

MEETING
STATE OF CALIFORNIA
SECRETARY OF STATE
VOTING MODERNIZATION BOARD

SECRETARY OF STATE
1500 11TH STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

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Shorthand Reporter

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

PANEL MEMBERS

Mr. John Perez, Chairperson

Mr. Stephen Kaufman

Mr. Tal Finney

STAFF

Ms. Debbie Parsons

Ms. Jana Lean

Mr. Michael Wagaman

Mr. Steve Stuart

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1 PROCEEDINGS

2 CHAIRMAN PEREZ: Good morning everybody. Welcome
3 to the January meeting of the Voting Modernization Board. I
4 want to call this meeting to order.

5 Debbie, if you'd please call the roll.

6 MS. PARSONS: John Perez.

7 CHAIRMAN PEREZ: Here.

8 MS. PARSONS: Stephen Kaufman.

9 BOARD MEMBER KAUFMAN: Here.

10 MS. PARSONS: Tal Finney.

11 BOARD MEMBER FINNEY: Present.

12 MS. PARSONS: Carl Guardino and Michael Bustamante
13 are absent today.

14 CHAIRMAN PEREZ: Okay, very good. We have a
15 quorum.

16 The next item before us is public comment for
17 issues not on our agenda. I have not received any cards.
18 Are there any other cards labeled for public comment on
19 items not on the agenda.

20 MS. LEAN: No.

21 CHAIRMAN PEREZ: Okay, very good.

22 Item 4, Adoption of the July 22nd and October 21st
23 meeting minutes.

24 Have we all had a chance to review, the minutes
25 not the transcript?

1 BOARD MEMBER KAUFMAN: There are no minutes. You
2 mean the little summary?

3 CHAIRMAN PEREZ: Uh-huh.

4 BOARD MEMBER KAUFMAN: Are we calling those the
5 minutes now?

6 MS. LEAN: Let me give you a little background on
7 that. At the October 21st, 2004, meeting, the Chair asked
8 that we put the July transcript in some sort of a meeting
9 minute form because it was over 80 pages long. Now, what we
10 normally do is do an action memo to the counties so they
11 know what happened at the Voting Modernization Board
12 meeting. We kind of made a little assumption that we could
13 use that action memo in conjunction with making actual
14 meeting minutes and kind of combining the two. So that's
15 what we're going to do from now on, if that is okay with the
16 Board. We'll go ahead and do the action memo and combine it
17 with meeting minutes, so that people do not necessarily have
18 to read through the whole 80 page essentially transcript.

19 BOARD MEMBER KAUFMAN: As one who read through the
20 80-page transcript, I'm all in favor of the shorter version.

21 CHAIRMAN PEREZ: Mr. Finney, did you also read
22 through the 80 pages?

23 BOARD MEMBER FINNEY: As a matter of fact, I did.

24 CHAIRMAN PEREZ: So it will surprise everybody to
25 know all three of us read the 80-page transcript.

1 BOARD MEMBER FINNEY: I like a couple of my quotes
2 in here.

3 CHAIRMAN PEREZ: Is there a motion to accept.

4 BOARD MEMBER KAUFMAN: I'll move.

5 BOARD MEMBER FINNEY: Second.

6 CHAIRMAN PEREZ: All in favor?

7 (Ayes.)

8 CHAIRMAN PEREZ: Opposed, none.

9 Very good.

10 Item 5, Staff Report on Related Issues.

11 BOARD MEMBER KAUFMAN: We had minutes from another
12 meeting too.

13 CHAIRMAN PEREZ: I asked for a motion on both.

14 BOARD MEMBER KAUFMAN: Oh, okay. Well, then I
15 move for both. Never mind.

16 CHAIRMAN PEREZ: Okay. Next, Item 5, Staff
17 Report. And 5A is a discussion of the 2005 Proposed VMB
18 Meeting Schedule.

19 MS. LEAN: In your packets, and they have been
20 distributed to you before the meeting, are the proposed
21 meeting dates for 2005. As it turns out, the Voting Systems
22 Panel or Procedures Panel, I don't know the exact name for
23 that, had taken our original dates. We normally would meet
24 on the third Thursday at 10:00 a.m., but they have taken
25 that time and date. So we're trying to make it easier on

1 the counties and ask if we can combine those two days, so
2 the VMB meeting would now be at 2:00 p.m. on those same
3 days. And I know that you have had a chance to look at it,
4 I don't know if that conflicts with any of your schedules.
5 We could change it, it's all subject to change.

6 If the VSPP meeting runs long, we could move this
7 meeting to another room, potentially the multi-purpose room.
8 Yesterday's VSPP meeting ran all the way to like 3:30. So I
9 don't know if that's going to be a continual problem, but it
10 was presented to me that that wouldn't normally happen,
11 that's why we decided to schedule them at 2:00 p.m. But I'd
12 like for you guys to think about it and discuss it and make
13 a motion.

14 CHAIRMAN PEREZ: I have just one basic question
15 first. If we notice the meeting to go on in this room at
16 2:00 p.m. and VSPP runs late and we move to another room in
17 the same building, do we have any problems with the public
18 notice requirements.

19 MR. STUART: Yeah, I would say that we probably
20 would.

21 MS. LEAN: We have the board that notices where
22 the meeting is, we could direct them to a different meeting
23 room and put it out in front of this --

24 CHAIRMAN PEREZ: But I'm not sure that that gets
25 us around.

1 MR. STUART: That might not. So let me look into
2 that part of it. As the VSPP counsel, it's pretty rare for
3 us to go -- you know, 3:30 is the latest one I've ever been
4 to.

5 BOARD MEMBER KAUFMAN: Can we do some kind of
6 notice as an alternative room.

7 MS. LEAN: We could do that, we could do
8 auditorium slash multi-purpose room.

9 CHAIRMAN PEREZ: As long as we can do it in
10 compliance, I mean.

11 MR. STUART: I'll check back with you, I want to
12 make sure.

13 CHAIRMAN PEREZ: Very good.

14 Anything else on the proposal?

15 Can I get a motion to approve pending response on
16 the public notice requirements compliance?

17 BOARD MEMBER FINNEY: So moved.

18 BOARD MEMBER KAUFMAN: I'll second.

19 CHAIRMAN PEREZ: All in favor?

20 (Ayes.)

21 CHAIRMAN PEREZ: Opposed, none.

22 Okay. Next, 5B, Update on the Status of
23 Certification of DRE's with AVVPAT Components and Other
24 Accessible Voting Equipment.

25 MS. LEAN: I thought this would be very much a

1 topic that you needed to know about. In your packet there
2 is just a brief little overview of the vendors that
3 currently sell to counties that currently use voting
4 systems, where they are in the certification process. As
5 you can see, there's only a few that are going to be coming
6 up in front of the VSPP for certification between January
7 through March. Two of those are the Sequoia AVC Edge. That
8 was actually heard yesterday at the VSPP meeting. It was
9 certified for use.

10 I know there are some conditions placed upon that
11 and Michael Wagaman is going to explain that a little
12 further. He is staff to the VSPP, if you would like to get
13 into that further.

14 CHAIRMAN PEREZ: Would you please, Michael.

15 MR. WAGAMAN: The Panel took a couple of actions
16 yesterday. One, they heard testimony and recommended some
17 changes to the AVVPAT standards. Those were changes that
18 were requested by the vendor community as they have been
19 going through the six months of developing or places where
20 they have run into problems. So those requests were heard
21 and recommended forward to the Secretary.

22 The second part was deciding again on the AVC Edge
23 with it's AVVPAT system, which is called the Verivote.
24 That's a system you may know or not know was used in a pilot
25 program in San Bernardino in the November election. The

1 Panel did recommend that system for full certification to
2 the Secretary.

3 The biggest change from the previous certification
4 that currently is on the AVC Edge is that that
5 certification, if approved by the Secretary, would allow the
6 system to be purchased by other counties. So it would not
7 just be limited to the current DRE counties, which has been
8 the limitation since the actions back in April. The
9 limitations of note are, one, is a system limitation, it is
10 a limitation from the Secretary, but a limitation to the
11 system in that it currently can't support a California
12 primary election. So they are modifying that to correct for
13 that. The difference here though is that system could be
14 purchased to deal with the HAVA January 1, 2006, deadline.
15 We're really talking about a June of 2006 deadline for them
16 to install a patch or qualify the software to correct that
17 problem.

18 BOARD MEMBER KAUFMAN: Why can't it be used in a
19 California primary?

20 MR. WAGAMAN: The issue is that, one, we split the
21 primary, we allowed the crossover voting and put in the
22 reporting requirements for that. The vendor is using an
23 adjunct software package to do that to provide that
24 reporting of the decline to states that cross over to vote
25 in a Democratic election or Republican election for the ones

1 who are allowing that crossover. And that software package
2 was not included in the federal qualification testing,
3 therefore, it was not included as part of the state
4 certification testing. So the only way they can meet that
5 reporting requirement is using unqualified, uncertified
6 software. They are going through the qualification process
7 as we speak of the modification to allow that to be done
8 with their certified qualified equipment. So that
9 correction is going in place right now. I believe they said
10 they would have a qualification by April of this year.

11 The other limitation is again the limitation from
12 the Secretary in that this equipment only supports a vote in
13 spanish. So there again the state package I described
14 earlier, they're going through testing on right now at the
15 federal level to support the other languages, the character-
16 based languages. But right now the version that was
17 recommended yesterday only supports english and spanish.
18 That would support their current AVC Edge clients with the
19 exception of Santa Clara which needs those character-based
20 languages. So of their six current clients, five would be
21 able to be supported under the current version.

22 Are there any questions on yesterday before I
23 reference back to the chart?

24 As you see on the chart, Sequoia was heard, the
25 AVC Edge was heard yesterday. The Election Systems &

1 Software AutoMARK, which is the non-DRE system, where it
2 basically marks a preprinted ballot. And it's just a big
3 pen but it looks like a DRE, but it doesn't store an
4 electronic record of the vote. That system we expect to be
5 heard at the March VSPP hearing. Going forward beyond
6 that --

7 BOARD MEMBER KAUFMAN: So it's not an optical scan
8 system?

9 MR. WAGAMAN: It is an optical scan system.

10 BOARD MEMBER KAUFMAN: Oh, it is?

11 MR. WAGAMAN: The way that system works is you
12 take a paper ballot that looks just like a ballot that you
13 would mark here, if you vote in Sacramento it's the exact
14 same ballot you voted on this November election. For the
15 visually impaired voters or voters with a language necessity
16 or whatever other reason they just want to use it, they take
17 a paper ballot and they stick it in a piece of equipment
18 that looks like a DRE, they mark and make their selection on
19 it just like they would on the DRE, except all that machine
20 does is mark that ballot, fill in the bubble in essence, and
21 return that ballot to the voter. So it doesn't store any
22 electronic record of the vote, it only -- like I said, it's
23 a big fancy pen in essence, but it would meet the HAVA
24 accessibility requirements.

25 Does that make sense to everyone?

1 CHAIRMAN PEREZ: Yes.

2 MR. WAGAMAN: So that will be before the public at
3 the March VSP? In probably April or May we'll be hearing
4 the Diebold TSx equipment, but their AVVPAT part probably
5 will not be toward until the end of the year. They're only
6 going to be selling that equipment to Orange County, so
7 they're not marketing beyond their existing client that
8 equipment. A couple of systems not on that list would be
9 vendors not currently in California.

10 There are at least three vendors as I've indicated
11 that are either going to come forward with a DRE or this
12 non-DRE accessible unit. Those would be AccuPoll, which
13 indicates that they are going to come forward somewhere in
14 the first quarter of the year for state testing. They are
15 in qualification testing at the federal level right now.
16 Avante, which is producing both a DRE and a non-DRE unit.
17 The DRE unit is in federal qualification testing right now.
18 The non-DRE unit they just got their patent yesterday, so
19 they're getting ready to go into qualification. Then the
20 third is AVS, Advanced Voting Systems. That probably will
21 not come in until the third or fourth quarter of the year.
22 So you have seven vendors out there right now producing nine
23 or ten systems that would potentially meet the HAVA
24 requirements as relayed through the testimony.

25 BOARD MEMBER FINNEY: So you're saying with

1 respect to AVS, you're anticipating coming to us in the
2 third or fourth quarter?

3 MR. WAGAMAN: They will be coming forward to state
4 certification testing in the third or fourth quarter, and
5 then obviously a county would actually have to purchase it
6 before it would reach your table.

7 BOARD MEMBER FINNEY: No, I meant the state.

8 MR. WAGAMAN: Right. The third or fourth quarter.

9 CHAIRMAN PEREZ: Anything else?

10 MS. LEAN: I do have one question.

11 CHAIRMAN PEREZ: Okay.

12 MS. LEAN: About the Diebold TSx, there's
13 currently counties using the TS unit. So I don't know how
14 that would --

15 MR. WAGAMAN: Thank you for pointing that out, I
16 apologize for forgetting that.

17 There are two counties that currently use the TS
18 which is their older touchscreen system. That's Alameda and
19 Plumas. The vendor's current plan is they are going to come
20 forward with the testing, with the hardware that supports
21 the TSx and get that through the state certification
22 process, then bring forward the version that supports the
23 TS. Those software versions and the firmware versions are
24 going to be exactly the same, that's one of the changes that
25 they've made in response to some previous problems, but the

1 hardware will be slightly different. So you will see the
2 one come on line and then the second. The TSx will be the
3 version that they will be marketing to future clients, so
4 beyond Alameda and Plumas you'll be seeing the TSx.

5 CHAIRMAN PEREZ: What's San Diego right now?

6 MS. LEAN: They are TSx.

7 CHAIRMAN PEREZ: They are TSx?

8 MR. WAGAMAN: Correct. The four counties that
9 were decertified were all the TSx counties: Kern, San
10 Diego, San Joaquin, and Solano. Solano obviously has gotten
11 rid of their TSx equipment and replaced it with the ES&S
12 equipment.

13 BOARD MEMBER KAUFMAN: And what was Riverside?

14 MR. WAGAMAN: Riverside was an AVC Edge. So they
15 would be supported by that equipment that was certified
16 yesterday. Riverside is the one other kind of odd exception
17 to the six current clients in that they use the AVC Edge 1,
18 which is their older version. That version was not part of
19 the state testing with the Verivote, so the vendor may come
20 forward and maybe get software tested through at the same
21 time they do the version that supports -- I believe they
22 said they were going to do it at the same time they do the
23 version that supports all these other languages.

24 BOARD MEMBER KAUFMAN: So I understand it, all the
25 systems that were in place in California were either the AVC

1 Edge, the AccuVote TS, or Hart, which was Orange County,
2 right?

3 MR. WAGAMAN: And there is also the iVotronic
4 which is used in Merced County, which is the latest from
5 Merced County is that ES&S is going to bring forward --
6 they're going to either modify that version to -- it's up to
7 the county's discretion whether they are going to modify
8 that version to add the AVVPAT or if they are going to
9 switch that county out over towards the AutoMARK system that
10 we talked about earlier. So in November there were four
11 systems used. There is a fifth system that exists in the
12 state which was the TSx which wasn't used in November.

13 CHAIRMAN PEREZ: Anything else on this?

14 I don't have any cards on 5B, so we'll move on to
15 5C.

16 MS. LEAN: The Voting Modernization Board
17 developed a policy for a spending cap on DREs. At the July
18 17th, 2002, meeting, the VMB established a policy to place a
19 \$3,000 per machine spending cap on the amount the state
20 would contribute to the purchase of a new DRE, Direct
21 Recording Electronic, voting equipment. The \$3,000 spending
22 cap per DRE machine was established based on cost
23 assumptions from the voting system vendors during the July
24 2002.

25 Currently, state law now requires that all DRE

1 systems must receive federal qualification and include an
2 accessible voter verified paper audit trail by January 1,
3 2006, in order for the equipment to be certified and used in
4 California. In addition, state law now requires that to the
5 extent that the voting modernization fund monies are
6 available for expenditures, funds shall be used to comply
7 with this new AVVPAT requirement. Any county that currently
8 uses a DRE system must retrofit its current DRE unit with a
9 AVVPAT component. The initial estimated cost for these
10 retrofits ranges from \$250 to \$875 per unit.

11 As of January 1, 2005, any county that elects to
12 purchase the DRE voting equipment must ensure that the
13 equipment meets the AVVPAT requirement. While it's still
14 unclear how much the DRE units will cost, it's anticipated
15 that the new AVVPAT component will increase the overall cost
16 for purchasing the DRE voting units. Therefore, cost
17 assumptions used to formulate the July 2002 \$3,000 spending
18 cap per DRE is no longer applicable.

19 I just wanted to make a statement that the only
20 HAVA funds that have been distributed so far are the HAVA
21 102 funds, and no other funds have yet been committed to
22 purchase an AVVPAT for these counties. I know that
23 discussions are going on right now for that, but the VMB
24 money is the only money that's out there today.

25 There are specific options you can look at. One,

1 eliminating the spending cap in its entirety. Two, you can
2 increase the spending cap on the state contribution to
3 amount to up to \$4,000 per unit based upon these assumptions
4 of how much it costs to retrofit. We're kind of adding that
5 to the current cost which is about \$3,800 per unit right
6 now. Or you could solicit county input on a spending cap
7 and determine the amount at a later date.

8 I wanted to bring this forward because it was
9 brought to our attention about the spending cap again
10 through a different proposal of Napa County which we can
11 discuss later, but this was brought up and we do know that
12 DRE equipment will now be costing additional money. We do
13 not have a spending cap on any kind of optical scan voting
14 equipment because with the assumptions at the beginning, you
15 know that that equipment costs a lot more than one specific
16 DRE unit.

17 So I wanted to bring that up for discussion for
18 the Board.

19 CHAIRMAN PEREZ: I think some of this actually
20 preceded your time on the Board, and when we first looked at
21 allocation formulas and tried to figure out what way to come
22 up with a formula that in our estimation was an equitable
23 way to distribute money across counties consistent with the
24 values that we expressed as a Board. One of the things we
25 were concerned about was variation in cost of DREs from

1 vendor to vendor and what impact it would have in particular
2 on smaller counties that would be purchasing fewer units.

3 And so there was an interest on behalf of the
4 majority, actually the entire Board, to establish some sort
5 of baseline, both to create an expectation with respect to
6 the vendors and as a way of figuring out if the allocation
7 formula we were establishing would make a significant dent
8 in the overall obligation that counties would have in our
9 anticipation of moving towards DRE. And so at that time,
10 based on a 3-to-1 match, the 3,000 seemed to be equitable in
11 terms of covering the cost and to allow that to cover a vast
12 majority of the goal that we wanted to get to.

13 Obviously, the world has changed completely since
14 then. The expectations that people are going to be going to
15 all DRE systems are probably not rooted in reality.
16 However, I have a personal predisposition against lifting
17 caps. And in looking at Item 4, or Suggestion 2, for
18 example, based on the 3-to-1 match, that anticipates that
19 the retrofit cost would be twelve to thirteen hundred
20 dollars to lift it the additional thousand, which I think is
21 probably a larger amount match than I feel comfortable with.

22 My other feeling about this is that if folks don't
23 move to DRE in the volume that we expected them to, if they
24 have a different complement, it has different implications
25 for potential money coming back for the future funding

1 rounds.

2 So I wanted to throw that out. I probably
3 shouldn't have gone on this long before I mentioned the fact
4 that we do have one card on this.

5 BOARD MEMBER FINNEY: I would like to hear some
6 county input on this before we make a decision.

7 CHAIRMAN PEREZ: Yes. So with that as just kind
8 of background, I'd like to call John Tuteur from Napa
9 forward.

10 MR. TUTEUR: Good morning, Mr. Chairman and
11 Members of the Board. John Tuteur, the Napa County
12 Registrar of Voters and one of your most satisfied
13 customers.

14 (Laughter.)

15 CHAIRMAN PEREZ: Have you filled out our customer
16 satisfaction survey?

17 MR. TUTEUR: If you get me one and I'll do ten.
18 And it's not just yourselves, but also the staff that
19 supports you, they've just been wonderful to work with.

20 And I never expected to be back here. And I'm
21 really not back here, I'm sort of a gaseous vision, because
22 I think it's premature for me to be back here. But I did
23 want to explain to you where we're coming from as one of the
24 fully equipped DRE counties, thanks to the funds we received
25 from you plus the Title 1 funds which we also took.

1 We have to retrofit. And as Jana mentioned and
2 you are all aware, the world has changed since we approached
3 you the last time with the AVVPAT requirement now for
4 January 1st, 2006. But I think Jana also mentioned
5 something else that is the reason I'm here, really not very
6 strongly in terms of asking for change. I respect
7 enormously what Chairman Perez just said about not wanting
8 to upset the sacred cow or butcher it or whatever the right
9 word is.

10 I think you have a system that everyone has agreed
11 to and I'm certainly not here asking you to change it. But
12 I did want to say that this 301 money that the task force is
13 working on, the Title 2 allocation, is vitally important to
14 your deliberations. And I know that the CACEO with its
15 president Conny McCormack is here today, and I'm on the
16 board working diligently with the Secretary's staff and with
17 other entities within the state who are interested in the
18 HAVA money and to try and come to some early resolution on
19 how much of that will be available. And to some extent,
20 your formula that was used for the VMB might make a lot of
21 sense using that same formula rather than reinventing the
22 wheel. So depending on how big the pot of money that the
23 state offers as HAVA money to DRE or any voting system
24 upgrades, my concern before you today may disappear, because
25 I may be able to meet those obligations.

1 But what I did want to share with you just so you
2 can see one county's impact is that we are now about
3 \$350,000 short for buying AVVPAT for our 350 DREs. We have
4 been solely DRE at the precincts in March of 2004, in
5 November of 2004, and I'm conducting a city and school
6 district election for about three-quarters of our voters on
7 March 8th, and that will also be a full DRE at the polling
8 place. And we're moving ahead to June of 2006 and, we are a
9 Sequoia county, so we are now certified with the issue of
10 the -- we are also -- by the way, there are more counties
11 that are AVC Edge 1's than just Riverside. Napa is an AVC
12 Edge 1. We're a little more advanced version of the 1, but
13 we're not a 2 county. And I think several others of us,
14 maybe Shasta as well, are also 1's, just so you're aware of
15 that.

16 So I don't want to take more of your time. I have
17 just brought to your attention how the cap might need to be
18 shifted, but I'm just bringing that to your attention. I'm
19 not making a request today, I just wanted to be here to
20 answer any questions if you have them, and you do have the
21 proposal I put out. And I'm not presenting that to the
22 Board. You've talked about second funding rounds, but I
23 think that's very premature given what happens with the HAVA
24 task force decision.

25 CHAIRMAN PEREZ: May I ask a question, John. I

1 want to make sure I heard you correctly. I think I heard
2 you say you're about \$350,000 short to retrofit your 350
3 units? So you're at about a \$1,000 a unit?

4 MR. TUTEUR: Well, I haven't heard from our vendor
5 yet. And as you know, I have not been a strong supporter of
6 AVVPAT and I probably shouldn't have stuck my head in the
7 sand and then gotten run over by what happened, but we don't
8 have a contract that guarantees us either free installation,
9 which is what Santa Clara did. I started to approach it but
10 I just wanted to get it done and get going in part to
11 qualify for your funding. So I don't have that. I haven't
12 gotten a figure from them yet, I'm just using that as a
13 round figure. I'm hoping that's way the upper limit. It
14 was talked about \$500 the first time around from them, and
15 of course they have outfitted the entire state of Nevada, it
16 has this system on every one of its DREs throughout the
17 state and they're all Sequoia. So they have got more
18 experience, but I just haven't gotten a figure yet, so I'm
19 just using that for you as a round figure, I'm hoping it
20 will be less than that.

21 CHAIRMAN PEREZ: Thank you.

22 Anybody else have questions for Mr. Tuteur?

23 BOARD MEMBER KAUFMAN: No.

24 BOARD MEMBER FINNEY: No.

25 CHAIRMAN PEREZ: Thank you, John.

1 MR. TUTEUR: Thank you.

2 CHAIRMAN PEREZ: What do we know about Nevada and
3 what costs they had associated?

4 MS. LEAN: Do you have any comments on that?

5 I don't think we have that information available
6 for you now, but we could --

7 CHAIRMAN PEREZ: Could you try to find out?

8 MS. LEAN: Certainly. We'll give you a report
9 back.

10 BOARD MEMBER FINNEY: We don't have to make a
11 decision today?

12 CHAIRMAN PEREZ: No.

13 BOARD MEMBER FINNEY: I mean we don't want to set
14 a cap and then have to come back and do it again.

15 BOARD MEMBER KAUFMAN: Yes. I mean I'm looking at
16 this and my gut reaction was to focus on Options 1 and 3. I
17 mean I would hate to see us refocus on a new cap and then
18 revisit this issue again in a few months. I think we're
19 going to be seeing today that every decision we make seems
20 to slide with the times. But I'm just going to say from my
21 own personal opinion, no, I wasn't here when the 3,000 was
22 set and I'm sure there was a very good reason to set it that
23 way, but we are looking at very different times.

24 And since the rules of the game keep shifting on
25 the counties almost month by month, my gut reaction is to in

1 some way let the counties figure out how to best spend their
2 money, recognizing that we still have a 3-to-1 match in
3 place and they still have a total allocation that they have
4 been given. I think they are in the best position to figure
5 out what's best for them, but I do think that we should get
6 some more information and not make a final decision on this
7 today, and get some more input from the counties if need be,
8 but make a decision sooner or later on this \$3,000 spending
9 cap.

10 BOARD MEMBER FINNEY: Actually, our Chair's
11 concern about at the time the necessity of the spending cap,
12 I mean it's a whole new world and to attempt to address all
13 the macroeconomics of the whole industry. I think it served
14 a real purpose at that time. I'm not prepared to choose
15 Option 1 yet, I'm not prepared yet to set a hard number for
16 Option 2. I do think we need to continue to solicit input.
17 I think it would be very helpful for staff to review the
18 information on Nevada. And I haven't ruled out the
19 possibility of keeping the cap in place.

20 I mean the market seems to still be responding to
21 these massive changes and I would hate to see us get into a
22 situation where the regulatory world seems to be a little
23 more settled and then to have a very strong aggressive
24 marketing effort, well, not even marketing effort, but price
25 increase efforts on the part of the vendors. So I think

1 there was multiple reasons why we did that. And so for now
2 I think we need more information, it would be helpful.

3 CHAIRMAN PEREZ: Well, I definitely want to see
4 what we hear from Nevada and any other places that make
5 sense.

6 But, Mr. Kaufman, your comments were actually
7 important for me to hear. As I think back through the
8 process that we went through, there were two areas that I
9 found valuable with respect to the \$3,000 cap. The one that
10 I probably didn't appreciate as much then as I do now was
11 its use in helping us figure out the equity of our overall
12 allocation to counties. And I think that regardless of what
13 we do with respect to caps on individual DREs, that we still
14 have the safety net of that equity that worked into the
15 formula. So if we could hear back from you and what you
16 find. And if any counties would like to give us some
17 written comments on it, we would be happy to review them as
18 well.

19 BOARD MEMBER FINNEY: I think it would be really
20 helpful for us if the affected counties could give us some
21 more information, not to encourage you to engage in
22 financial prediction, but the staff report capped out at
23 about \$875 per unit increase for retrofitting, and already
24 just doing the math and hearing from John from Napa, it
25 looks more like a thousand per unit. So we need to know. I

1 think it would be very helpful for us to have a feeling for
2 what's actually happening on the ground.

3 BOARD MEMBER KAUFMAN: I'm sorry, is the amount
4 stated by staff the matched portion? Was that the entire
5 amount or was that the three-quarters amount?

6 CHAIRMAN PEREZ: The range of \$250 to \$875, was
7 that for a hundred percent of the cost or did that refer to
8 75 percent of the cost?

9 MS. LEAN: The cost of a DRE unit?

10 CHAIRMAN PEREZ: Uh-huh.

11 MS. LEAN: Currently it's about \$3,800.

12 CHAIRMAN PEREZ: No, no, no. Here you make
13 reference to the fact that the retrofit cost estimates range
14 from \$250 to \$875 per unit. So what we're trying to ask is
15 whether that's the hundred percent cost?

16 MS. LEAN: The hundred percent cost.

17 CHAIRMAN PEREZ: Okay.

18 MR. WAGAMAN: It's part of the 301 task force that
19 was previously referenced. Since they're doing the same
20 process you're doing, a survey was conducted of the vendors
21 asking them what their costs were, that's based on their
22 estimates.

23 CHAIRMAN PEREZ: You know what would be helpful to
24 us is to look at the specific responses from vendors to see
25 where the variation is from vendor to vendor, especially as

1 we understand that counties have difference complements of
2 vendors and some can do it a lot cheaper. That doesn't do
3 any good to a county that's using System Number 1, if the
4 price is on System Number 3, and for us to come up with a
5 number that just looks at an average instead of
6 understanding the impact on a specific county is less than
7 helpful.

8 MS. LEAN: All right. Built into that 250, I know
9 the response to that survey had to do with effects of
10 retrofitting of current DREs, and some of the counties did
11 have contract language that said that there would be a
12 specific amount they would have to pay for a DRE. That's
13 why that range is so big. So we still have to survey the
14 vendors to find out how much an AVVPAT DRE would cost. So
15 for any new people coming forward, we know that it's not
16 going to cost the \$3,800 approximately, we know it's going
17 to cost more, and we don't know how much. So that's kind of
18 where the range came from is if they had it built into their
19 contract. Hart actually estimated it would cost about a
20 thousand dollars a unit, but we were kind of doing a range
21 for you.

22 CHAIRMAN PEREZ: Okay. But I know I would and I
23 think you both would like to really look vendor by vendor
24 and look at what counties are impacted and what kind of a
25 cost are we talking about there.

1 MS. LEAN: Okay. We'll do a vendor survey. We
2 will survey the counties and we will solicit them if they
3 would like to provide any information for our Board.

4 CHAIRMAN PEREZ: Very good. All right, so we'll
5 put that over to our next meeting then.

6 Is that on this item?

7 MS. HENCH: Yes.

8 CHAIRMAN PEREZ: Come forward, please.

9 Deborah Hench of San Joaquin County.

10 MS. HENCH: I just have a little information on
11 the price of the AVVPAT. Nobody really knows what it's
12 going to cost on retrofit, because some of the retrofits may
13 sound like it's just going to be the printer. But we've
14 kind of got a possibility that they would have to replace
15 motherboards, so it would be not only a printer, but
16 possibly a motherboard or some other auxiliary piece of
17 equipment that makes the sound as well as print the
18 printout. So we've got figures of a printer from our
19 vendors. Until you get finished certifying, we don't know
20 that that's the way it's going to be.

21 CHAIRMAN PEREZ: Thanks for your comment.

22 Okay. Anything else on Item 5C?

23 All right. Then let's put 5C over for further
24 discussion at our next meeting.

25 And so now we'll move on to Item 6, Project

1 Documentation Submittal Deadline.

2 And if you would take us through that first item.

3 MS. LEAN: I know this issue has been brought up
4 multiple times, but it's back again. I just want to bring
5 up that Proposition 41 did not indicate a schedule for
6 allocation of funds to counties to modernize their voting
7 equipment, but from its inception, the VMB adopted an
8 aggressive schedule to allocate and distribute the funds.

9 As you know, HAVA requires voting system equipment
10 to meet specific standards by January 1, 2006. These
11 standards include that at least one accessible voting
12 machine in each polling place be accessible or to fully
13 comply to an accessible DRE unit. State law now requires
14 that voting modernization funds received from the VMB shall
15 be used in the purpose of placing at least one accessible
16 voting unit in each polling place.

17 And also the new state law effective January 1,
18 2005, requires that all DRE voting systems must receive
19 federal qualification and include an accessible voter
20 verified paper audit trail by January 1, 2006.

21 Also, to the extent that the voting modernization
22 fund monies are available for expenditure, these funds shall
23 be used to comply with the new AVVPAT. Given this
24 requirement that all fund monies only be used to purchase
25 systems certified by the Secretary of State, as you are

1 aware, until there are DRE units certified with the AVVPAT,
2 the VMB would only be able to consider approving allocation
3 for counties that are upgrading to optical scan voting
4 systems.

5 This has changed a little bit with the Sequoia
6 system being certified yesterday.

7 At the July 22, 2004, meeting of the VMB, the
8 Board voted to move the deadline for counties to submit
9 their project documentation plans from January 1, 2005, to
10 July 1, 2005. It was the underlying belief that by
11 establishing this deadline the VMB could compel counties to
12 meet the HAVA January 1, 2006, compliance deadline and
13 accelerate the voting system modernization process in
14 California. However, given that there has been no movement
15 in the past six months in the availability of certified
16 voting systems for counties to purchase, the objective of
17 accelerating the voting system modernization process in
18 California may need to be reconsidered.

19 There has been a shift in the attitude and the
20 environment surrounding the modernization of voting
21 equipment since the passage of Proposition 41. The security
22 of the electronic voting equipment has been scrutinized in
23 the media and the transition of jurisdictions to upgrade
24 their voting system technology has been called into
25 question. This shift, coupled with the uncertainty of

1 maintainable certification of voting systems in California
2 have led some counties to slow or even cease efforts toward
3 modernizing their voting equipment.

4 Counties who have led the state in modernizing
5 their voting equipment have been faced with decertification
6 of their voting systems and additional requirements being
7 placed on their new voting system technology. The
8 advancement into any new technology is fraught with
9 uncertainties, however, a new state and federal mandate
10 dictates the advancement to more readily accessible voting
11 equipment.

12 All voting systems who currently sell their voting
13 equipment in California are in the process of developing
14 accessible voting equipment to be compliant with HAVA. To
15 date, however, no system has been certified that meets the
16 HAVA requirements, the new requirements in state law, the
17 Secretary of State guidelines on AVVPAT, or has obtained
18 federal qualification in state certification other than this
19 new Sequoia one that was approved yesterday.

20 As Proposition 41 does not specify a deadline to
21 allocate the fund monies, the VMB could reconsider the July
22 1, 2005, deadline for counties to submit their Project
23 Documentation Plans.

24 In your packet also, two counties submitted
25 letters requesting that the Board extend the deadline. They

1 are from San Luis Obispo and Santa Cruz County. They are
2 there for your review.

3 Before we go to the options, unless you want me to
4 do that first, I thought we could open up for discussion and
5 then we could go through the options.

6 CHAIRMAN PEREZ: Michael, I want to come back to
7 you real quick. I may not have been listening closely
8 enough. Jana made reference to Sequoia in yesterday's
9 action.

10 MR. WAGAMAN: Uh-huh.

11 CHAIRMAN PEREZ: It is still conditional, correct?

12 MR. WAGAMAN: It is -- there are several parts to
13 answer that question. There is a conditional certification
14 on the non-AVVPAT version of the equipment that carries over
15 through the end of 2006 for the six existing clients.
16 That's still in place. The additional certification which
17 was recommended yesterday does have conditions on it, but
18 those conditions are limited to either limitations in the
19 functionality of the system like the issue with it not
20 supporting a primary or just standard boilerplate language
21 that we attach to all the certifications. It does not have
22 the same conditions that came up in November that limited
23 only to certain geography or limited to only the end of
24 2006. This is a certification that could be used that
25 doesn't have those same time and geography limitations

1 placed on it. But it is still technically a conditional
2 certification.

3 CHAIRMAN PEREZ: What am I missing here though? I
4 mean I'm not trying to be flip, I'm really --

5 MR. WAGAMAN: Uh-huh, I understand.

6 CHAIRMAN PEREZ: If it doesn't have the
7 functionality for primaries, that's a significant
8 limitation?

9 MR. WAGAMAN: Yes, it is a significant limitation.

10 (Laughter.)

11 MR. WAGAMAN: I will more than happily admit that.
12 I guess the distinction I would make is it's a limitation
13 that is not Secretary of State driven, it's not a limitation
14 that --

15 CHAIRMAN PEREZ: I'm not asking about the
16 political deal, I'm asking you about the ability to have a
17 system that works so that a county can know that they can go
18 to so that they can move forward and operate.

19 MR. WAGAMAN: The practical difference in the
20 context of this conversation is this is something that would
21 meet the January 1, 2006, deadline. It would not meet a
22 June of 2006 deadline for that election. That is the
23 practical difference for this. I understand it's a semantic
24 difference in the case of the counties, but it is a system
25 that could be purchased assuming that certification.

1 CHAIRMAN PEREZ: But the purchase -- go ahead.

2 BOARD MEMBER KAUFMAN: I was going to say, so it
3 could be used in the November election, but not in the June
4 election?

5 MR. WAGAMAN: Correct.

6 BOARD MEMBER KAUFMAN: I'm not sure where that
7 leaves us.

8 CHAIRMAN PEREZ: So then where is the county in a
9 primary?

10 Mr. Tuteur, please come forward?

11 It's my personality, but really it's not my
12 intent.

13 MR. TUTEUR: Mr. Chairman, John Tuteur, Napa
14 County Registrar of Voters.

15 And I'm always the undying optimist. From my
16 conversations with the vendor, who is our vendor, Sequoia,
17 we do not expect the functionality issue of the primary
18 reporting to be an issue. We believe that will be solved in
19 plenty of time for us to roll these machines out there.

20 The real deadline for us is not June of 2006, it's
21 closer to March 1st of 2006. We have to have the machines
22 up and ready to go for the primary, and I have no concern
23 that the vendor will meet the functionality issue. It's not
24 a hardware issue, it's not a software in the machines issue,
25 it's an adjunct reporting issue that just breaks out the

1 data from the machines which capture whether it's a decline-
2 to-state Republican or decline-to-state Democrat by the kind
3 of ballot issued and pull that data down to report to the
4 Secretary of State. So I don't see that as a large hurdle
5 and I certainly will not postpone going to AVVPAT based on
6 that. We'll move ahead as soon as we can figure out how
7 much it's going to cost and where we'll get the money.

8 If that helps at all?

9 CHAIRMAN PEREZ: Any pessimists want to be heard?

10 (Laughter.)

11 MS. PELLERIN: Well, I hate being called a
12 pessimist.

13 CHAIRMAN PEREZ: Benjamin Franklin said the beauty
14 of being a pessimist is that you're prepared for the worst
15 and quite happy when everything better happens.

16 MS. PELLERIN: Oh, that's good.

17 My name is Gail Pellerin. I'm the County Clerk in
18 Santa Cruz County.

19 And I said before I think it's very appropriate
20 that this June election, the date is 6/6/06. And we have
21 dubbed it the beast. We are a Mark-A-Vote paper county.
22 This whole process reminds me of playing cards with my six-
23 year-old daughter, the rules change so she always wins and I
24 always lose.

25 And I want to meet these HAVA requirements. I

1 want to satisfy our voters in Santa Cruz County. I want to
2 be able to use that \$1.6 million that's sitting on your
3 table, and I don't want to be up against a deadline that I
4 have to do all this in five more months when there is
5 nothing on the shelf for me to purchase. And so I'm really
6 hoping that you will not only extend this deadline, but
7 you'll also provide some flexibility for counties to come
8 back with a phase 2.

9 If I come up with some solution or a vendor comes
10 up with a solution that we can purchase for let's say
11 \$700,000, I don't want to lose that \$900,000 that I have on
12 the table today, because I think these systems need to be
13 tested, they need to be used in real elections. I'd love to
14 see something work in the June 6th election that we can all
15 be proud of and be confident in that the votes are counted
16 accurately and the voters have confidence in.

17 So, you know, we're in a quandary here wanting to
18 keep up with the times, but the clock's ticking and I really
19 do not want to lose those funds that's available to us just
20 because the Secretary of State's office has not certified
21 the equipment we need to look at.

22 Thank you.

23 CHAIRMAN PEREZ: Thank you.

24 I'm going to start going back to our cards, and I
25 did have a card for you. So thank you. I've got your card

1 up here.

2 The next card I have is for Tim Johnson.

3 MR. JOHNSON: Good morning, Chairman and Members
4 of the Board. I'm Tim Johnson from Tuolumne County. I'm
5 the County Clerk.

6 And I just wanted to be in support of what Gail
7 was just talking about of moving the deadline of July 1st of
8 2005. Our Request For Proposal requires a vendor to submit
9 a bid to us with a certified system both federally and
10 state. And at the moment, I'm afraid it doesn't appear that
11 we have any qualified vendor to do that. We're meeting
12 Monday with our committee to look at changing the language
13 and other things, but with the process that our Board of
14 Supervisors has voted to go through the process of reviewing
15 proposals, having demonstrations and going through and
16 grading those things and all the requirements and that, I'm
17 afraid July 1st would put us up against the wall. We have
18 kind of been sitting on the sidelines because we wanted to
19 make sure all the bugs got worked out and everything so we
20 could have a system that we can be proud of and that the
21 voters of Tuolumne County can feel when they come to vote on
22 election day that it will cast their vote correctly.

23 Thank you.

24 CHAIRMAN PEREZ: Conny McCormack from Los Angeles.

25 MS. MCCORMACK: Thank you, Chairman Perez and

1 Members of the Committee. I really appreciate the
2 opportunity for us to all have this discussion together,
3 because it's the most important thing that's on all of our
4 minds.

5 And I've got a little packet for each of you, more
6 reading.

7 CHAIRMAN PEREZ: I had professors who have given
8 me less reading than you.

9 MS. MCCORMACK: It's only two pages, believe it or
10 not. What I've given you is this month's edition of the
11 CSAC magazine just came out this past week and there's a
12 two-page article on pages 18 and 19 that is all about what
13 we're talking about today, which is the counties' dilemma on
14 purchasing legally compliant voting equipment and how to do
15 it within the timelines that we're faced with. So I would
16 like to piggyback on both what Tim just said and what Gail
17 said and start with a little bit of context.

18 First of all, I want to praise all of you for your
19 vision, because this committee way back when created a
20 formula that is holding up, that makes sense, that gives
21 counties some certainty on when they are going forward,
22 whether they have already made initial jumps such as San
23 Diego and Orange or whether or not they're about to jump or
24 whether now you're going to see more counties coming to you
25 in a phased-in process as Gail just mentioned. Which I

1 think it is really important to recognize that this money,
2 whether it be Prop 41, and we're paralleling this with our
3 301 Committee, that we need to have a longer timeline than
4 we thought.

5 And, John, you know you gave a speech to our
6 association last month and it was excellent because it
7 really did show that when all of you were appointed in '02,
8 you thought your jobs were going to be short term, that this
9 money would be given out, that the counties would have
10 bought the equipment sooner, which all was going to happen
11 until this AVVPAT situation arose creating a whole different
12 dynamic for all the counties and creating a situation that I
13 think, John, you alluded to a minute ago where if you are on
14 the front end like Tim is and like I am about ready to issue
15 an RFP, and we've just done the same thing Tim's doing,
16 we're going to release those in March, we're taking out the
17 language about the qualification requirement.

18 We always had federal and state qualification as a
19 requirement before a vendor could even come and talk to us,
20 because obviously you would want to have that. But now with
21 all this uncertainty, how do we know that's even going to
22 happen? Counties are going to have to meet the federal law,
23 whether they've got certified equipment or not, because
24 somebody could sue us if we don't. But I mean we're all
25 going to have to meet the law and buy something that lets us

1 meet that law so we don't get sued by whoever, DOJ or
2 disability groups.

3 So we've got other conflicts that are coming into
4 our lives now and that we have to deal with. So we've got
5 the phase-in thing going. So I think what's going to have
6 to happen, and I think your group has recognized this from
7 the beginning, get a formula so we have some certainty.
8 Also, there's nothing in the law as Jana pointed out that
9 limits the length of time that this money has to be spent.

10 So I have a question to the panel and to the
11 staff, is right now there is a lot of interest money,
12 because the money wasn't given out as fast as it had been
13 intended to be given out and expected to be given out for
14 all the reasons that you all know about, and will indeed now
15 be delayed possibly five, seven more years because as these
16 phases go in. Where is the interest money going now and
17 what is that being used for, and is it being used toward the
18 HAVA match, which is also a requirement in HAVA?

19 I don't know, I don't think it's been told to the
20 counties, and I don't know whether you even know what's
21 going on. Because with \$200 million, what \$59 million has
22 been given out so far. But the money has been there for
23 quite some time and now it's going to be there longer. So
24 with the HAVA money we're talking two pots of money with
25 significant interest possibly, you know, a couple hundred

1 million in each pot. So that needs to I think be discussed
2 where is that going and what can it be used for to optimize
3 it and will counties get some of that or will that be a
4 match. We just need to know, I think, or at least have an
5 idea.

6 So we're looking at needing flexibility. Counties
7 are going to have to go out with RFPs, they're going to have
8 to meet this HAVA compliance by early '06. We're going to
9 have to figure out how to do that in the realm of the latest
10 chart you were just given whether or not the vendors think
11 it's going to get qualified by a certain time. That's a
12 guess.

13 We just heard from Debbie Hench, that's a new one
14 to me, but it's probably totally true that some of the
15 vendors are going to come in and need motherboards. There's
16 going to be other things. Orange County has been told they
17 need more than the other counties. They need that, so I
18 think the 301 pot needs to raise up so they can get enough.
19 Because I think the goal ought to be for both pots of money
20 is that the counties have enough for their initial purchase,
21 both their equipment, their AVVPAT, and down the line to
22 finish their phases as Gail mentioned.

23 Then the counties are going to have to absorb all
24 the ongoing costs, all the -- Nevada has found that it cost
25 them 200,000 just to build a vault to store their AVVPATs

1 in. They had to have an extra AVVPAT for each machine in
2 early voting so they had extra thousands of AVVPATs, not
3 just one per machine, they had to buy extras because with
4 the early voting they had to switch them out every day.
5 This is how much paper you can do in a day. They had to buy
6 the paper and the commodities and disposables, and store all
7 the equipment.

8 So the counties are going to have a lot bigger pot
9 than they ever had before anyway and we recognize that the
10 counties are going to need that, that's not going to come
11 out of the one-time money. The one-time money really needs
12 to make all the counties whole, from Orange County to San
13 Diego to everybody. And recognize that even though San
14 Diego isn't going to have an additional cost because it was
15 supposedly rolled into their contract when they bought, but
16 the vendor rolled that into the contract. They know that
17 they paid for it, so they need to get paid back for that as
18 well.

19 And then the counties that are going to take
20 longer, such as myself and Gail who are going to multiple,
21 we need to know that those monies are going to be there in
22 the five to seven years. But in that time, I think the
23 Secretary of State could be earning the interest and doing
24 it toward other education programs or whatever. We can work
25 that out with DOF.

1 But I think we've got a bigger bite here. I have
2 been sort of using the analogy like when you go and eat a
3 meal you don't just take your fork and put it all in your
4 mouth at once. And we were kind of doing that, we were
5 trying to buy systems, and now we have to cut it up into
6 bites and chew it and get some testing and see. Because I
7 think some counties that are planning on just buying an
8 accessible unit to get minimally HAVA compliant by '06 are
9 going to want to go back a couple years later and possibly
10 flesh that out more, and why should they be penalized and be
11 stuck with something that's sort of a partial dual two-type
12 system versus those that bought the whole system and now are
13 retrofitting.

14 So I just think that there's enough money between
15 HAVA, Title 2 and VMB for counties to be whole with their
16 purchase process. At some point in time if there's an
17 expiration of this money, not by law but by policy, so that
18 the round two could come in. Some counties may say after
19 they become compliant in June of '06 three or four years
20 down the line we're happy with this, we don't think we're
21 going to need the rest of our money, we're not going to plan
22 to phase and buy something that makes us more like an Orange
23 or a San Diego and have it all be the same. We're going to
24 be happy with our two systems.

25 I don't think counties are going to necessarily be

1 happy with two systems. It's real hard to train poll
2 workers to understand two systems, and I think that
3 eventually they're going to want to get to all one system in
4 the polling place. But I don't want to project that, maybe
5 they will be happy. So at some point, this money could get
6 rolled back in and go to other uses and phase 2, as you're
7 already planning at some point. But I think not just as to
8 the extent of this item to ask for an extension of the July
9 to whatever date, but we need to be thinking it's going to
10 be more years down the line and try not to restrict those,
11 what, are we at 11 or 12 counties that want to do phase in
12 now, and I think others are going to find that they want to
13 do it after they file the next step.

14 So those are just some of the thoughts I
15 personally had. Certainly, if you have any questions.

16 CHAIRMAN PEREZ: Any questions for Conny?

17 I don't have so much a question as it's an attempt
18 at dialogue here. I'd like you to respond to this, if you
19 could. I see a distinction between counties that want to
20 take the phased approach in making sure that we afford them
21 the opportunity to execute a phased approach and counties
22 who, and I'm not suggesting that there are any in this
23 situation, but counties who are less interested in moving
24 forward. A good example, as we were rolling out our initial
25 allocation formula, there were some counties who were non-

1 responsive and we had to go back to them two, three, four,
2 or five times before we could get information back from them
3 that would help us both come up with our formula and ensure
4 that we had money set aside for them.

5 So I guess the challenge as I look at it is
6 extending the timeline long enough to allow for responsible
7 counties to go forward in a way that they think is most
8 consistent with state and federal obligations, as well as
9 their needs to be responsive to the voters in their
10 counties, and those who may just put off the inevitable
11 requirement to be compliant at the front end, but aren't
12 necessarily interested in integrating a system later on. So
13 if there are counties that fall into that latter category,
14 how do we account for the needs for the first group of folks
15 and allow ourselves to capture any of that unused money
16 where there's not an express interest so we can make it
17 available to counties that still have needs?

18 MS. MCCORMACK: I think it's going to be real hard
19 to predict what a county will be happy with. The whole
20 country is changing by '06 and there's going to be I'm sure
21 headlines of certain meltdowns and certain successes. And I
22 think counties are looking to have an opportunity to do that
23 assessment. And I think that by having some flexibility,
24 because I don't think it's fair to say, well, how do we know
25 -- every county has to get compliant June, frankly, of '06

1 and, as John Tuteur pointed out, earlier to be ready and
2 tested and all. But we have to do that election, the whole
3 country has to do it.

4 And as people have experiences and share those
5 experiences, they're going to say, gee, but they did that
6 and that makes a lot more sense now and I could do that for
7 some more money. But I don't think we should foreclose that
8 creativity. One of the things our association, and I'm
9 president of our County Registrars Association, County
10 Clerks Association, have done is we've hired a consultant, a
11 consulting company, to help us all with HAVA compliance.
12 And all 58 counties are going to get this training in the
13 next six months before July of '05.

14 Frankly, the board of directors felt this was
15 really important, because some counties, frankly, don't even
16 necessarily know what all they have to do to get compliant.
17 There's going to be regional training in all five of our
18 regions and every county is going to be involved, and I
19 think some of the ones that you're most concerned about who
20 maybe were behind or slow or didn't know need -- we need to
21 bring everybody up to understanding what some of these
22 requirements are, they're pretty complex. And we're going
23 to try to do it together and help each other so every county
24 isn't feeling like, well, gee, I have to write my own part,
25 I need help.

1 So we've actually hired and they've started, their
2 contract started actually yesterday and goes for the next
3 five or six months to help all the counties. So I think
4 you're going to find that that's going to be a benefit too.
5 So give us a little time to see and to analyze what we think
6 and then I think by '08 people are going to have a better
7 sense. And there could be other equipment that comes out or
8 something that will look more compatible to what they've
9 got. I just think we don't want to foreclose that kind of
10 creativity and we don't want to stifle innovation.

11 BOARD MEMBER KAUFMAN: Can I just pick up on that
12 issue and follow up to what the Chair raised with you. And
13 I'm trying to understand where you're going with this
14 leaving the door open for creativity, which I'm not
15 disagreeing with. But the deadline that's currently on the
16 table is a deadline for the counties essentially to use up
17 or to submit a proposal to use up the funds that were
18 originally allocated. And if they don't use up that money
19 or there's nothing submitted by the deadline, then the money
20 essentially goes back in the pot to be reallocated in phase
21 2. I mean are you suggesting basically, you know, we're
22 looking at this in six months, are you essentially
23 recommending a system that kind of blows that out of the
24 water and moves that deadline after the election so that
25 people can come back and use up their allocations or --

1 MS. MCCORMACK: I think that's what you heard from
2 Gail is she knows she has to get compliant by '06, as we do
3 in LA, and we're doing another interim step that may not be
4 the best solution long term, but it will get us compliant,
5 and we don't have a DRE that we can go out and buy and we
6 don't have enough time to do that. So I think what you're
7 hearing from counties is concern that if they buy something
8 just to get minimally compliant, we've had this discussion
9 with Tony Miller in the 301 Committee, minimal compliance is
10 one thing, but is it fair to that county then to feel like,
11 well, we didn't bite off the whole apple and do we have to
12 lose the rest of it.

13 So I think there's almost two deadlines here for
14 you to deal with. One, you have to get the packages and the
15 people have to become HAVA compliant. So I think you're
16 looking at a six month or whatever to make that happen,
17 because it's the law, I mean in terms of getting compliant
18 with HAVA. But the second component is should that mean
19 that Gail's other \$900,000 goes back in the pot or mine goes
20 back in the pot.

21 I remember when we had this discussion a couple
22 years ago, I think it's now a year and a half ago, I asked
23 specifically if LA County, once we start our processing, we
24 in effect have reserved the remainder of our money. Well,
25 that's good for me, but these other people need to reserve

1 some of their money.

2 At some point clearly people have to decide, you
3 know, this can't go on for ten years is what I'm saying. I
4 mean you probably already feel like you've been doing this
5 for ten years as volunteers and read 80 pages. People you
6 pay often don't read 80 pages. So I think what you're
7 saying, Steve, is true, that we're trying to grapple with
8 multiple deadlines and multiple concerns and our goal, we
9 all have the same goal, is to be successful. That's what
10 you want us to be, that's what they want us to be, and
11 that's what we want to be. So the goal's the same. How do
12 we get there without headlines, let's read about it in other
13 states, let's don't read about it in California.

14 BOARD MEMBER FINNEY: Are you familiar with the
15 three options that the staff has presented to us?

16 MS. MCCORMACK: I just looked at them just now, so
17 I can't say that I --

18 BOARD MEMBER FINNEY: What would you say is the
19 best option?

20 MS. MCCORMACK: Can I look at them real quick?

21 CHAIRMAN PEREZ: You know, Conny, if you'd like,
22 look at them. We've got several other cards. You can come
23 back up.

24 MS. MCCORMACK: And I'm sure they would like to
25 make comments too, other people.

1 CHAIRMAN PEREZ: If you would give us one second.

2 Just so you know what our issue is, one of our
3 members has to leave shortly to be in court. We have three
4 members present which is our basic quorum requirement. We
5 don't want to cut off discussion on any of the items, we
6 just want to make sure what items we need to take action on
7 so we can prioritize that while we still have a quorum and
8 then continue to hear input.

9 BOARD MEMBER FINNEY: Mr. Chair, can I make a
10 suggestion?

11 CHAIRMAN PEREZ: Yes.

12 BOARD MEMBER FINNEY: Since I am the problem. I
13 would like to recommend that we take an interim step on this
14 item and then continue to hear testimony on the item,
15 because there's a broader issue that's been raised,
16 especially with the Los Angeles County Registrar and Clerk
17 just now that this is a broader issue, it's almost like the
18 same issue with the limits on the DRE machines we were
19 talking about. We're dealing with a moving target. These
20 good people who have very busy jobs keep having to come back
21 to us and whether it's political or legal or whatever the
22 case may be, you know, they are under the gun. And I think
23 that we could at least maybe adopt an interim option for
24 now, continue to discuss this issue, and figure out how are
25 we going to deal with this longer term.

1 CHAIRMAN PEREZ: When you're saying interim
2 option, what do you mean?

3 BOARD MEMBER FINNEY: I'm thinking maybe adopting
4 Option 2. I was thinking of Option 3, but having heard
5 Conny's testimony, I'm not sure if we should start extending
6 the deadline out further and further without hearing more
7 testimony, without getting more information. Option 2 I
8 think just about everybody is in agreement on.

9 CHAIRMAN PEREZ: Let me just run through so
10 everybody knows what we're talking about.

11 There were three options, although we're not
12 limited to these three options, in the staff report. Option
13 Number 1 would be to maintain July 1st, 2005. Option Number
14 2 would be to move the project plan deadline to January 1st,
15 2006.

16 BOARD MEMBER FINNEY: Require interim status
17 reports, and then also it would not put at threat the
18 existing applications.

19 CHAIRMAN PEREZ: Correct. And then Option 3 would
20 move the deadline to March 1st, 2006 or longer, and that
21 would be up for us to decide the longer, but would require
22 each county to submit interim status reports on their voting
23 modernization status until they fulfill the project
24 documentation package requirement.

25 This is not the way I like to run a meeting, but

1 let me do this anyway. I would just like to see if there is
2 anybody present that has a problem with Option 2 or 3?

3 Is there any present who has -- let me separate
4 that. Is there anybody present who has got a problem with
5 Option 2, which is January 1st, 2006?

6 Okay. Have you submitted a card, sir.

7 MR. SMITH: Yes.

8 CHAIRMAN PEREZ: Your name?

9 MR. SMITH: Michael Smith.

10 CHAIRMAN PEREZ: Michael Smith. Actually you're
11 my next card in front of me. Why don't you come forward so
12 we can hear from you.

13 BOARD MEMBER FINNEY: And I apologize for the
14 pressure in this situation. Once again I'm hoping we can do
15 something here before I have to go, with everyone knowing
16 that this isn't the hard fast deadline, that we're going to
17 revisit this issue in the meeting next month, which is
18 actually only like three weeks away. So I don't want to
19 leave people hanging. I just think that since we're here in
20 the form of a quorum that we might want to take action.

21 CHAIRMAN PEREZ: And actually before I ask you to
22 speak, Mr. Smith, let me ask one other question.

23 Jana, is there anything to preclude us putting
24 over a final decision on this item to our next meeting?

25 MS. LEAN: No.

1 BOARD MEMBER FINNEY: And the counties know that
2 that we will be very aggressive about making a decision on
3 this at the next meeting so you're not left hanging.

4 CHAIRMAN PEREZ: I don't like rushing through a
5 decision. So I want to hear from you, Mr. Smith, and then
6 go through the rest of the cards. And what I anticipate is
7 that we're going to lose our quorum and have to put off the
8 final decisionmaking until our next meeting, but there's a
9 clear sense of all three of us present which constitutes a
10 majority of the Board that we want to move past the June
11 deadline and it's just a question of where we fall along
12 that line. And, unfortunately, Mr. Finney's requirement is
13 a real one, so we have to accommodate that.

14 BOARD MEMBER FINNEY: My paid job.

15 CHAIRMAN PEREZ: Mr. Smith.

16 MR. SMITH: Michael Smith.

17 First of all, I fully support Gail Pellerin's
18 statement that there should be a more open-ended system here
19 rather than locking it in and jeopardizing funding for Santa
20 Cruz County and other counties. If the decision is that we
21 put off the vote for Option 1, 2 and 3 until next time, I
22 feel comfortable with that. But I fully support Option 3,
23 of the three options, because it gives those counties the
24 most time in which to make their decisions. As we know,
25 with products coming down the line, we're going to see

1 products coming in that are much more suitable and much more
2 secure, as with any product, and I don't want those counties
3 that have been judicious in their request for spending to be
4 penalized. So I'm comfortable if that's put off, but I
5 would certainly ask for Option 3.

6 BOARD MEMBER FINNEY: So you're asking not for
7 less time, but for more time? That's what we were trying to
8 find out.

9 MR. SMITH: For more time, yes, definitely.

10 CHAIRMAN PEREZ: Thank you very much.

11 BOARD MEMBER FINNEY: And, Mr. Chairman, there was
12 another hand that came up.

13 CHAIRMAN PEREZ: Yes. Are you Maureen Smith?

14 MS. SMITH: Yes.

15 CHAIRMAN PEREZ: Did you have something you'd like
16 to add? If not, I've also got you listed for Item 7A.

17 MS. SMITH: Yeah, but I can say it now.

18 CHAIRMAN PEREZ: The 7A item, if you would hold
19 off until we get to 7A.

20 MS. SMITH: Okay.

21 CHAIRMAN PEREZ: So just on the item before us.

22 MS. SMITH: Right. Well, it's almost the same
23 thing.

24 I had the opportunity at the Joint Legislative
25 Audit Committee hearing to hear Doug Chapin who is the

1 coordinator for Electionline.org, and they're a
2 clearinghouse for all the states, and he spoke about Georgia
3 and New York. Georgia being the state that jumped in, took
4 the whole state to DRE systems and has lots and lots of
5 problems, and New York who has done absolutely nothing. And
6 it would seem that California is in the middle. It would
7 seem that New York is being much more judicious because EAC
8 just formed. I mean look how long it took to get EAC
9 together. There hasn't been national leadership. And
10 there's questions about so-called independent labs that test
11 and so forth, I mean there's just huge problems. The longer
12 people have to see what is really happening and to have more
13 choices, the better, and I would say let's be a little more
14 like New York, although we can't be like New York now
15 because we've already jumped the gun somewhat. But let's
16 give them as much time as possible.

17 Thank you.

18 CHAIRMAN PEREZ: Thank you.

19 The other hand that had a problem and then I'll
20 come to you, sir.

21 BOARD MEMBER FINNEY: If you could come down to
22 the mike and state your appearance.

23 CHAIRMAN PEREZ: Steve Rodermund from Orange
24 County.

25 And again I do apologize for doing a slightly

1 different process than usual.

2 MR. RODERMUND: Good morning, Steve Rodermund,
3 Registrar of Voters in Orange County.

4 I would like to present a different point of view,
5 if I may, to the timelines that you're discussing. As has
6 been pointed out by staff, when Prop 41 was passed by the
7 voters and this distinguished forum was formed, the intent
8 was to aggressively go out and modernize the voting systems
9 in California. Now, some people might have assumed that the
10 intent was everyone goes to DRE. Obviously, there are many
11 counties that felt that what modernization was was to either
12 use the systems that they currently have because they feel
13 they're fully adequate and all they need to do is bring in
14 one accessible system to meet the HAVA requirement or change
15 from an older optical scan or punchcard to a new optical
16 scan and again go with the one accessible system and that
17 that would meet the needs of their counties.

18 I believe also that the intent of the Voting
19 Modernization Board and the funding was to meet actual
20 costs, not to have just a pool of money given to counties
21 based upon a formula, but that that would be the limit. And
22 in the case of Prop 41, if you're looking at DREs across the
23 state, it was a given that Prop 41 was at least a hundred
24 million dollars short of what it needed to be if you were
25 making that assumption.

1 Where I'm coming from as one of the counties that
2 did take that leap is that we're now in a quandary.
3 Contrary to popular opinion, Orange County and other -- and
4 specifically Orange County did not go with a DRE system to
5 meet HAVA requirements. That was one of the minor
6 conditions, and by that I mean the accessibility issues, but
7 the major issues were to meet language requirements and to
8 meet the state semi-open primary requirements so that I
9 would not have to like in the March primary, I would have
10 had to put 55 pads of paper out there for somebody to vote
11 in all languages and all parties. I mean it's a logistic
12 thing, it's a nightmare, and that would cause many more
13 problems than any of the issues we have here about voter
14 disenfranchisement.

15 What we're asking, or what I'm asking, for Orange
16 County is that we do make the tough decisions, that we come
17 up with a reasonable timeline and cut it, so that the
18 assumption that my county and other counties make that the
19 funding that was not needed by counties that were perfectly
20 content with their systems would roll back in to help us
21 defray the costs of actually providing these systems.
22 Orange County is number 58 out of 58 for tax reimbursement
23 to the county. We just can't easily go and say, hey, we
24 want X number of millions of dollars from the general fund.
25 And if you gentlemen could help us get a couple more percent

1 out of the legislature, I think I could drop this point.

2 So what I'm asking, and I understand that you have
3 constraints, is that this Board does go forward and make the
4 tough decision and give us a time certain. It's surprising
5 how innovative people become when they're faced with a
6 deadline. It's surprising how non-innovative people become
7 when they think that they can just go on ad infinitum.

8 So with that, I would conclude. Thank you.

9 BOARD MEMBER FINNEY: Thank you very much.

10 Mr. Chairman, I actually do have to physically
11 leave now.

12 CHAIRMAN PEREZ: Okay.

13 BOARD MEMBER FINNEY: And so I was just going to
14 say if we could keep taking testimony. I think it's
15 clear --

16 CHAIRMAN PEREZ: And you'll read the transcript,
17 right?

18 BOARD MEMBER FINNEY: Yes. Oh, absolutely. Well,
19 I read the 88-page one.

20 CHAIRMAN PEREZ: I just wanted to assure folks.

21 BOARD MEMBER FINNEY: Absolutely. Yes. I want to
22 once again apologize to everyone.

23 Actually, you know, this is a bigger question as
24 it's developing at the mike here than maybe it would have
25 been anyways, I'd almost rather have a couple of the other

1 Board members present too for this discussion. Not to say
2 that we won't continue next month with a quorum, I will make
3 my commitment to that.

4 And I apologize again for any inconvenience,
5 folks. But you will be heard today. I will read it, they
6 will hear it in person. We'll make sure the other two Board
7 members read it as well. And then at our next meeting,
8 which I believe is in less than a month, I don't know the
9 actual date, we can have more information from the staff.
10 And if we need to hear more testimony, we can make a more
11 measured and informed decision on such an important subject.

12 CHAIRMAN PEREZ: Thank you.

13 BOARD MEMBER FINNEY: And I will be back.

14 CHAIRMAN PEREZ: Steve, I guess I'll ask the same
15 question to you I asked of Conny, because you're coming at
16 it from a different perspective than from what I've heard up
17 to this point. While I appreciate that timelines do move
18 people along, we've had two timelines. We've moved them
19 back not because the majority of counties have been
20 unwilling to act, but quite frankly because, in my opinion,
21 because the goalpost keeps getting moved. And so some
22 counties jumped in and made bold and in my opinion smart
23 decisions based on the reality that they were faced with in
24 those days. The reality has changed.

25 Are you suggesting that we maintain the June 2005

1 deadline --

2 MS. LEAN: July.

3 CHAIRMAN PEREZ: I'm sorry?

4 MS. LEAN: July.

5 CHAIRMAN PEREZ: July, thank you.

6 The July 2005 deadline, which means everybody goes
7 on a mad dash now to meet that, or are you suggesting that
8 of the remaining options, we choose one that's sooner rather
9 than later?

10 MR. RODERMUND: Our personal point of view as a
11 county is we love the July of 2005. I don't think that's
12 realistic based upon the needs of the other counties. We
13 would prefer like the January '06. Because I think again
14 the intent here is to have plans put in place on how are we
15 going to spend the money, what is the approximate cost going
16 to be to do this. And there are counties that pretty much
17 know what -- you know, even if it's like a 3,000 or if you
18 go to 3,500, whatever your determination is of an accessible
19 unit, that they're only going to need so many accessible
20 units because they're keeping the systems they've got. So
21 we have in essence a significant amount of funding that is
22 encumbered that does not necessarily need to be encumbered.

23 And as Conny also alluded to, this is an interest
24 bearing account and money is accruing. So we need to, if
25 can do this, to assist the counties that already did take

1 the leap to now defray those additional costs, let alone the
2 actual costs of the system. It would benefit the state as a
3 whole because we're going forward and modernizing as the
4 individual counties say they need to have it done.

5 CHAIRMAN PEREZ: Thank you.

6 BOARD MEMBER KAUFMAN: Actually, I don't have any
7 further questions for Mr. Rodermund, thank you.

8 But I do want to ask the staff to comment on an
9 issue that's come up twice now, and that is the interest on
10 the money and what the actual facts are with regard to the
11 money that's in the account?

12 CHAIRMAN PEREZ: Is that something that was going
13 to come up under 7A?

14 MS. LEAN: It could, but I can address it now if
15 you would like.

16 CHAIRMAN PEREZ: Okay.

17 MS. LEAN: Actually, we do not gain interest on
18 the money. It's a loan that we have now from the Pool Money
19 Investment Loan Board. So we haven't actually sold bonds
20 for bond money for this Prop 41. Those bonds have not been
21 sold. We technically now have a loan. So no money is in an
22 account that is bearing any kind of interest. We just get
23 money from this Pool Money Investment Loan Board, and they
24 allocate it every year, every calendar year.

25 We just got our loan approved again up to our

1 allocation amount that the original finance committee
2 allowed us to borrow \$155 million. We keep having to renew
3 that loan. So we don't actually have any money in an
4 account that is bearing interest at this time. In fact, of
5 the \$200 million originally allocated under this
6 proposition, we only allocate 195 because we were told right
7 off the bat that five million of that directly will go to
8 costs to administer the fund. So not only do we not bear
9 any interest, we have to pay the State Controller's office,
10 the Treasurer's office for dealing with that money.

11 BOARD MEMBER KAUFMAN: And as you told us before
12 the meeting, of the amount that was initially earmarked for
13 allocation, there was only approximately \$19,000, is that
14 correct, that went unallocated?

15 MS. LEAN: Of the 195 million.

16 BOARD MEMBER KAUFMAN: So the notion that there
17 might be additional funds out there beyond that which was
18 allocated I think is a nonexistent issue.

19 CHAIRMAN PEREZ: The other issue that was raised
20 though was with respect to the HAVA money which isn't bond
21 money which doesn't have the same dynamics.

22 MS. LEAN: Correct.

23 CHAIRMAN PEREZ: And does, in my understanding,
24 have some potential for interest earning. While that's not
25 money that we disburse, it does have an impact on the

1 ability for counties to finance the gap depending on the
2 decisions, they just happen not to be decisions that lie
3 before this body.

4 MS. LEAN: To my knowledge, that's true. It's in
5 a federal trust fund and it does bear interest, as far as I
6 know.

7 CHAIRMAN PEREZ: You know, even though it's not
8 our area of responsibility to disburse the HAVA monies,
9 because they are so closely linked to the issues that we
10 deal with, if we could get some sort of communication from
11 the Secretary with respect to that, I would appreciate it.
12 Similarly, maybe we could get, I would assume from the
13 Controller, an assessment or some sort of communication on
14 the impact of the delay in us requesting the money and
15 therefore promulgating the bonds.

16 MS. LEAN: Okay.

17 CHAIRMAN PEREZ: That doesn't have an impact on
18 us. It has an impact on the state's general fund because of
19 the obligation to pay back the bonds and at what rates and
20 over what period of time based on when the bonds were
21 floated. But if we could get some sort of a very, very
22 brief communication from both the Secretary and the
23 Controller, I think it would just be helpful in terms of
24 giving folks a clear understanding of the economics behind
25 some of this.

1 BOARD MEMBER KAUFMAN: I would agree.

2 CHAIRMAN PEREZ: Okay. All right. Our next card
3 is from Victor Salazar from Fresno County.

4 MR. SALAZAR: Chairman Perez, Vice-Chairman
5 Kaufman, good morning. My name is Victor Salazar, I'm the
6 Registrar of Voters in Fresno County.

7 We are a medium-sized county and for us to convert
8 to DREs it would cost approximately \$21 million. Our
9 allocation from your Board is \$4.2 million. Obviously
10 that's prohibitive.

11 We currently utilize the Diebold optical scan, the
12 AccuVote. What we're looking at is purchasing a system that
13 would complement our optical scan devices so that, in fact,
14 Mr. Wagaman spoke about the AutoMARK, we're looking at that.
15 So while we're not going to invest or in debt our county to
16 such a large extent, we're one of those that will keep our
17 system but look to another system that complements. The
18 problem is that the AutoMARK is yet to be certified. So
19 we're in the same dilemma that there's nothing out there for
20 us. Given that situation, my request is that you rescind
21 the current deadline, and I support the March 1, 2006, or
22 longer deadline, but would request that you give serious
23 consideration to doing away with a deadline at all and allow
24 the statutory deadlines to determine when we implement our
25 programs.

1 CHAIRMAN PEREZ: If you could just hang with us
2 one moment.

3 Statutory deadlines? My understanding is there
4 are none, correct?

5 MS. LEAN: None.

6 MR. SALAZAR: Well, the HAVA requirements. The
7 federal statutes.

8 CHAIRMAN PEREZ: Okay.

9 MR. SALAZAR: Thank you.

10 CHAIRMAN PEREZ: Thank you.

11 Janice Atkinson from Sonoma.

12 MS. ATKINSON: Good morning.

13 The reason this is so difficult for some of us,
14 I've been one of the counties all along who has indicated
15 that we intend to stay with our current optical scan system,
16 we're a Mark-A-Vote county. We've been very happy with that
17 system and we feel that it best suits the needs of our
18 county. We are a very heavy absentee voting county, over
19 half the votes cast in the general election were cast by
20 mail, and Mark-A-Vote is a very absentee voter friendly
21 system and we'd like to continue using it.

22 Our plan has been to supplement that at the polls
23 and in our office with a piece of equipment that would be
24 HAVA compliant. A month ago I was firmly rooted in this
25 belief and then to my surprise before the VSPP in

1 yesterday's meeting was an issue concerning grandfathered
2 voting systems. Mark-A-Vote is one of the grandfathered
3 voting systems, and that is Mark-A-Vote has never been
4 through the federal qualification process because it existed
5 before federal qualification did.

6 The VSPP could take any number of actions on this.
7 They could choose to decertify the voting system that we've
8 been using for 21 years, they could state that if there are
9 changes to the system that require recertification through
10 the state that at that point it would have to be federally
11 qualified, or they could choose to leave it as it is on a
12 case-by-case basis.

13 Our vendor is probably one of the few who makes no
14 money off of our voting system. It's a very cost effective
15 and inexpensive voting system and they have let us know that
16 they cannot commit the funds to federal qualification. So,
17 you know, we're staring at this entirely new possibility
18 this late in the game. And I spoke to the VSPP yesterday, I
19 feel like I've been put at a very distinct disadvantage to
20 now be having to possibly rethink how we want to approach
21 not meeting the HAVA requirements, but what we're going to
22 do as far as the Prop 41 funds. Yesterday no decision was
23 made, it was a discussion item only. It's been put over
24 until at least the next meeting.

25 It's a little hard to proceed when all the rules

1 keep changing as Gail Pellerin said. You know this would
2 definitely change what Sonoma County would do. If two years
3 from now my vendor needs to make a change to software or
4 hardware to meet some new law to give us an enhancement that
5 we need for our voters and they are told that they have to
6 get federal qualification, I will need a new voting system.
7 You know, once again, as Gail said, I would like to see the
8 funds that we have currently allocated for Sonoma County
9 remain in a fund for Sonoma County.

10 Questions?

11 CHAIRMAN PEREZ: Forever?

12 MS. ATKINSON: Well, possibly not forever. Only
13 until I retire, and I promise that's not going to be long.

14 CHAIRMAN PEREZ: I retire February 5th, 2025, so
15 it's going to be before then?

16 MS. ATKINSON: Absolutely.

17 BOARD MEMBER KAUFMAN: I have a question. So the
18 amount that's currently been allocated to Sonoma is three
19 million, 3.2 plus, how much of that would you have
20 contemplated the system costing for essentially putting in a
21 single compliant system in each polling place under your
22 current system?

23 MS. ATKINSON: Well, I think as was discussed
24 earlier, that's really hard to say because no one seems to
25 know what any of these systems are going to end up costing.

1 CHAIRMAN PEREZ: Well, how many units would you --

2 BOARD MEMBER KAUFMAN: And I guess as originally
3 contemplated.

4 MS. ATKINSON: And the other thing is even though,
5 I believe that we will need more than one unit per precinct
6 anyway. Our elections happen so frequently that turning
7 these units around I do not think is going to be an easy
8 task by any means. I think that everybody in this room is
9 going to need some duplicity as far as the number of units
10 go. We have 345 precincts in our county as far as voting
11 precincts, at a minimum I was thinking that we would
12 purchase at least 500 units. But more realistically we
13 would probably need to do at least two per precinct, not use
14 them both in the same election, but have spares on hand, and
15 also have them available in the elections office and in the
16 City Clerk's offices throughout the county. So I think at
17 this point that's a real hard number and I know everybody is
18 trying to nail down numbers, but without having cost figures
19 available, you know, it's very hard to determine that.

20 BOARD MEMBER KAUFMAN: And I realize we're putting
21 you on the spot and kind of asking you to take a shot in the
22 dark, but I'm just kind of curious to try and get some gauge
23 of how the landscape has shifted. I mean if you're looking
24 at 700 units and the old system and you would have had to
25 pay let's say the \$3,000.

1 CHAIRMAN PEREZ: Right. But if you factored it in
2 at \$4,000 as a high ball, you're at a quarter of a million
3 which is still below the 3.2?

4 BOARD MEMBER KAUFMAN: Right. But now you're
5 talking about having to throw out everything and go to what,
6 five, four or five per precinct?

7 MS. ATKINSON: Right. What I'm saying is we still
8 intend, unless the VSPP comes back and says we're going to
9 decertify your system in six months, in which case I'm
10 starting over or retiring. Unless that happens, we still
11 intend to go with our Mark-A-Vote voting system because it
12 is the easiest system as far as mailing goes and return
13 postage goes and all those reasons. But then if in two
14 years from now there is a required change that is going to
15 trigger the system to become federally qualified and as such
16 our vendor says, no, we're not able to do that and I no
17 longer have a certified system, then I would at least like
18 to be able to tap into the rest of that money for purchase
19 of a new system for our county. Unless I can get everybody
20 to go all mail before then.

21 CHAIRMAN PEREZ: So of our three, you're
22 supporting Option 3, and particularly the or later portion
23 of it?

24 MS. ATKINSON: Well, actually, I really feel that
25 Option 2 that gives us the January 1 deadline is perfectly

1 reasonable, because I think we all need to be on some kind
2 of contract or something to comply by January 1 in order
3 to -- if we're going to talk about phases, phase 1. But
4 what I'm speaking to though is that by doing phase 1, I
5 don't want to lose the opportunity to come back later for
6 the rest of the funds that have been allocated in phase 1 to
7 Sonoma County.

8 BOARD MEMBER KAUFMAN: So I guess what you're
9 really proposing is that under that scenario we have the
10 January 1 date, but we wouldn't make any decisions about
11 reallocating funds until some later date?

12 MS. ATKINSON: Correct.

13 BOARD MEMBER KAUFMAN: Which would essentially
14 make us just have the funds sitting there perhaps waiting
15 for something that we don't really know.

16 CHAIRMAN PEREZ: I will tell you, I see a
17 distinction between your suggestion and between, for
18 example, Los Angeles' phased approach, because it
19 anticipates what the succeeding phases are. And so in my
20 mind there's a difference between here are our four phases,
21 phase 1 we anticipate completing in this timeline, phase 2
22 in that timeline, and phases 3 or 4 we're going to have to
23 figure out based on completion of phases 1 and 2, but here's
24 what it is. That's different in my mind than here's phase
25 1, phase 2 is in case of a really bad rainy day.

1 MS. ATKINSON: Well, I would absolutely agree with
2 you there is definitely a difference. But I would not be up
3 here today had the agenda item not been placed before the
4 VSPP at yesterday's meeting, you know, and I had no idea
5 this was coming down the road. It certainly has made us
6 take another look at all of our plans. But just to make you
7 aware of how the rules do keep changing on us.

8 Again, my hope would be, and, you know, everybody
9 has gotten up here to say it that it's very hard to buy
10 something when there's nothing out there to buy. I'm really
11 not interested in buying a system that I can't conduct a
12 primary election on, as much as I don't care to conduct
13 primary elections, I think I still have to do it even though
14 the system won't. And my hope would be that by going
15 through my phase 1, that in the unfortunate event that my
16 voting system were to be decertified, by the time that would
17 happen, there would be more systems available to me to
18 choose from and hopefully systems that are more absentee
19 voter friendly than the systems that are currently on the
20 market.

21 CHAIRMAN PEREZ: I tend to have more fun at
22 primaries than generals, so we disagree on that.

23 MS. ATKINSON: I'm glad somebody is having a good
24 time, I guess.

25 (Laughter.)

1 MS. ATKINSON: Does anybody else here have fun in
2 a primary?

3 CHAIRMAN PEREZ: We're not going to make a
4 decision today, but if you want to send us any more written
5 comments later. While I appreciate the specific challenges
6 of your county, just as I appreciate the challenges facing
7 Orange County who's already gotten their full allocation
8 awarded, what we've got to wrestle with is kind of some
9 equity in coming up with a timeline so that if there is any
10 money to reallocate, we can deal with that. You and Steve
11 are in kind of polar opposite situations in terms of your
12 needs and there are a whole bunch of counties that fall
13 somewhere in between. So anything else you want to submit
14 to us to review later would be helpful.

15 MS. ATKINSON: Okay. And though I would not
16 presume to speak for them, I believe there are 11 Mark-A-
17 Vote counties in the state.

18 Thank you.

19 CHAIRMAN PEREZ: Thank you.

20 BOARD MEMBER KAUFMAN: Thank you.

21 CHAIRMAN PEREZ: Okay. Our next card is from
22 Jolena Voorhis, and I apologize if I mispronounced that,
23 from CSAC.

24 MS. VOORHIS: I wasn't going to speak today,
25 Jolena Voorhis with the California State Association of

1 Counties, but I did want to go over a few things that affect
2 all 58.

3 First, while Sequoia was certified, just the
4 issues of the primary, that it's not in all languages, it
5 can't work with Santa Clara, that sort of thing. I can't
6 think of any county board that just wants to look to one
7 vendor. They want options. And as county supervisors keep
8 telling me, when are we going to have options on what to
9 buy. They don't want to be boxed in, because having one
10 vendor out there for doing an RFP, not to mention all the
11 problems that we have with Sequoia as mentioned.

12 The second issue is, yes, they could go out and
13 say we're not going to buy a certified system, but then
14 again I don't know what county counsel is going to advise
15 the Board that that would be feasible. And we have legal
16 issues as I think Conny and others have mentioned.

17 I also think what Janice and Gail and everybody
18 here is talking about is this whole uncertainty issue. For
19 the past year we haven't been able to buy anything and
20 supervisors are really hesitant to buy anything right now
21 because they all got decertified last March. So we went
22 through this whole process and we were all able to get
23 recertified and that's great. And while the Secretary of
24 State says it's a new day, we're going to work better, we're
25 going to work with the counties, you know, elected

1 officials, and we're talking about a lot of money from the
2 county.

3 We're just in a position where we don't think we
4 can make -- we want to comply and we're going to do our best
5 to minimally comply with HAVA. But if you're looking at
6 modernizing our systems and buying all those systems for all
7 the counties, that's a whole different issue and it's a
8 bigger issue. So I think we're supportive of Option 2, and
9 even Option 3. I think it's good to have a cutoff date,
10 like Steve was saying, of January 1st, '06, but then give us
11 another potentially year to plan for how we're going to use
12 that money or if the counties are going to do a phase in, to
13 buy a whole new system.

14 Because right now we're in a situation where we
15 don't know what the political environment is, we don't know
16 who is going to get decertified, if there is going to be
17 decertification, we don't know if people have to go through
18 federal testing, we don't know what the EEC standards are
19 going to be. So there is a lot of unknowns out there that
20 really make it uncomfortable for counties.

21 CHAIRMAN PEREZ: Did CSAC take a position on the
22 two pieces of legislation regarding AVVPAT?

23 MS. VOORHIS: No. We had concerns about the
24 disqualifications, but our board of directors I would say is
25 split on the policy. There are some counties who have said

1 we want a AVVPAT with our system and that's been in their
2 contract.

3 CHAIRMAN PEREZ: Right. But the legislation
4 wasn't about affording a choice, the legislation was about
5 decertification and creating some of the very problems we're
6 dealing with now. And so, you know, as you come here to
7 give us your input with respect to what we should do to the
8 timelines, a significant part of this is a construct of what
9 the legislature did. And so I'm trying to get a sense of if
10 there's an incongruence between what you're telling us and
11 how you went before the legislature.

12 MS. VOORHIS: No. I mean I wouldn't say we
13 actively asked for a veto, but we did have concerns about
14 the fiscal implications of that bill, and we still do. I
15 mean the Secretary of State's office they always say well
16 there's these Prop 41 funds out there that can be used to
17 buy that, there's these Prop 41 funds that can be used for
18 the match for HAVA. But, you know, that was never the
19 intent of Prop 41 when it was first passed. So we get mixed
20 messages all the time. But what I'm saying is on 1438, we
21 did a cost analysis, we wrote letters on the fiscal
22 implications, we worked with the Governor's office and staff
23 to say, you know, we don't know how we're going to pay for
24 it, knowing the uncertainty, and not only uncertainty in
25 Prop 41 funds and the systems, but under HAVA.

1 As you know, we've been having significant issues
2 as to what the HAVA money, where it is and what it's doing
3 and when we're going to get it. So we're working on those
4 issues. We continue to work on those issues. CSAC works
5 closely with the county election officials and Conny
6 McCormack with that association. But it's primarily fiscal
7 uncertainty that remains the stalemate.

8 CHAIRMAN PEREZ: Thank you.

9 I've got two cards left. I've got Terry Hansen
10 from Yuba and then I've got John Tuteur. But, John, I've
11 got you as 6C, do you also want to speak on this?

12 MR. TUTEUR: Yes.

13 CHAIRMAN PEREZ: Okay. So it will be Terry
14 Hansen.

15 MS. HANSEN: Thank you. I also didn't intend to
16 speak on this, but the position that Janice made affects
17 more than just the Mark-A-Vote counties. Yuba County is in
18 that same scenario and we too attended the meeting yesterday
19 with extreme concerns about how we would address not knowing
20 if our system was going to be decertified.

21 We had intended to remain with the system that has
22 worked very well for our county. My constituents are happy
23 with it, it's economically sound for our county, and then
24 meet the HAVA requirements at each precinct. So I want to
25 reiterate and reinforce Janice's position that it's not only

1 Mark-A-Vote, InkaVote, it's Datavote. I believe it's some
2 of the Eagle products also. So it's not simply a Sonoma
3 County problem, it's widespread across the other counties.

4 Thank you.

5 CHAIRMAN PEREZ: Thank you.

6 BOARD MEMBER KAUFMAN: Thank you.

7 CHAIRMAN PEREZ: John.

8 MR. TUTEUR: Thank you for the opportunity.

9 I'm John Tuteur, Napa County Registrar of Voters.

10 Just two points I wanted to make. First of all,
11 I'm between Steve Rodermund and those who want to wait a
12 very long time. I think that the HAVA funds are going to be
13 resolved faster than any of us could hope and that that is
14 going to make something available. I don't know if you have
15 seen it yet, but hopefully the staff will provide it to you,
16 the HAVA task force has prepared a spreadsheet using a
17 dollar figure and the Prop 41 formula to give every county
18 an allocation. And I don't know if you have seen that yet.
19 If you haven't, you should. And we'll be looking at that
20 top figure with the various entities which I mentioned
21 earlier. And if that figure is high enough, you're going to
22 see almost hopefully a match of Prop 41, which would be
23 wonderful, and the same allocation across the board. So on
24 that, I'm ready to wait.

25 One other point I didn't make is I had 60,000

1 people vote on our DRE machines and, you know, with the
2 exception of three or four, and I don't mean three or four
3 hundred, I mean three or four people, it's been a very
4 successful experiment for all of them and for all of us, and
5 as Steve mentioned, it's gotten rid of a lot of the paper
6 problems. And, of course, it's compatible with absentees.
7 We use a totally different system for absentees.

8 So just so you're aware, I support -- I think the
9 January 1st option makes the most sense. But one question I
10 had and you don't need to answer it today, would there be
11 any deadline for the interim plans, for the interim
12 strategies. It just says if it's December 31st, 2005, I'm
13 not sure what good that did, and I'm not suggesting there be
14 a deadline, but just for you to think about.

15 I'd be happy to answer any questions.

16 CHAIRMAN PEREZ: Thank you. And we haven't
17 discussed what those deadlines would be for the reports. We
18 would want them not to be overly onerous. We absolutely
19 have a predisposition of not wanting to burden the counties
20 with creating paperwork just for the sense of creating
21 paperwork. So it may not be a very detailed interim report,
22 but we would be requiring some sort of interim report.
23 There would probably be a higher expectation the later out
24 we move the deadline. If we're moving from July to January,
25 it's probably a lower threshold. If we're moving past

1 March, it's probably going to be a higher threshold to make
2 sure that the interim reports are consistent with whatever
3 standards we establish for folks actually making progress,
4 as opposed to waiting and seeing. And I don't live in your
5 county, I live in LA. I've voted on DRE ever since they
6 started using them for early voting, and I've tended to have
7 the same kind of positive experience. But it amazes me the
8 fear and concern that is out there, I don't get it, but I
9 hear it all the time.

10 MR. TUTEUR: One last thing I wanted to say is I'm
11 one of the few counties, there's only six in the state, who
12 now have a certified system. It won't work for June yet,
13 but I'm sure it will. So I'm actually facing a bill. I'm
14 going to have to sign a contract within the next probably 60
15 to 90 days once I know how much it's going to be and do my
16 best to negotiate that to a reasonable figure. So I'm
17 looking at a further expenditure beyond the almost half a
18 million dollars Napa County has invested of their own funds.

19 CHAIRMAN PEREZ: How do you feel about a tax that
20 goes back to a county in which --

21 MR. TUTEUR: The wine was grown?

22 CHAIRMAN PEREZ: No, no, no. Goes back to a
23 county in which the grapes were grown?

24 MR. TUTEUR: Oh, I see. That would be even
25 better.

1 CHAIRMAN PEREZ: Sonoma and Santa Barbara, how do
2 you guys feel about that?

3 MS. ATKINSON: Sonoma would vote in favor.

4 CHAIRMAN PEREZ: Deborah HENCH.

5 MS. HENCH: I'm sorry, we didn't put the numbers
6 on the bottom. I just have a question and a couple of
7 comments.

8 Question, isn't this the Project Documentation
9 Plan that they're asking for, the deadline to go to 2006. I
10 mean it isn't that we have to purchase everything?

11 CHAIRMAN PEREZ: Correct.

12 MS. HENCH: This is our plan.

13 MS. LEAN: But you have to have a signed vendor
14 agreement.

15 BOARD MEMBER KAUFMAN: It doesn't have to be fully
16 installed.

17 MS. HENCH: And we do have the option of doing one
18 change order, because that's the change order that we're
19 going to submit?

20 MS. LEAN: Right. There is in the policy of the
21 application process, if you're going to amend your project
22 documentation, you can do so. And I don't know that it's
23 only a one-time shot.

24 MS. HENCH: Well, we were under the impression
25 there was a one-time shot. But that's one thing we'd like

1 to clarify.

2 I don't have a problem with going to January 1st,
3 2006, however, I have a problem with not having a plan by
4 then and then thinking that we have to plan for legislation
5 failure, because I've already had that. But no matter which
6 system we have, and you can have a certified system right
7 now, and then in two hours you can have a decertified
8 system.

9 Now, I don't think it's the responsibility of the
10 VMB to have to worry about in ten years are we going to be
11 decertified again or in two years from now. So I don't
12 think it's really fair to say save my money for a couple of
13 years because we might get decertified in two years. I am
14 agreeable to extending the time because of all the
15 decertification that has happened, but I'm concerned about
16 the implication of having money sit there for ten years
17 because someone didn't use all their money and that they
18 might get decertified. We're hopeful that by the end of the
19 year that all these vendors will be certified.

20 CHAIRMAN PEREZ: Thank you.

21 BOARD MEMBER KAUFMAN: I think we had asked Conny
22 to come back up.

23 CHAIRMAN PEREZ: Conny, do you want to come back
24 up.

25 MS. MCCORMACK: I have a comment, as well as I

1 would be glad to answer your question.

2 Can I make a comment about all the decertification
3 and certification. We're hearing counties need to sign the
4 contracts which we just heard Napa say they were going to do
5 even though the system can't do a primary. Others of us are
6 told that we can't buy or use a system because it's
7 decertified. The TSx counties are still in that condition,
8 when the equipment worked perfectly in March of '04, it was
9 the battery of the startup unit, it didn't have anything to
10 do with the TSx, and yet the TSx was decertified and hasn't
11 been recertified. And now we're hearing that there's going
12 to be Sequoia certified even though it doesn't do a primary
13 election and doesn't do languages and all the companies want
14 their customers and potentially a problem in Riverside,
15 their first customer, but then that's okay.

16 I really think we have a broken certification-
17 decertification process. And as I said before, I just
18 thought LA was the only one that was going to be taking
19 language, or probably taking language out of our RFP about
20 certification, because we have to move forward. I feel like
21 my attorneys. And we have to have HAVA compliance. Now, we
22 were sued in '04 by the disability advocate community at a
23 cost of \$470,000 outside legal fees to LA County for a
24 spurious lawsuit saying we weren't compliant with HAVA in
25 '04, when it didn't even require that. They finally backed

1 off, but they were just trying to pressure us into doing
2 something else.

3 That was unbelievable to be sued for something
4 that everybody including the plaintiffs knew we were not in
5 violation of. Fast forward to being a target, because in LA
6 we are, for lawsuits. We're going to be HAVA compliant in
7 '06 whether we buy a certified system or not. And I think
8 it's almost becoming a joke as to what is a certified or
9 noncertified system and all these counties have to have
10 something that makes us HAVA compliant.

11 And whether that gets through the VSPP which
12 yesterday it sounds like the Twilight Zone and worrying
13 about grandfathered systems that have worked well for years
14 possibly being decertified, there's something tremendously
15 dysfunctional going on here.

16 And what I said to the Panel yesterday was that we
17 had a very successful election in LA County by all measures,
18 no matter how you measure it, over and undervotes, public
19 satisfaction, accuracy, which should be I think the first
20 one, and yet we're potentially going to be decertified as a
21 grandfathered-in voting system. Well, I just told them
22 yesterday that that's not a very good idea to be taking
23 away. And Gail said it even better, she said, you need to
24 be certifying systems, not decertifying working systems.

25 So there's a lot of dysfunctionality going on here

1 and regardless of any deadlines or anything that you all do,
2 we have to buy HAVA compliant voting equipment. And LA
3 County was to have a DRE system in countywide by '06, and
4 that was derailed because of the policies of the Secretary
5 of State. And we cannot in 12 months buy a DRE system and
6 get it installed in LA County, it's just not physically
7 possible, so we have got to look at another phase. And
8 fortunately our Project Documentation Package said that
9 years ago and we feel confident that that policy won't be
10 changed for us.

11 But it almost seems unfair to others who clearly
12 don't know exactly which phase they are going to be in until
13 they go through an election in '06 and see how well the
14 equipment works, because this equipment is new. I mean just
15 because the Verivote was used in Nevada for one time, it
16 hasn't been put under any kind of a test for a recount, you
17 know, it hasn't been tested that way.

18 And I thought Washington state was very
19 interesting, and we all know what happened in Washington
20 state and the new Governor was just sworn in after three
21 recounts to determine who the winner was. But the
22 interesting part for this Board to know and probably you do
23 know is that the two DRE counties in Washington state out of
24 all their counties, 59 or whatever it was, both the
25 Democrats and Republicans signed off right away and they

1 never had any controversy and did not have to print out
2 those results and recount them, because they knew the
3 results were accurate and they were going to be the same.
4 The problems and the issues came from the paper.

5 And I'm wondering if they had a Verivote or any
6 kind of a AVVPAT system, clearly they would have probably
7 tried to count those, and I'm wondering how that would have
8 looked in a recount environment, because they had almost the
9 same number of votes that we have in LA County. We had 3
10 million voters, they had 2.9 statewide. And if you were to
11 look at the pieces of paper for the AVVPAT, right now
12 everybody knows when they look at a recount the voter marked
13 that ballot, because they mark them all kinds of weird ways.
14 But no one is ever going to touch one of the AVVPAT columns.
15 The machine that created the software created it, and most
16 voters aren't even looking at it surveys are showing.

17 What legitimacy is that going to have in a recount
18 when no voter ever created it, most voters didn't even look
19 at it, and I think the lawyers on both sides will be
20 alleging that someone like us in the back room were creating
21 new reels, because, you know, how do we know who created it.
22 And I think if you had a AVVPAT in that recount up in
23 Washington state, you would be looking at a whole different
24 story about legitimacy and credibility that didn't have to
25 be looked at because both parties were fine with the count.

1 So I think it would be real hard to say no voter ever
2 touched it or looked at it, so this must be accurate. I
3 just think there's going to be a lot of experiences over the
4 next two to four years that's going to potentially change.

5 There's also a statement that just came out of the
6 National Institute of Standards and Technology which just
7 had their meeting this week. And the advisors to the EAC
8 and the guidelines that are going to developed nationally.
9 And they have taken a position that they were against
10 AVVPAT, but then they also said that there's other things
11 out there that might be independent verification, electronic
12 independent, because right now AVVPAT is created by the same
13 software. And independent at least is another option.

14 So maybe some other legislatures are going to look
15 at an either/or rather than stifling innovation and sticking
16 with just this one AVVPAT. And I'm hoping maybe our
17 legislature will open that up and look at it again as an
18 option for counties to either to a AVVPAT or an electronic
19 verification, which are the systems are now coming to
20 market, which would be cheaper and would independently
21 verify it.

22 So I think there is still a long of change. I
23 don't think we can say that every time you meet there's all
24 these changes that Steve has mentioned. I think that
25 there's going to be more and more changes, and that's why

1 I'm pushing for the flexibility for counties and not feeling
2 like they lost their shot at their share of this money. And
3 there really is enough HAVA money for the counties too. I
4 think that we can make the other counties whole, and I don't
5 think it has to come out of the VMB money. I think there's
6 enough HAVA money out there. There's a lot of HAVA money
7 and it's making interest.

8 CHAIRMAN PEREZ: Thank you, Conny. I'm going to
9 move on to our last two cards on this and then I'm going to
10 move to the next agenda item.

11 Next, I've got Rebecca Martinez from Madera
12 County.

13 MS. MARTINEZ: Rebecca Martinez, Madera County.

14 I am the elected County Clerk, Recorder and
15 Registrar of Voters there. We're not a very big county, we
16 have approximately 50,000 registered voters. But again
17 that's all relative as far as the number of registered
18 voters that you have and the costs to either implement a
19 system or put on an election.

20 And I have sat back quietly and I've listened and
21 I've learned, and now I'm at a place where I kind of feel
22 like very funny, Scotty, now beam down my clothes, because
23 I'm lost.

24 We are in the same position as Sonoma County. We
25 had intended to maintain that system and then buy something

1 in conjunction with that that would be HAVA compliant. We
2 did not know that the situation with the vendor could put us
3 in a place where we would have to completely transition to a
4 whole new voting system. And although I appreciate the
5 concerns of those counties who have forged forward in buying
6 DREs and appreciate the fact that they have now incurred
7 extra expense because of some legal requirement, we want to
8 make sure that the money that was allocated to each of us
9 remains there until we have an opportunity to figure out
10 what it is that we need to do as far as completely
11 transitioning or remaining where we are. And we need the
12 time to do that. Everything is so up in the air, there
13 isn't anything certified to buy, and so we would request
14 that not only you extend the deadline, but also reserve the
15 money for us to use at some future date, whenever that might
16 be.

17 CHAIRMAN PEREZ: So you're saying hold it forever?

18 MS. MARTINEZ: I don't know about forever, but at
19 least -- I would think that at least through the 2006 cycle.
20 I mean it also gives us an opportunity to see what's working
21 out there. You know, we don't want to be Florida, we don't
22 want to make mistakes. But I appreciate everyone who has
23 moved forward, I want to learn from their mistakes. My
24 county is a poor county, it's a small county, we don't have
25 a lot of money, and so I want to protect what we have and

1 also preserve the integrity of those elections. And so if
2 it means I need to sit back and see them, that's what I
3 would like to do. But I didn't feel like I had to run over
4 here and protect because other people wanted the money.

5 CHAIRMAN PEREZ: I don't mean this to sound
6 disrespectful, but the money's been there.

7 MS. MARTINEZ: Correct.

8 CHAIRMAN PEREZ: And you've had the same
9 opportunity as the other counties have had to decide whether
10 you want to use it. Now, I understand that the rules have
11 changed, and the rules have changed for you in such a way
12 that they may necessitate you doing something you didn't
13 think you would have to do otherwise. But quite frankly the
14 same can be said for the counties that move forward. They
15 have moved forward, they had what they believed to be an
16 inclusive plan at that time as you did. It was a different
17 plan. And now the rules have changed for them. So I'm
18 trying to figure out where the fairness lies for counties
19 that are in different circumstances but are dealing with the
20 same reality, and that's the reality that the goalpost keeps
21 getting moved on them.

22 MS. MARTINEZ: That's correct. Because they were
23 forced to do something that they didn't necessarily agree
24 with. I'm going to be forced to do something that I may not
25 necessarily agree with. The answer to that, I don't know.

1 But I'm compelled as being the elected official representing
2 that county to at least let someone know that I did come
3 running down here to say can you save my money for me.

4 Thank you.

5 CHAIRMAN PEREZ: Thank you.

6 My last card, and this is the last card, is from
7 Bill Schultz from El Dorado County.

8 MR. SCHULTZ: Good morning, Chairman Perez and
9 Member Kaufman. Bill Schultz, El Dorado County.

10 Really all I have is I was here as a speaker to
11 you requesting before that the date be changed to January.
12 And, of course, the decision was to make it July. With
13 those marching orders in place, I've went ahead and done
14 certain things and got things moving in my county, expended
15 resources and had a plan to accommodate this by July 1st, as
16 was directed. Now, we keep talking about the goalpost
17 changing and that's true. And we can be flexible, but I
18 just wanted your Board to know that some of us, you know,
19 we're not waiting for things to happen. You told us to do
20 something, we're doing it. So we may be caught in a flux
21 here too because we might have to now change our RFP
22 language a little bit.

23 But anyway it was just a comment. I just wanted
24 you to be aware that some of us have acted and we're in the
25 process. So now I guess we'll just have to wait and see.

1 BOARD MEMBER KAUFMAN: Mr. Chair, can I make a
2 comment on that?

3 CHAIRMAN PEREZ: Yes, please.
4 Thank you.

5 BOARD MEMBER KAUFMAN: Since you were actually
6 absent at our meeting --

7 CHAIRMAN PEREZ: Right. It was the rest of you
8 guys.

9 BOARD MEMBER KAUFMAN: -- when we went through a
10 very long discussion of this. And I felt at the time that
11 we should move the date to January 1, but we reached a
12 consensus in moving the date to July at that time, with the
13 opportunity to revisit the issue, which I guess we're doing
14 now. And I think at the time part of our concern and part
15 of the overriding concern was that there were a number of
16 counties that may not be taking appropriate action and we
17 felt like we wanted to hold people's feet to the fire a
18 little bit to get them moving toward the direction of
19 implementing a new system.

20 In the six months that have ensued since then, I
21 think we've found even more so that it's become less an
22 issue of counties not taking action, as Mr. Schultz just
23 described, but more an issue of the goalposts continually
24 moving. And we had the issue then and I think it's become
25 even more acute since then, or there's been additional

1 factors since then. So I think part of the original concern
2 in dealing with this deadline has gone away in the sense of
3 how we treat it. But I do think we continue to have that
4 problem.

5 And it sounds to me from what we've heard today
6 that even though there are people who may have concerns
7 about moving the deadline too far out, and I didn't really
8 hear anybody today say that they didn't think at this point
9 in time that at least January 1st wasn't an appropriate
10 deadline. We may want to go further, but hopefully when we
11 come back on February 17th, that notion will shape the
12 staff's thinking in terms of how we present the issue and
13 the options and the recommendations for proceeding. At
14 least that's what I heard today, and I didn't sense that any
15 of the three members of the Board weren't interested in at
16 least giving the counties some additional time to deal with
17 the issue we've heard today.

18 And it would also be very helpful, as we discussed
19 earlier, to have information for that hearing to give us a
20 little better sense of what is happening with the
21 distribution of HAVA funds on all levels, where they are
22 targeted, what they can be used for, and how that is now
23 being allocated by the state, or at least what formulas are
24 in place or proposed to have that money distributed.

25 CHAIRMAN PEREZ: Okay, thank you.

1 That concludes our brief discussion of Item 6B.

2 Actually of Item 6A.

3 6B, Jana?

4 MS. LEAN: Well, 6B was, I wanted to bring up that
5 the Board should consider a policy to request the counties,
6 we've been talking about this for a while, to have the
7 counties who have not begun the modernization of their
8 voting equipment to submit interim reports. And this
9 option, if you do select to move the date, which it sounds
10 like the Board is looking at that, by requiring that interim
11 status reports can ensure the counties are still moving
12 forward and you get a chance to know that they are thinking
13 about how to move forward in developing their plan, given
14 that they know that there are systems that potentially could
15 be coming forward for certification.

16 CHAIRMAN PEREZ: Then what I would like to do,
17 because it really is so tied to 6A is just to put that over
18 for action along with the action on 6A at our next meeting.

19 MS. LEAN: Okay.

20 CHAIRMAN PEREZ: And quite frankly, 6C, I had one
21 card and that was John Tuteur's card, and where's John?

22 He had to leave, okay.

23 So I think we really addressed that issue to some
24 degree as well. So we will put that off.

25 So we're now on the Item 7, Update on the Status

1 of the Voting Modernization Fund Pool Money Investment Board
2 Loan.

3 MS. LEAN: I did want to let you know that on
4 November 17th there was a meeting of the Pool Money
5 Investment Board and they approved the Voting Modernization
6 Fund for a \$155 million loan that was renewed. We will go
7 back as you requested and get some more clarification from
8 the State Controller's office on how this money is being
9 held in the account and the specific information that you
10 might need to know about that.

11 CHAIRMAN PEREZ: The other part of my question
12 really is how much bonded indebtedness have we incurred, and
13 mindful of what is clearly going to be a delay in moving
14 some of those resources, advising the Controller at the same
15 time that there may not be the need to incur that
16 indebtedness sooner than counties are going to be moving
17 forward and needing the money.

18 Okay. On Item 7A, I have one card from Maureen
19 Smith.

20 Do you have something specific to the pool.

21 MS. SMITH: Yes. Just to the whole process.

22 CHAIRMAN PEREZ: But because of the amount of time
23 and we got off topic the last time. So I do want to keep
24 you to Item 7A which is specifically the Fund Pool Money
25 Investment Board Loan.

1 MS. SMITH: Right. I want to understand. I was
2 really pleased to hear that the bonds have not been issued,
3 but is it possible, can we get through this whole thing
4 without issuing those bonds? When the money is borrowed
5 from the pool -- the Voting Modernization -- this is in the
6 Treasurer's office, right? This is part of the Treasurer of
7 the state of California, this Pool Money Investment Board?

8 CHAIRMAN PEREZ: Correct.

9 MS. SMITH: Okay. Is there a chance that we're
10 going to be able to get through this thing without having to
11 actually issue the bonds that were voted on by the voters in
12 Prop 41?

13 CHAIRMAN PEREZ: I will defer this to Steve Stuart
14 on that, and then I will add my two cents.

15 MR. STUART: Mr. Chairman, I don't know the answer
16 to that, I would have to go check that out.

17 CHAIRMAN PEREZ: My understanding, and we've got
18 at least two lawyers here. My understanding is no. Prop 41
19 was very clear on the manner in which this was to be funded.
20 And while there is flexibility built in with respect to the
21 timing and the manner in which the bonds are floated, it was
22 not an authorization for general fund money which the state
23 clearly does not have very much of or anything else. It was
24 an authorization for bonding, and created a system by which
25 there would be that kind of indebtedness. And quite

1 frankly, whenever you're dealing with bond indebtedness,
2 you're not only dealing with the initial amount of the bond,
3 but you will be financing that.

4 MS. SMITH: Right.

5 CHAIRMAN PEREZ: And that was the will of the
6 voters. And we're stuck at this Board implementing based on
7 what it was that the voters chose to enact.

8 MS. SMITH: But at this point in time we're better
9 off not issuing the bonds until we actually have --

10 CHAIRMAN PEREZ: Some bonds have been issued? No
11 bonds have been issued at all, they've all been based on
12 loans from the Pool?

13 MS. LEAN: Correct.

14 CHAIRMAN PEREZ: Okay.

15 MS. SMITH: Yes, that's what I heard earlier.
16 Because our rating is not as good as it was.

17 CHAIRMAN PEREZ: Thank you.

18 7B. VMB Conflict of Interest Code Status.

19 MS. LEAN: That's still with the FPPC, it's under
20 their review, it still hasn't been formally been adopted.
21 Once it is, we will forward to all the members Form 700s to
22 fill out. But until that time, we weren't going to move
23 forward until they formally approved our Conflict of
24 Interest Code. I just wanted to give you an update on that.

25 CHAIRMAN PEREZ: So we're still able to keep gifts

1 and all that other good stuff.

2 (Laughter.)

3 CHAIRMAN PEREZ: You caught the last part where I
4 said nobody ever offers us, right?

5 (Laughter.)

6 CHAIRMAN PEREZ: Okay. That's the last item on
7 our agenda. Given that we don't have a quorum, I guess we
8 don't have to take a vote for adjournment. We'll just break
9 the quorum further and end our business for today.

10 Thank you all for your input and we look forward
11 to seeing you in a few weeks.

12 (Thereupon the meeting of the Voting
13 Modernization Board was concluded at
14 12:27 p.m. on January 21, 2005.)

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1 CERTIFICATE OF SHORTHAND REPORTER

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

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

11 IN WITNESS WHEREOF, I have hereunto set my hand
12 this 7th day of February 2005.

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Michael J. Mac Iver

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Shorthand Reporter

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