, we'd all be sitting around and saying well, how great it was in Nevada, but there was no test of the back end. And I think that's really an important component of it as I put in my letter to the Secretary asking that we do that. So I'm hoping that that becomes a part of this. But the reality is that the Nevada requirements are not the same as the California ones and there still will not have been a test of what would happen in California under the current proposed standards.

BOARD MEMBER BUSTAMANTE: Let me ask you one more question. I mean it's kind of ironic that the biggest impediment to this process is at the Secretary of State's office. As the new president of the organization, what are you doing with the Secretary of State's office to try to break this loggerhead or this problem with what's going on
in terms of --

MS. MCCORMACK: Well, that's what I did. I have actually done quite a few things on that, I'm glad you mentioned it, Mr. Bustamante. It's absolutely essential in my opinion and the Secretary's and the association's that we reach a positive professional working relationship. To that end, three weeks ago, the Secretary and I spent a couple hours together and had lunch and went over what I -- I developed a list of things I thought we could work on together and I said that I think what happened in our relationship was that 90 percent of our relationship was on an issue we're diametrically opposed. Why don't we stay opposed on that and make it 10 percent of our relationship and start working together on the voter for one thing. We've got a November election, we have to focus on the voter and educate the voter on all these new systems that are out there. And he's very agreeing to that and is doing some very positive things to help that happen.

The other part I proposed was this trip to Nevada, that we do it as a team trip, in teams of two, the Secretary of State and CACEO members. And I think that's the way it's going to flesh out and I think it's very positive that we watch that experiment and don't -- if we did it individually it might be, well, I saw this, you saw that, if we can do it.
BOARD MEMBER BUSTAMANTE: Right.

MS. MCCORMACK: I think it's very important that we have a positive relationship and I think that we have a possibility to get there. And that's my goal, and I know it's the Secretary's goal.

BOARD MEMBER BUSTAMANTE: But my question is more on the timing. I mean does this --

MS. MCCORMACK: The timing is a big problem.

BOARD MEMBER BUSTAMANTE: I mean this has been dragging out here five to six months now, since February, whatever that is, five months.

MS. MCCORMACK: I would even hope the Secretary --

BOARD MEMBER BUSTAMANTE: Well, actually longer, since early November.

MS. MCCORMACK: I did notice the Oklahoma Secretary of State is seeking an extension through Congress and I was hoping and I will continue to hope, that the Secretaries of State around the country will support this potential as of next year. Again, without NIST and without standards, it does seem to be an artificial deadline. But even when it was set in October 2002, when HAVA was signed, none of these issues were on the horizon. There weren't a single one of these issues and everybody said it was an ambitious deadline then. Well, now it's more than an ambitious deadline.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
And I have personally have spoken with three to four HAVA people on this issue and recognize that everybody has to get through November, but come January we need to be looking at this as why do we want to do ready, fire, aim, when what's another year to make sure the one-time money that Congress has given and that this Board has and our state we're fortunate to have can be spent wisely and appropriately. Because buying voting systems is not an every two- to three-year thing, it's usually several decades goes by, and we want to make right decisions that are good and are the best systems. And right now, I don't think we have the environment to do that, and I think that's a national issue.

So perhaps after November, secretaries of state will agree with that and start to lobby. That would add a strong lobbying force compared to a couple of us running off to Washington looking like, you know, whiners, which so often we do, and which I apologize if that's what I sound like and I should probably sit down.

MR. MOTT-SMITH: I just wanted to second what Conny has said about the willingness and the eagerness to kind of build a very cooperative working relationship. That goes without saying.

But I do want to explain, Mr. Bustamante, from the Secretary's perspective that there is not ambiguity in the
situation, there's clarity in the situation. It may have
taken a while to arrive at the clarity, but the clarity is
that there will not be a secure voting system that people
can trust to vote on in California until there is a paper
trail associated with it.

Now, there are differences of opinion as to
whether that's required or not, but it is the Secretary's
decision to be able to make. He has made the decision, he
has established that that is a clear requirement. The
vendor community is in the process of responding to that.

And I guess I want to also mention that this isn't
confined to California, this is a discussion, as Connie
mentioned, that is all over the country that other states,
Ohio, Missouri, et cetera, are going along the same path.

And it is the Secretary's feeling, and this was
upheld in a lawsuit recently, adjudicated in his favor, the
issue of accessibility as important as it is, does not
assume ascendancy over the issue of the security and
reliability and public confidence of the system. So you've
identified us as a problem, you've identified, and by us, I
mean the Secretary of State, not Jana and everybody else,
but the Secretary of State as a problem and impediment.
Just to the contrary, he has established a clear direction
and is moving California and arguably parts of the country
in that direction.
I just wanted to put that on the record.

ACTING-CHAIRMAN KAUFMAN: Does staff have any other comments based on what we've heard before this Board deliberates on this issue that you want to add to the discussion?

Then we're going to take just a couple minute break real quick, so don't anybody go too far. We're going to try and get through this. Let's just take no more than five minutes and we will deliberate on this issue.

Thank you.

(Thereupon a recess was taken.)

ACTING-CHAIRMAN KAUFMAN: We ask everybody to take your seats again.

Okay. We're going to reconvene here and try and work through this issue.

And I'm going to get the ball rolling on this, it's the Chair's prerogative. I'll give my thoughts and then see if we can arrive at some consensus.

I kind of began the day by thinking I was leaning towards either Option Two or Option Five. Because I do feel, as much as I hear there's an overwhelming consensus in the community to extend the deadline to January 1, and I hear that and I understand that, I also feel like there needs to be some accountability from the counties so that we can feel comfortable that people are moving forward, that
there's not just a blanket extension of time.

I think this Board has tried from day one, before I was on the Board, and continuing since I've been appointed, to try and pull people's feet to the fire and make sure people are moving forward with modernizing their voting systems, and not just sitting back until the last minute and waiting to do so. However, I have heard an overwhelming cry from the community that it's really impossible to move forward at this point and I think we have to respect that. And I think that Option Five presents a way for us to give people the time they need to do what they need to do, but also give us some assurance that the counties are moving forward.

I might even suggest that as Option Number Five, these interim status reports that are referenced in Option Five, that perhaps we might want to come up with a timeframe or some kind of requirement that those status reports be submitted every, whatever the date is, every six months or every three months so that we can again get some sense that things are moving forward or that issues need to be addressed without over burdening the counties with having to do formal interim status reports or they're going to take their time away from trying to upgrade their voting systems and put out RFPs, et cetera.

So I'm leaning towards Option Five because I think
it addresses both the concerns of the community and the
conscious that we as a Board would have in making sure that
people are moving forward and meeting their obligations or
at least their good government obligations to their voters
and their citizens.

And I will throw it open to the rest of my
colleagues to move off of that and discuss the various
options that are before us.

Mr. Bustamante.

BOARD MEMBER BUSTAMANTE: Well, I appreciate the
comments the counties made and I completely appreciate the
dilemma that they're in right now. Since I have been on
this Board, from the first day, and Steve's right that our
goal is to try to as quickly as possible help counties
receive their funding so they can switch to a new, an
updated voting system.

Given the actions that have been taken by the
Secretary of State, obviously the January 1 deadline is
impractical, but I don't know that January 1, 2006, is
necessarily the answer. I mean I think Option Three, the
July 1 deadline I think makes more sense, only because it
provides counties with that additional time that they need,
but at the same time I think it also puts the pressure on
the Secretary of State's staff to come through and conclude
its internal issues in order to satisfy the county
requirements.

I hear what the counties are saying with regard to
HAVA and perhaps the deadline will be changed and perhaps it
won't. But, you know, the issue here isn't necessarily one
of the counties and it isn't necessarily the Voter
Modernization Board. I mean I think the counties and the
Board can come to a conclusion on this today. But without,
you know, any resolution on the part of the Secretary of
State's office, it doesn't matter what this Board or the
county does, because they clearly are the principal player
in this and have been the principal player, to use that term
to where we're at today.

So I'm hopeful that the Secretary of State's
office will conclude whatever internal drills they need to
do in order to get things set so that they can satisfy the
counties ability to meet the July 1 deadline. I mean I
don't know that January 1 of 2006, I don't see the
difference between July 1 and January 1. I think all that
does is provide six months additional for the Secretary of
State's office, not necessarily the county registrars.

And, you know, this Board has worked very hard to
not be a part of anybody's problem and to date I can say
with a great deal of certainty that we haven't been part of
the problem. And I don't want to be. And I think the July
1 deadline I think satisfies everybody's concerns and it
rightfully puts a little bit of pressure on the counties,
not too much, but just enough to get it done if they're
serious about it. But I think it also puts a greater
pressure on the Secretary of State's office to finalize
their issues.

And as a fall back, worst case, is if for whatever
reason the Secretary of State's office hasn't finalized the
regs, maybe NITS is coming in to play and they come up with
some unbelievable new standard that nobody but God can meet,
then we always have an additional six months or longer to be
able to move it. I don't want to do that, but at least
there's an escape hatch if you will between July and
January. Besides which I think it would be virtually
impossible for any county to meet a January 1, 2006, HAVA
deadline if they're occurring simultaneously, July 1, 2006
is the VMB deadline. So I don't see how those two
reconcile.

Anyway, there you go.

BOARD MEMBER FINNEY: Okay. I have been going
back and forth between Option Three and Option Five,
actually. And I think the greatest concern I would have
relates to the ability of the registrars to comply with HAVA
by January 2006, if that deadline doesn't move. And I think
that the registrar from Los Angeles kind of touched upon the
point briefly in her remarks that it's controversial to
extend the HAVA deadline. I think for the folks in Washington it will happen in the year 2000. So I think there is a chance that it's not going to get extended. And if that's the case, I think it helps to have a July deadline as well, because it gives you time as a registrar to kind of move forward with at least one major requirement out of the way as you approach the HAVA deadline of January 2006.

Additionally, I think that Americans have always kind of established themselves in the world as technologically genius. I mean look at the Silicon Valley and all the many decades of innovation that have come out of this country. I think that if we set a July deadline, there's also kind of a, how shall I say it, a blowing of the trumpet to the vendor community to step up to the plate and deliver sooner.

I have deep concern about the way the vendor community is currently acting in the current climate, and even so far as having seen an actual videotape of inappropriate statements by a certain CEO of a certain vendor that we're talking about here leading into a presidential election, when just a few years ago we had perhaps the most, actually, the most confrontational and questionable presidential election in the history of the country where it was the Supreme Court that made the decision, not the people, in my opinion. And I do think

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
that we do need to push the vendor community to step up to
the plate and deliver something that truly takes any
question of equity out of the market.

And so I am leaning towards Option Three, having
kind of thought through and heard both of my Board members'
comments. I really do sympathize with the situation the
counties are in. I do believe that you're somewhat
victimized by this process. But as my fellow Board members
stated, as we approach that deadline and as our monthly
meetings continue, if it looks like things might change in
Washington or if it looks like the vendor community isn't
coming up with anything new, if it looks like the Secretary
of State's office is still wrestling with the issue of
certification, we can revisit this.

But I do think that it kind of creates incentive
to keep the ball rolling, and quite frankly, we as a Board
have a duty to the people of California pursuant to the
initiative that created the Board and the appointments that
we currently sit in on behalf of the Governor's office and
the Secretary of State's office. So I do feel some pressure
to kind of keep the ball moving forward.

So having said all that, I'm going to turn it back
to my fellow Board members.

BOARD MEMBER BUSTAMANTE: Right now the counties
have the ability to meet most of the requirements. I mean
they have the ability to update the system, they just don't
have that final ability to actually meet the HAVA
requirement by having the DRE in place.

MS. LEAN: And the state requirement too.

BOARD MEMBER BUSTAMANTE: Right. So
theoretically, at least with some of the funding that's
available through HAVA, they can go through 90 percent of
what needs to happen. There isn't any reason to delay with
that other than just a choice of whether or not you get it
all at once or kind of get it in steps, right?

MS. LEAN: Can you give me a precise question,
what are you asking?

BOARD MEMBER BUSTAMANTE: Well, I mean like, for
instance, right now you can get an optical scan system and
then purchase a DRE system later. I mean that would meet
the requirement in each of the precincts?

MS. LEAN: Okay. So you're talking about the HAVA
requirements or the VMB Project Documentation requirements?

BOARD MEMBER BUSTAMANTE: Actually both.

MR. MOTT-SMITH: The impediment is to a county
that wants to go directly to a DRE system.

BOARD MEMBER BUSTAMANTE: Right, right. So the
impediment is really to just do everything in one shot. I
mean from a VMB perspective, the application can go forward
where, you know, the application could essentially be an
optical scan system with a later date, you know, kind of leave a percentage of it off, that only asks for say 85 percent of their funding because they intend to be able to add a touchscreen system as soon as the certification process is concluded?

MS. LEAN: Yes.

BOARD MEMBER BUSTAMANTE: So that part of an effort is available to them right now?

MS. LEAN: Correct.

ACTING-CHAIRMAN KAUFMAN: One of my concerns about that, however, is by putting a July deadline on, while it does put perhaps some pressure on the vending companies, it might force some counties who might want to do a direct transition to a DRE system to have to spend money on an interim system which increases their costs in the long run and might mean that they are not going to get as much benefit from funding in the long run if they are forced to go to an interim system and then a final system simply because of a deadline for submission of project documentation to get the funding out of this Board, whereas they might not otherwise go through that process. And what might be appropriate for LA County, given its size and its ability to move directly towards a new system countywide, may not be the case with some of the smaller counties who are looking to go directly to there, and I'd hate to create
an artificial situation where they have to go through that
two-step process and ultimately increase their costs in the
long run.

BOARD MEMBER BUSTAMANTE: No, I wasn't suggesting
that they use an optical scan as an interim system. I mean
I'm suggesting that that can be the system that they use,
and they have that option today. I mean there's just the
final step in terms of meeting the minimum requirements in
terms of having a DRE in a precinct, which can essentially
be accomplished with -- I mean depending on the size of the
county, I mean obviously LA County is a thousand or two
thousand or whatever the number is, where the smaller
counties it's two or five or twelve.

ACTING-CHAIRMAN KAUFMAN: Yes. But I don't think
our goal should be encouraging counties to meet minimum
requirements, I think our goals should be encouraging
counties to adopt the best system for the voters.

BOARD MEMBER BUSTAMANTE: Oh, I agree. Right.
And I mean what I'm suggesting is accomplishing that. But
rather than using an outdated punch card system, well, you
can't use it anymore, or filling it in with a pencil like we
do here in Sacramento County, that ability of a new system,
an optical system, for instance, is meeting the intent of
this Board, it's meeting the intent of HAVA, it's meeting
the intent of the Secretary of State's office in terms of
modernizing the voting equipment. And that's not a minimum
standard at all, in fact, most counties have opted for
optical scan systems, as opposed to a DRE, and I think they
look at it as the state of the art.

So that's not a minimum requirement, I'm talking
about minimum simply in terms of the touchscreen part which
isn't available to any of the counties right now. I'm
suggesting that maybe the counties today have the option to
at least meet what they can meet, and then obviously they
have to hold off. Because the central question here is
really about touchscreen voting, and the Voting
Modernization Board doesn't have a position in terms of
optical scan or touchscreen voting.

I happen to be a big fan of touchscreen voting,
but not withstanding that, it's not our call, the counties
can do what they choose. But all I'm simply saying is there
are options available to the counties today, not a hundred
percent, but it will get them most of the way in terms of
modernizing the voting equipment without meeting that final
requirement of the Secretary of State, of the state.

ACTING-CHAIRMAN KAUFMAN: I agree with what you're
saying in terms of it's not this Board's decision as to what
might be best for the counties, but I think by putting this
time limitation on it and effectively forcing some of the
counties' hands into having to purchase optical scan systems
when they may otherwise want to purchase DRE systems, you are essentially making the decision for them that they have to go this route even if they decide that for their county and their needs the DRE system may be best.

BOARD MEMBER BUSTAMANTE: Well, I mean, it's up to really the Secretary of State's office to certify the equipment and the vending community to have that equipment available. I mean we're not making anybody do anything.

BOARD MEMBER FINNEY: I was leaning towards Five initially, in fact for quite a while, and then I kind of went to Three and then I kind of went back to Five. And the reason I've kind of settled more into the July deadline is because I tend to agree from a legal perspective with what Member Bustamante has said about what our responsibility is, and I also believe from a practical perspective that if you keep a little heat on, it keeps the ball moving forward.

But then I think the counties, the ball is in their court as far as exercising prudence as we move into a new technology on the heels of once again the most controversial election in American history, which has had very real effects. I mean our country has been in a major state of war now for some time and we don't feel the effects yet over here except for what happened on 9/11, but who's to say, you know, what things would have been like otherwise, which is always the big question when it comes to elections.
I think that the registrars have a very, very important responsibility to the voters more than anybody else, in my opinion, because they secure that voter's opportunity to cast a true vote, and for that true vote to be cast and counted towards an election.

And I believe that we need to exercise prudence as a Board and I encourage the counties to exercise prudence in how they approach this, because if there does end up being a problem with the DRE system, if they can be manipulated in the way that the accusations are kind of going around out there, then we're really in a situation.

And so I normally would want to leap ahead in technology. When I worked at the Governor's office, I had to work on the Technology Advisory Group and always pushing the envelope on education technology, all these technological areas, life sciences, all these things. But my point is in voting, I think we need to be very prudent and very conservative. And so that's now kind of why I'm moving in this direction. And I do believe that if the vendor community steps up to the plate and produces machines that can be worthy of a certification from the Secretary of State's office, then we might still meet that deadline.

And once again, Steve, I just want to say for the record, I'm very open to revisiting the issue, if we need to. I just kind of think if we just keep extending it out,
I don't know, it's very easy to get distracted with other things. I've been there. I mean I've sat on what, 27 state Boards and Commissions now.

You know, I think it helps to keep the ball moving forward and it gives us a chance to exercise prudence with respect to what does exist out there and allows us to fulfill our obligations as a Board to the people of California pursuant to -- indirectly on an initiative, I mean of a legislative bill.

And then at the same time, we do have the power to revisit the issue if we have to. So I didn't want you to think I was all of a sudden flip flopping. Just as I really thought it through in general, I felt pretty strongly about trying to create a deadline that keeps the ball moving forward.

ACTING-CHAIRMAN KAUFMAN: Well, it sounds to me like we have two votes for Option Three up here, and I think we all have the same interests in seeing that the counties are not hurt by what's been going on at the state level with respect to certification at the federal level and I think we need to have a consensus so that the counties do have additional time. It sounds to me like there is certainly a willingness up here to revisit the issue down the road. So I certainly don't want to create any roadblocks here to us granting the counties an extension of time and think that
this Commission should speak with a united voice. So if
there is a motion to adopt some form of extension, I think
we should do that.

BOARD MEMBER BUSTAMANTE: I move that the Board
adopt Option Three, that the Voting Modernization Board move
the deadline to July 1, 2005, also to note that this Board
is open to revisiting the issue as we approach the July 1
deadline, subject to certification issues. Well that won't
happen until October.

ACTING-CHAIRMAN KAUFMAN: I think you just take
the first sentence of Option Number --

BOARD MEMBER FINNEY: Or we could just leave it
generic and say that the Board reserves the right to revisit
the issue prior to the deadline. We can do it that way.

ACTING-CHAIRMAN KAUFMAN: Yes, that's better.

BOARD MEMBER FINNEY: Okay.

ACTING-CHAIRMAN KAUFMAN: Do you want to read back
that motion?

MS. PARSONS: Yes. It's a motion for the VMB to
move the deadline from January 1st of 2005 to July 1st,
2005, for the Project Documentation Packages and that the
Board is open --

ACTING-CHAIRMAN KAUFMAN: The Board reserves the
right to revisit this deadline prior to the --

BOARD MEMBER BUSTAMANTE: The July 1 deadline.
MS. PARSONS: Okay. We'll take a vote.

Stephen Kaufman.

BOARD MEMBER BUSTAMANTE: Is there a second?

BOARD MEMBER FINNEY: I'll second that.

MS. PARSONS: Sorry.

Stephen Kaufman.

ACTING-CHAIRMAN KAUFMAN: Aye.

MS. PARSONS: Michael Bustamante?

BOARD MEMBER BUSTAMANTE: Aye.

MS. PARSONS: Tal Finney.

BOARD MEMBER FINNEY: Aye.

MS. PARSONS: This motion passes.

ACTING-CHAIRMAN KAUFMAN: Okay, counties you have some additional time.

BOARD MEMBER FINNEY: Congratulations. We'll revisit it if we need to. Don't worry, we won't leave you out there.

ACTING-CHAIRMAN KAUFMAN: We're not intending to leave the counties high and dry.

BOARD MEMBER FINNEY: It gives you something to focus on after the November elections.

ACTING-CHAIRMAN KAUFMAN: We hope that the message will be received by all interested parties out there.

BOARD MEMBER FINNEY: Thank you for coming and speaking. For the first time we have a court reporter, so
your words are permanently inscribed on the record. I think
that we have a nice record established.

ACTING-CHAIRMAN KAUFMAN: We very much appreciate
the written and oral comments.

We have one remaining issue which was Matter 5A, and I think what I've heard up here and what we would like
to do perhaps is have the staff come back and we can have
the staff present us with a proposed policy regarding the
check distribution system that incorporates the concerns of
the Chair. I know you don't want to be drafting more stuff,
but I think we're headed in that direction.

BOARD MEMBER FINNEY: So both with respect to
notice and inclusion, the Chair representing the Board as a
whole, in the disbursement in process.

MS. LEAN: I will be in conversation with the
Chair to make sure I get his input.

BOARD MEMBER FINNEY: Consistent with the
provisions of Proposition 41.

ACTING-CHAIRMAN KAUFMAN: Thank you. Okay, with
that I think we are --

BOARD MEMBER FINNEY: I make a motion to adjourn.

BOARD MEMBER BUSTAMANTE: I second.

ACTING-CHAIRMAN KAUFMAN: August 19th is the next
meeting here at 10:00 a.m. Thank you everybody.

(Thereupon the VMB meeting was adjourned at 12:22 p.m.)

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
CERTIFICATE OF SHORTHAND REPORTER

I, MICHAEL J. MAC IVER, a Shorthand Reporter, do hereby certify that I am a disinterested person herein; that I reported the foregoing Voting Modernization Board proceedings in shorthand writing; that I thereafter caused my shorthand writing to be transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said Voting Modernization Board proceedings, or in any way interested in the outcome of said Voting Modernization Board proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of August 2004.

Michael J. Mac Iver
Shorthand Reporter

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345