

MEETING
STATE OF CALIFORNIA
SECRETARY OF STATE
VOTING MODERNIZATION BOARD

SECRETARY OF STATE
1500 11th STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

THURSDAY, FEBRUARY 17, 2005

2:00 P.M.

TIFFANY C. KRAFT, CSR, RPR
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

PANEL MEMBERS

Mr. John A. Pérez, Chairperson
Mr. Stephen Kaufman, via telephone
Mr. Michael Bustamante
Mr. Tal Finney, via telephone
Mr. Carl Guardino, via telephone

STAFF

Ms. Jana Lean, Staff Consultant
Ms. Debbie Parsons, Executive Assistant
Mr. Stephen Stuart, Staff Counsel
Mr. Michael Wagaman, Elections Analyst

ALSO PRESENT

Ms. Janice Atkinson, Sonoma County
Ms. Rafaella Cohn
Ms. Terry Hansen, Yuba
Tony Miller, Secretary of State's Office
Mr. Michael J. Smith

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1 PROCEEDINGS

2 CHAIRPERSON PÉREZ: I'd like to call the meeting
3 of the Voting Modernization Board to order. We have three
4 members joining us by phone. We have our fifth member
5 anticipated to be joining us in person shortly. We're
6 going to move along even before our fifth member joins us.
7 And I've asked for my colleagues that are on the phone to
8 identify themselves before they speak on items so you'll
9 have the benefit of knowing who it is that's making some
10 of the statements and observations that they'll be making.

11 That said, Debbie, would you call the roll?

12 EXECUTIVE ASSISTANT PARSONS: John Pérez?

13 CHAIRPERSON PÉREZ: Here.

14 EXECUTIVE ASSISTANT PARSONS: Tal Finney?

15 BOARD MEMBER FINNEY: Present.

16 EXECUTIVE ASSISTANT PARSONS: Carl Guardino?

17 BOARD MEMBER GUARDINO: Here.

18 EXECUTIVE ASSISTANT PARSONS: Stephen Kaufman?

19 VICE CHAIRPERSON KAUFMAN: Here.

20 EXECUTIVE ASSISTANT PARSONS: Michael Bustamante?

21 CHAIRPERSON PÉREZ: Anticipated.

22 And, Carl, the sound quality from your phone is
23 probably the lowest. So if there's something you can do
24 in terms of getting closer to the phone or whatnot, it
25 might be helpful.

1 BOARD MEMBER GUARDINO: I'd be happy to do so.

2 Is that better?

3 CHAIRPERSON PÉREZ: A little better. Thank you.

4 The first item before us is Item 3, public
5 comment. This period is set aside for public comments
6 limited to two minutes maximum per person for items not
7 otherwise on our agenda. I have one card for public
8 comment period. So if Jerry Berkman would please come
9 forward.

10 MR. BERKMAN: Hi. I'm Jerry Berkman from
11 Berkeley. I want to comment on -- I was looking at the
12 numbers. The price in these things are all very
13 expensive. There is a development going on called the
14 Open Voting Consortium that is proposing to build a system
15 that is much cheaper. And I would hope in some way the
16 Secretary of State's Office could help them with a little
17 bit of financial aid as they're currently trying to buy --
18 hire one programmer in addition to all their volunteers,
19 which is all of 4,000 a month, which is peanuts compared
20 to 400 million in Voting Modernization funds.

21 But the idea behind this -- the other reason I'd
22 like open source, you can actually look and see if the
23 program does what it's supposed to do and if there's any
24 hidden agenda inside the computer to undercount one
25 candidate or overcount another, anything like that. It

1 would be cheaper to maintain, because you can actually get
2 people from the community to maintain it. It's not closed
3 source. And the basic price according to what I've heard
4 is about a third of what it costs to buy the commercial.

5 One way to support this would be if the Secretary
6 of State's Office could give a grant, say, either to Open
7 Voting Consortium or maybe to CITRS, which is a group of
8 Northern California Universities, University of California
9 campuses, rather, Berkeley, Davis, Merced, so on. And
10 CITRS is organized to support research. And I don't
11 remember what it stands for -- Information Technology and
12 Society. And so this would be right in their ballpark.
13 They could do some research on voting technology, too, so
14 we get through this without spending a fortune and
15 continuing to spend a fortune on maintenance with these
16 systems.

17 CHAIRPERSON PÉREZ: Thank you, Mr. Berkman. I've
18 got no other cards, unless some have been presented to
19 staff.

20 Seeing none, the next item on our agenda is
21 adoption of our January 21st meeting minutes.

22 Have the three of you had a chance to review
23 them?

24 Is there a motion?

25 BOARD MEMBER FINNEY: I move approval.

1 CHAIRPERSON PÉREZ: Mr. Finney moves.

2 VICE CHAIRPERSON KAUFMAN: I'll second, Stephen
3 Kaufman.

4 CHAIRPERSON PÉREZ: Stephen Kaufman seconds.

5 Any discussion? Hearing none, all in favor say
6 aye.

7 (Ayes)

8 CHAIRPERSON PÉREZ: That's all. Very good.

9 Next item is Item 5, Staff Report on Related
10 Issues. Item 5A is an Update on the Voting Modernization
11 Fund Pool Investment Board Loan and Bond Sale status.

12 Jana, would you like to walk us --

13 STAFF CONSULTANT LEAN: Actually, I would like to
14 ask this agenda item be moved to the next meeting. We're
15 still pending some information from the Treasurer's
16 office. We're unable to give you a staff report at this
17 time.

18 CHAIRPERSON PÉREZ: Very good. So we'll put that
19 item over.

20 Next item, review of results of the vendor survey
21 on estimated costs of the DREs with AVVPAT.

22 STAFF CONSULTANT LEAN: In your packet, you'll
23 see that we have results from the survey. There are a
24 couple vendors that did not actually supply their
25 information, but what we do have is the Diebold, ES&S,

1 Hart, and Sequoia.

2 I do have something that was just handed to me
3 from our Voting Systems person that has some kind of notes
4 here, so I'm going to let him refer to the packet. This
5 is Michael Wagaman.

6 ELECTIONS ANALYST WAGAMAN: It's just one
7 correction under Sequoia on the second box. That 2800 and
8 3500 is the basis for the DREs without the VVPAT. The
9 VVPAT would be that 800, 1100 on top of it. That should
10 be 3600 to 4600.

11 CHAIRPERSON PÉREZ: Okay. Anything else you want
12 to add, Jana?

13 STAFF CONSULTANT LEAN: The only thing you asked
14 at the last meeting was to find out what the Nevada State
15 costs were on the DREs, the Sequoia AVC Edge. And
16 according to information that Michael Wagaman gathered, it
17 was \$2,860 for the DRE with a \$500 AVVPAT.

18 CHAIRPERSON PÉREZ: Can you repeat that?

19 STAFF CONSULTANT LEAN: \$2,860 per DRE and a \$500
20 AVVPAT.

21 VICE CHAIRPERSON KAUFMAN: Stephen Kaufman.
22 Sorry. That was for whom or for what?

23 CHAIRPERSON PÉREZ: That was for the state of
24 Nevada. As you remember, at the last meeting we had a
25 discussion about the -- what was going on in Nevada, and

1 wanted to be able to make sure we were informed based on
2 the experience there as well. And so what we see is the
3 numbers in Nevada coming in somewhere close to the
4 ballpark of the figures that we're seeing based on the
5 survey from the vendors here in California.

6 Michael.

7 ELECTIONS ANALYST WAGAMAN: That's correct.
8 Sequoia is reporting it's a slightly lower number for
9 Nevada. Sequoia reported to me they had a loss on that.
10 You'll see a slightly higher number they're going to
11 report on.

12 CHAIRPERSON PÉREZ: They can pick it up on volume
13 here.

14 What I'd like to do is swap the next two items on
15 our agenda. Item E on our agenda is a discussion relevant
16 to what we've just been discussing. I'd like to move it
17 up, and that's the discussion regarding the \$3,000 cap for
18 state contribution for DRE voting machines. Unless any of
19 the three of you object, I'd like to move into that now.

20 VICE CHAIRPERSON KAUFMAN: This is Stephen
21 Kaufman. I don't have any objection. But I did have
22 another question about the chart that we just looked at,
23 the survey.

24 CHAIRPERSON PÉREZ: Go head, Stephen.

25 VICE CHAIRPERSON KAUFMAN: And that was I noticed

1 that, I guess, ES&S is the only manufacturer at this point
2 that has a non-DRE machine that meets the HAVA
3 accessibility requirements. What is the current -- do we
4 know what the current average cost is for the optical scan
5 machine that doesn't have these accessibility features?

6 ELECTIONS ANALYST WAGAMAN: I'm not sure of that
7 number. You'd have to make a differentiation if you're
8 talking about precinct count or central optical count
9 system.

10 CHAIRPERSON PÉREZ: The actions we've taken up to
11 this point with respect to cost containment have only been
12 around DREs. We have not entered into any discussions
13 about creating caps for state contribution on non-DRE
14 based systems.

15 VICE CHAIRPERSON KAUFMAN: Okay.

16 CHAIRPERSON PÉREZ: So with that, Jana, do you
17 want to walk us through a staff recommendation with
18 respect to the \$3,000 cap?

19 STAFF CONSULTANT LEAN: Sure. This was brought
20 up at the last meeting. I just wanted to go over the
21 current VMB policy places a \$3,000 cap per machine on the
22 amount the state would contribute to purchasing a DRE.
23 But now that we know state law now requires that all DRE
24 have this accessible voter verified paper audit trail, the
25 component will increase the overall cost of DREs.

1 But according to what we found out in the survey,
2 that while the new printer requirement will increase the
3 cost, the vendors' estimates for the new AVVPAT
4 requirement still seems to be within the \$4,000 range
5 which you originally established.

6 So staff would recommend looking at the options
7 presented to you to either maintain the cap, increase the
8 cap, or eliminate the cap. We would recommend to maintain
9 the \$3,000 cap.

10 CHAIRPERSON PÉREZ: Okay. What I want to do is
11 walk us through this one by one, get each of your feedback
12 on the staff recommendation.

13 Stephen, would you like to go first?

14 VICE CHAIRPERSON KAUFMAN: Sure. Yeah. It
15 struck me in looking at the survey that the costs at least
16 for new systems were still essentially within the range
17 contemplated previously. And I guess it seems to me that
18 to the extent there is an issue at all, it's with respect
19 to those jurisdictions that already purchased machines and
20 now have to retrofit their systems and those that are
21 already maxed out on their allocation would, I guess, be
22 the only ones that have an issue in that respect, although
23 unless I'm misreading the situation, it seems there's
24 substantial additional moneys being provided to those
25 counties under the HAVA Section 301 formula allocation

1 that I guess was reached earlier this month.

2 So on that basis, it seemed to me that, you know,
3 with the exception of a few counties this might negatively
4 impact because they already purchased the machinery, that
5 the number still justify the caps that were in place
6 originally.

7 CHAIRPERSON PÉREZ: Very good. Thank you,
8 Stephen.

9 Tal.

10 BOARD MEMBER FINNEY: I feel the same way Stephen
11 does. I'm just curious what we do with the counties that
12 have already purchased the equipment.

13 CHAIRPERSON PÉREZ: Why don't we come back to
14 that in a minute.

15 Carl.

16 BOARD MEMBER GUARDINO: That was going to be my
17 question as well.

18 CHAIRPERSON PÉREZ: Okay. Jana, would you like
19 to comment on the situation for counties who have
20 purchased DREs or need to retrofit?

21 STAFF CONSULTANT LEAN: Well, I think our next
22 agenda item regarding the HAVA 301 Task Force, going into
23 that, it does look like there will be some additional
24 money for the counties who have already converted to help
25 retrofit their machines.

1 CHAIRPERSON PÉREZ: And there's nothing --
2 Mr. Bustamante is joining us. There is nothing that -- is
3 there anything that precludes those counties from using
4 VMB funds for retrofitting? I don't see anything that
5 does.

6 STAFF CONSULTANT LEAN: Not if they have any left
7 over, no.

8 CHAIRPERSON PÉREZ: The big issue is if they
9 expended their VMB funds and need to retrofit, and that
10 really gets us into a 301 discussion or a discussion about
11 future funding rounds. But changing the cap wouldn't
12 solve their problem either, because they've utilized their
13 allocation.

14 STAFF CONSULTANT LEAN: I would agree.

15 CHAIRPERSON PÉREZ: Any response from any of you
16 three gentlemen?

17 BOARD MEMBER FINNEY: I'd like to say -- Tal
18 Finney.

19 If that is the case and they are able to use VMB
20 money, we have to figure out -- I hate to say it, but
21 another cap for that, depending on what we have done. I
22 mean, we wouldn't want to be, you know, overly excessive
23 expenditures on retrofitting just because they're out of
24 VMB moneys.

25 CHAIRPERSON PÉREZ: And, quite frankly, I think

1 there's considerable pressure on them not to want to do
2 that, and there is considerable pressure on the vendors,
3 given the published numbers they've placed out there for
4 the AVVPAT components that they've tagged on in this
5 survey.

6 Jana.

7 BOARD MEMBER FINNEY: I think our staff can help
8 with that, too. But still going forward, depending on
9 what the costs of the retrofit are going to be, there
10 should be some type of standard we should try to set.

11 STAFF CONSULTANT LEAN: I would like to indicate
12 these are estimates. These aren't firm numbers. These
13 are just estimates to our survey. We don't want to say
14 this is the pricing sheet on how much they're going to
15 cost.

16 CHAIRPERSON PÉREZ: Right. Mr. Bustamante, where
17 we are is we're in discussions about the previously
18 established \$3,000 cap on the State's portion of the
19 contribution for acquisition of DREs. And we had a survey
20 of the vendors and looked at whether or not we had to
21 adjust that cap, given projections and estimates of the
22 cost of DREs, but there'd also be AVVPAT. And what we
23 found and was our general consensus was that our previous
24 cap was close to adequately covering the projected costs.
25 The only issue was for those counties that may need to

1 retrofit systems they purchased and whatever cost
2 containment proposals we may want to take consistent with
3 Mr. Finney's comments, so by way of bringing us up to
4 speed.

5 Well, let me ask a procedural question. If we
6 want to keep the cap, there really is no action necessary.
7 So unless somebody wants to propose -- let me ask, is
8 there a proposal from any of you to adjust the cap in any
9 way?

10 BOARD MEMBER FINNEY: Tal, again.

11 I just want to point out I don't want counties
12 that have acted already, even within the context of our
13 task, in response to, you know, market concerns and
14 regulatory compliance issues, to be prejudiced in their
15 ability to move forward with their programs. So I support
16 the cap in place as we move forward. But then I do have
17 some concern we try to find some way to help accommodate
18 counties that have been forced to retrofit.

19 CHAIRPERSON PÉREZ: Here's what I'd like to do,
20 Tal, given the sentiment you're expressing. What I'd like
21 to do is move forward with us continuing the cap as it
22 currently stands and then flag for discussion under Item
23 7, Other Business, this issue with respect to counties
24 that need to retrofit. Putting it there, it's informed by
25 the discussion we're about to have regarding 301.

1 Mr. Bustamante.

2 BOARD MEMBER BUSTAMANTE: Mr. Chair, didn't we
3 have a discussion at some point where we talked about
4 after the deadline had passed and those counties that
5 didn't submit applications that there would be a pool of
6 funds available that we could use to help offset some of
7 the costs to the counties with regard to the paper --

8 CHAIRPERSON PÉREZ: Yes. And that comes into
9 play with Item VI, 1, on our agenda.

10 BOARD MEMBER FINNEY: Do we need to take public
11 testimony on this?

12 CHAIRPERSON PÉREZ: There are no cards that have
13 been submitted. So without cards, there's no expressed
14 interest in rehashing this, I think, from the folks in the
15 audience.

16 BOARD MEMBER FINNEY: I'll move the Chair's
17 proposal.

18 CHAIRPERSON PÉREZ: My proposal was just to move
19 forward with the agenda. Our silence indicates continued
20 support for the \$3,000 cap. And we move on to Item VI.

21 Without objection, Item VI, project documentation
22 submittal deadlines. The first is considering a possible
23 change to the July 1st, 2005, deadline for counties to
24 submit their project documentation plans. For those of
25 you who were with us -- well, actually, I guess at the

1 last meeting, Mr. Finney --

2 STAFF CONSULTANT LEAN: Chairperson Pérez, I'm
3 sorry to interrupt you, but we do have the 301 Task Force.
4 Do you want to move --

5 CHAIRPERSON PÉREZ: I apologize. Thank you very
6 much. I got ahead of myself.

7 We have the 301 Task Force report to receive
8 first. So please go ahead, Jana.

9 STAFF CONSULTANT LEAN: The Board did indicate
10 that they were interested in some of the activities going
11 on with the HAVA Section 301 Task Force that was formed by
12 the Secretary of State's Office. This Task Force was
13 formed to assist with implementation of the aspects of
14 HAVA requirements. And one of their initial undertakings
15 was to propose funding principles to achieve compliance
16 with Section 301 of HAVA.

17 At the February 11th, 2005, meeting, the HAVA
18 Section 301 Task Force decided to use the Proposition 41
19 allocation formula as a basis for funding and recommended
20 that funding allocation be for 195 million. This was just
21 done. I was told by Tony Miller that this proposal was
22 moved forward to the Department of Finance in a finance
23 letter, and it's pending approval.

24 CHAIRPERSON PÉREZ: Very good.

25 STAFF CONSULTANT LEAN: With these discussions,

1 the retrofitting money, additional money for counties to
2 purchase the voting systems, that's what this 195 million
3 was proposed to be.

4 CHAIRPERSON PÉREZ: And just to make it
5 completely clear, both the formula and the allocation
6 directly mirror the work of this Board; am I correct?

7 STAFF CONSULTANT LEAN: Directly. They're even
8 looking at the basic procedural model, the application
9 process, requiring a contract. So I think that would be
10 very much a compliment to this Board that they're looking
11 to somebody that's already been established, is out there,
12 is working. And I thought this really would be a good
13 opportunity to let you guys know that that is going on.
14 And also this does tie very much directly with what you
15 are making decisions on here.

16 CHAIRPERSON PÉREZ: All right. Mr. Finney, I
17 want to make sure we had this discussion, because you'll
18 see then for counties that did acquire new technology and
19 spent down their Prop. 41 moneys, they have equal amounts
20 of money now available to them to make other changes,
21 including the retrofitting of DREs that they may have
22 acquired.

23 BOARD MEMBER FINNEY: I appreciate that.

24 CHAIRPERSON PÉREZ: And we'll be happy to hear
25 that, in fact, it was a compliment to us for them having

1 plagiarized our work.

2 BOARD MEMBER FINNEY: It's all in the service of
3 the people.

4 CHAIRPERSON PÉREZ: Okay. Anything else on this
5 item?

6 Item VI. Now we'll go back to Item IV, A. And
7 the discussion with respect to the January 1st -- sorry.
8 Scratch that. The July 1st, 2005, deadline.

9 At our last meeting -- I know you've all reviewed
10 the minutes, and I know some of you even read the 101-page
11 transcript. But at our last meeting, Mr. Kaufman,
12 Mr. Finney, and myself were here for an exhaustive
13 conversation with many of the counties to discuss the
14 issue of deadlines. Prior to concluding that discussion,
15 we lost our quorum. Our commitment was to take this item
16 up at this meeting, but have it be fully informed by the
17 input that the counties gave at the last meeting. So that
18 said, I'd like to move us into the staff recommendation or
19 staff report with respect to Item IV, A.

20 STAFF CONSULTANT LEAN: Since we have discussed
21 this item more than once and we had the big discussion of
22 it at the last meeting, it's a very brief report. I just
23 put out some other additional options for you.

24 As it stands, the July 1, 2005, deadline for
25 counties to receive approval of the VMB on a project

1 application is still the deadline. You have three options
2 that we're presenting to you. Option Number 1 would be to
3 move the project documentation deadline to January 1,
4 2006. I can go into that further, but -- and this would
5 also --

6 CHAIRPERSON PÉREZ: Shortened is fine.

7 STAFF CONSULTANT LEAN: And Option 2 would be to
8 move the deadline to March 1st, 2006. And Option 3 would
9 be to have the deadline as an open-ended requirement.
10 There wouldn't necessarily be a deadline.

11 CHAIRPERSON PÉREZ: Okay. I've got two cards on
12 this issue. Unless anybody has specific questions they'd
13 like to raise first, I'd like to move to the cards.

14 Okay. The first card I have is from Janice
15 Atkinson from Somona County. Ms. Atkinson also submitted
16 a letter to us that each of you should have in your
17 packets.

18 MS. ATKINSON: Thank you. Janice Atkinson,
19 County of Somona. And I'm just here today to reiterate
20 what's in my letter, that I'm hoping that you will go for
21 Option 3 of the three options laid out to you by your
22 staff.

23 Somona County currently uses the Mark-A-Vote
24 voting system. We have every intention of enhancing our
25 system with a supplemental unit that will be accessible to

1 the disabled by the primary 2006.

2 With the ever-changing landscape before us, I
3 will tell you in the last two weeks the amount of Section
4 301 money the counties have been looking at has changed at
5 least three times. It's been a little bit hard to get our
6 hands around this.

7 But what I'd like to recommend is that those
8 counties who are looking at adding a supplemental system
9 to meet the requirements of HAVA do so through the HAVA
10 funding process and not through the voting modernization
11 process. I would like to have my funds -- my county's
12 funds held in reserve for my county to purchase a new
13 voting system, at such time as there is a voting system
14 that will meet the needs of our county. Currently, none
15 of the voting systems that certainly are certified in this
16 state and that even are coming before the VSP for
17 certification will meet the needs for Sonoma County.

18 As you know and as you've seen over the last
19 couple of years, things change very rapidly in the
20 elections field. I believe there will be new technology
21 on the horizon. And hopefully within the foreseeable
22 future, those of us who have been holding out and waiting
23 will be able to purchase a new system.

24 I also wanted to point out that, in doing some
25 research, I found that Sonoma County was one of only 15

1 counties in the state where Prop. 41 actually was passed
2 by the voters. I would hate to see our funds distributed
3 the other counties who may have already spent their
4 allocated portion, when our voters supported this
5 modernization fund.

6 CHAIRPERSON PÉREZ: As we were coming up with a
7 formula for allocation of funds, we looked at lots of
8 things, including something that you made reference to in
9 terms of pro rata distribution. We struggled with the
10 idea of population based, voter registration based. One
11 of us on the phone even suggested we may distribute them
12 based on counties who approved the bond measure. But
13 that's not the ultimate formula we came up with.

14 I want to see if anybody on the phone has a
15 comment first, and then we'll -- any questions for
16 Ms. Atkinson or any comments before we move on to our next
17 card?

18 I have one question then. I struggle with the
19 idea of open ended, but I'm drawn to it because I want to
20 be as fair as possible to the counties. And I want to be
21 responsive to the fact that it is an incredibly changing
22 world. And, quite frankly, we all thought we would be
23 done a year-and-a-half ago in terms of the work of this
24 Board. But I struggle with the idea of completely open
25 ended.

1 So your suggestion is completely open ended. Are
2 you comfortable with any sort of a time line for us to
3 recapture the money? And the reason I ask is while Somona
4 may not be in this situation, there may be other counties
5 that may decide not to move forward. And what do we do
6 with that money that sits there, if there's not an
7 intention to use it? And should we be then acting to move
8 that money to other counties that have continued financial
9 need to address the issues within their counties?

10 MS. ATKINSON: Well, I suppose that, yes, I would
11 be open to some date in the future. You know, we could
12 set some date in the future.

13 Where this is so difficult and it's, you know --
14 we're all just guessing. If we, as counties, had had
15 before us an array of voting systems from which to choose,
16 it may not have been such a difficult decision. But we've
17 been sitting here now for two years with nothing to buy,
18 no one coming forward with anything new that's gotten
19 approved by the state. We seem to be decertifying systems
20 faster than we're certifying them in the state.

21 And so, you know, my crystal ball the county gave
22 me when I started is a little hazy. And I can't pull a
23 date out of the air when the vendors will have a new
24 system for us to purchase. I just know -- I will tell you
25 that at times I have felt like we are hurrying through

1 this process so that the Board can disband, you know,
2 because you guys have been sitting up here, and you want
3 to allocate the funds so everybody can go home again.

4 I want to be sure that when I buy a voting system
5 for the voters of Sonoma County that it is, in fact, a
6 system that meets the needs of the voters of the county
7 and that I'm not just buying something, rushing into
8 buying something because we had an artificial deadline
9 imposed.

10 CHAIRPERSON PÉREZ: I think I speak for the Board
11 when I say we don't want to rush you. We wanted to create
12 an aggressive time line that allowed counties that wanted
13 to move forward quickly the opportunity to move forward
14 quickly, and that we've adjusted this time line to be
15 responsive to the changing dynamics impacting counties.

16 And I don't think there's anybody other than
17 another County, you know, Registrar who is as frustrated
18 as you are -- as we are by the fact that you had options
19 to buy them, but you're probably better served not having
20 purchased them, because now you get to look at options
21 that may be ongoing, as opposed to those that were shortly
22 before you and then decertified. So we absolutely, I
23 think, share your frustration and your concern. And we
24 don't want to rush you into a decision that you don't
25 think would be best for the voters of your county.

1 VICE CHAIRPERSON KAUFMAN: Mr. Chairman, can I
2 ask a follow-up question?

3 CHAIRPERSON PÉREZ: Go head, Mr. Kaufman.

4 VICE CHAIRPERSON KAUFMAN: I was just wondering
5 from Ms. Atkinson whether you believe that the March 1,
6 Option 2 that's been presented here by the staff, whether
7 March 1 -- apart from the fact it provides you with two
8 additional months time, does that provide you with any
9 benefit beyond setting the date of January 1, 2006?

10 And what I'm really trying to get at, is there
11 any concern that having the deadline for HAVA, meeting the
12 HAVA requirement, and having the deadline for submitting
13 or getting approval from this Board, does the parallel
14 date at all present a problem that would be solved by
15 extending it two months?

16 MS. ATKINSON: I don't believe that it does, in
17 that I -- hopefully providing that the Section 301 HAVA
18 funding is approved, I intend to comply with HAVA using
19 the Section 301 funds as I believe they were originally
20 intended. And I would like then to have the voting
21 modernization funds held from my county to be used for
22 future voter modernization as I feel they were intended.

23 CHAIRPERSON PÉREZ: May I ask another question?

24 One of the things we wrestled with was some
25 counties not being responsive to some of our initial

1 overtures in trying to come up with our allocation in the
2 first place. And there were several counties who are very
3 slow to comment. It took multiple written and telephonic
4 communications from the staff that works for this Board
5 and the other staff in the election division to get that
6 responsiveness.

7 One of the items that I see in your letter in the
8 basically last substantive paragraph is your willingness
9 to provide the VMB with ongoing reports if we have an
10 open-ended process. My question is this: If we were to
11 move forward with the completely open-ended time line and
12 establish a reporting process for interim reports from
13 counties to determine whether there's an ongoing interest,
14 what do you think the trigger should be for us to find a
15 county being nonresponsive either technically or
16 substantively that would allow for us then to recapture
17 that money and allocate it to counties that have ongoing
18 need?

19 MS. ATKINSON: Well, I certainly would think that
20 would be up to the Board itself to establish something.

21 But if, in fact, you establish a procedure by
22 which the counties need to report on an annual basis or a
23 semi-annual basis as to what their plans are, and counties
24 fail to meet that, you know, I do believe that you could
25 set, you know, a date by which your funds will then be

1 returned to the general pool and possibly reallocated.

2 CHAIRPERSON PÉREZ: Okay. Thank you.

3 Anything else for Ms. Atkinson?

4 If not, thank you very much. I appreciate both
5 your written and your comments in person.

6 MS. ATKINSON: Thank you.

7 CHAIRPERSON PÉREZ: The next card we have is for
8 Terry Hansen from Yuba.

9 MS. HANSEN: Basically, I would like to concur
10 with what Janice just said from Somona County.

11 But I would also like to address one of the
12 comments you made, and I'm particularly sensitive to this.
13 I'm from Yuba County, and I believe Yuba County was one of
14 the non-responsive counties. This was -- I just took
15 office in Yuba County in 2000, two years ago. And so
16 since then, we have become very responsive, but it was a
17 huge learning curve to get into this environment, to
18 successfully navigate this environment.

19 Originally, I felt like someone had directed me
20 you are now to go to the moon, Terry, but you don't have a
21 rocket ship, but you get there. And it was like, how do
22 you do this? And so it has been a huge learning curve,
23 and I'm sure I'm not the only County Registrar of Voters
24 that was put into this position and is now trying to
25 comply fully, with every intention of complying fully.

1 I, too, would support Option Number 3 with some
2 definite guidelines in place that compliance should move
3 forward, documentation should move forward with that
4 compliance, or you would definitely experience a loss of
5 your funding.

6 Thank you.

7 CHAIRPERSON PÉREZ: Thank you. Before you leave,
8 let me just see if there's any questions from any of the
9 Board members.

10 Any questions for Ms. Hansen from Yuba?

11 Thank you.

12 Our next card is Mr. Michael J. Smith.

13 MR. SMITH: Yes. Michael J. Smith from Santa
14 Cruz County.

15 I'm glad I was third, because what Ms. Atkinson
16 said I would not disagree with in any part, except I
17 understand the dilemma you have with the open-ended
18 system. And so I would recommend a June 1st of 2006,
19 which I think would push it up even a little bit more than
20 the March, but wouldn't make you feel as though there's a
21 never to come date for this to happen.

22 I fully support the idea that the funds should
23 come from the HAVA funds rather than -- and keep the
24 others in reserve. I work closely with our Registrar in
25 Santa Cruz County and see the dilemma they have. And I

1 fully supported them holding off spending funds when what
2 existed turned out to be not what most people, certainly,
3 that we've spoken to in Santa Cruz County wanted, first of
4 all, and with the problems existing with Diebold and
5 various other companies.

6 So I fully supported Ms. Atkinson's
7 recommendations without this one date of June 1st being
8 implemented.

9 CHAIRPERSON PÉREZ: Thank you.

10 Any questions for Mr. Smith?

11 Okay. That is the extent of our cards on this
12 item.

13 Mr. Bustamante, anything on this before I move to
14 the phone?

15 BOARD MEMBER BUSTAMANTE: Yes. I have a couple
16 questions of staff. How many counties of already
17 submitted applications?

18 STAFF CONSULTANT LEAN: Twenty-two.

19 BOARD MEMBER BUSTAMANTE: How many counties do we
20 have left?

21 STAFF CONSULTANT LEAN: Thirty-six.

22 BOARD MEMBER BUSTAMANTE: Of the 36, how many do
23 we believe are actually going to participate in the
24 process?

25 STAFF CONSULTANT LEAN: That's actually one of

1 the reasons why we've suggested an interim status report
2 so we can get a word back. Because of the decertification
3 of the DREs and all of the current atmosphere the voting
4 systems are in right now, it's really hard to tell where
5 counties are, because I'm not sure they know where they
6 want to go. We would have to definitely survey them again
7 and find out exactly where they want to go and if they're
8 going to use this money.

9 I would anticipate, given that there is some
10 money now with the 301, that they would -- that still
11 wouldn't necessarily cover their entire costs, so I would
12 anticipate they would come forward for the Voting
13 Modernization Board money.

14 BOARD MEMBER BUSTAMANTE: Because my recollection
15 when we started this, there was at least a dozen counties
16 that weren't interested, something along those lines.

17 CHAIRPERSON PÉREZ: I think there were probably a
18 good number of counties that weren't responding. Some may
19 not have been interested and some of them may have been in
20 the situation Yuba was in with a substantial transition in
21 trying to fully get up to speed and --

22 BOARD MEMBER BUSTAMANTE: Just for some reason, I
23 just have a recollection of counties -- a number of
24 counties just saying --

25 CHAIRPERSON PÉREZ: And there were.

1 STAFF CONSULTANT LEAN: At the beginning of
2 process, HAVA hadn't been passed yet, so it hadn't been
3 really analyzed and implemented. And so I'm not
4 necessarily sure that those counties were aware of their
5 responsibility under HAVA of having one accessible voting
6 machine. I think we discussed it, but I don't know --
7 especially some of the smaller counties who don't have the
8 opportunity to come to these meetings, to go to
9 legislative meeting of the CACEO. So they may not have
10 been fully briefed on the requirements yet. So I think
11 that might have been at the beginning in an onset of VMB.

12 BOARD MEMBER BUSTAMANTE: It's true HAVA hadn't
13 passed, but I think staff had done a yeoman's effort in
14 making sure on multiple times, at least a half a dozen --

15 STAFF CONSULTANT LEAN: We did.

16 BOARD MEMBER BUSTAMANTE: How many systems are
17 certified?

18 STAFF CONSULTANT LEAN: Michael.

19 ELECTIONS ANALYST WAGAMAN: How many systems are
20 certified?

21 CHAIRPERSON PÉREZ: How many systems have been
22 certified.

23 BOARD MEMBER BUSTAMANTE: How many systems are
24 currently certified?

25 STAFF CONSULTANT LEAN: What type of systems?

1 ELECTIONS ANALYST WAGAMAN: How many systems are
2 certified or are certified that fully meet every --

3 BOARD MEMBER BUSTAMANTE: Systems that are
4 certified that would meet the HAVA requirements.

5 ELECTIONS ANALYST WAGAMAN: There is one
6 certified that would meet the HAVA accessibility
7 requirement. There are other systems that meet other
8 portions of it that would have to use in conjunction with
9 at least one other voting system component.

10 CHAIRPERSON PÉREZ: Forgive Michael and forgive
11 me, because this isn't what we did on a day-to-day basis.
12 And we found that depending on how you ask the question,
13 it may significantly impact the answer you get. I don't
14 remember how we parsed the question before, but last I
15 understood, there wasn't a single system in place that was
16 certified both federally and state that would meet the
17 HAVA requirements. What's the distinction between my
18 understanding and the one that you've identified?

19 ELECTIONS ANALYST WAGAMAN: The distinction is
20 our discussion last time in which I annoyed you by
21 pointing out we had approved the Sequoia VeriVote system,
22 even though it had a problem. It was conditional. That
23 was the primary issue that I think was of your primary --
24 of your most concern.

25 BOARD MEMBER BUSTAMANTE: The answer is none.

1 CHAIRPERSON PÉREZ: Has that condition been met?

2 BOARD MEMBER BUSTAMANTE: Strictly, the answer is
3 none. But not strictly, the answer is probably one. Is
4 that a better way to put it?

5 ELECTIONS ANALYST WAGAMAN: I like my Panel
6 better.

7 The system is approved. There are conditions
8 attached to that certification. The only condition
9 that -- the only two significant conditions on there that
10 are beyond just kind of boilerplate-type language are,
11 one, that they have to address a procedural issue on how
12 they're going to deal with the system storing the votes
13 sequentially, so the paper records are stored on a
14 reel-to-reel system, and how they're going to deal with
15 voter privacy concerns with that issue. The counties are
16 submitting their plan for how they would suggest
17 procedurally dealing with that by tomorrow. So that
18 process is moving forward right now.

19 The second issue is the primary issue, that the
20 system can't handle the primary, at least the qualified
21 version of it. So they're going through the federal
22 qualification process on that right now. They already
23 developed the software for it. They've used it before.
24 It just wasn't certified previously. So now they're going
25 through and getting that approved.

1 CHAIRPERSON PÉREZ: Of our 58 counties, how many
2 of them have primary elections?

3 ELECTIONS ANALYST WAGAMAN: Before June of 2006?

4 CHAIRPERSON PÉREZ: How many of them have primary
5 elections?

6 ELECTIONS ANALYST WAGAMAN: All 58 will have a
7 primary election. That's correct.

8 CHAIRPERSON PÉREZ: I don't mean to be flip,
9 except that I feel for San Diego. San Diego had a
10 conditionally-approved system. They moved forward. I was
11 looking for a more colorful term.

12 The frustration that we have -- and it's not
13 directed at you by any means -- is that this is reality
14 for counties. And this is reality for voters. And while
15 the voters expressed an absolute desire in modernizing
16 technology, there was an expectation that that
17 modernization would be in the best interest of the voters
18 both in terms of the integrity of the process and in terms
19 of voters' confidence in the integrity of the process.
20 And moving the ball as it's been moved has been an
21 incredibly frustrating process for elections officials,
22 and it's done nothing to increase voter confidence in the
23 election system.

24 And so while I agree with your assessment that
25 there's one conditionally-approved system, I, for one,

1 still count it as zero, because until conditions are
2 removed, until there's a system in place that people can
3 use and hopefully multiple systems in place people can use
4 so there's true choice, then I think we're putting
5 counties in a tremendously difficult position. And the
6 competing values of our state system versus the federal
7 regs make it so it's going to be very difficult for voters
8 to have the experience they want to have and for us to
9 have the kind of seamless transition we're hoping for.

10 ELECTIONS ANALYST WAGAMAN: Perhaps more
11 informative to you is knowing where we are in the future
12 certification process so you know what we have scheduled
13 in the future, rather than what's been done already.

14 CHAIRPERSON PÉREZ: That would be great.

15 ELECTIONS ANALYST WAGAMAN: Currently, we have
16 scheduled as far as, again, systems that meet the
17 accessibility requirement, which is really the big trigger
18 that people are being held up on, we have the AutoMark
19 system which is ES&S' non-DRE system scheduled to be
20 tested in early March. We have a Diebold --

21 CHAIRPERSON PÉREZ: Hang on one second, because
22 I'm trying to --

23 STAFF CONSULTANT LEAN: That was actually in
24 your -- at the last meeting, this information was in your
25 packet.

1 CHAIRPERSON PÉREZ: Right. Let's go through it
2 again, though.

3 ELECTIONS ANALYST WAGAMAN: There have been some
4 changes, that why I wanted to update you.

5 The Diebold TSX with the paper trail in place is
6 scheduled to be tested in the first week in last -- the
7 week in March. So that one is upcoming.

8 There's a third system from a new vendor called
9 Populex. That application is expected to be received
10 either this week or next week.

11 CHAIRPERSON PÉREZ: Is that a DRE?

12 ELECTIONS ANALYST WAGAMAN: That will be a DRE
13 with a paper trail. So that -- actually, that is not a
14 DRE, in the sense it does not store an electronic record
15 of the vote. What it does is prints a ballot on demand.
16 You vote on it like a DRE, but it doesn't store an
17 electronic record. It stores your ballot.

18 CHAIRPERSON PÉREZ: Isn't there -- you were
19 mentioning about Sequoia.

20 ELECTIONS ANALYST WAGAMAN: Sequoia is currently
21 going through their federal changes that they're going
22 through and qualifying right now. We don't have an
23 application before us.

24 CHAIRPERSON PÉREZ: Populex is more like -- I
25 can't remember the brand of the one I looked at. But it

1 was basically a touch screen ballot marker.

2 ELECTIONS ANALYST WAGAMAN: Correct. It would be
3 closest related to the AutoMark, which is what you just
4 described from ES&S, except the AutoMark takes a print
5 ballot and marks it. The Populex is a ballot memory. It
6 will print the ballot. It is a blank piece of paper with
7 a water mark, and it prints the wallet and the mark at the
8 same time.

9 BOARD MEMBER BUSTAMANTE: So after -- I mean,
10 you've got two machines, one for the first week of March,
11 one for the last week of March. After they go through
12 this testing period, let's just say for argument's sake
13 everything is perfect, everything seems to meet all your
14 requirements, how long from there does the process take
15 for them to be eligible for counties to actually be able
16 to consider purchasing them?

17 ELECTIONS ANALYST WAGAMAN: We have VSP hearings
18 scheduled, again, the morning the same days of yours.
19 Basically, the time line would be we complete testing.
20 We'll usually schedule the hearing before testing is
21 completed. It will take us about a week to complete a
22 report. It will take another week where we have to have
23 the notice of the report so we can allow for public
24 comment. Minimum, we have to complete testing probably at
25 least two weeks in advance of a hearing. So things being

1 tested in March will usually come up -- whatever month
2 they're tested in, it's usually the next month that they
3 will go before the hearing. So I would imagine at least
4 one system will come forward for that April VSP. I
5 imagine two to three systems will be ready for the May
6 VSP.

7 CHAIRPERSON PÉREZ: So it's testing in month one,
8 then in month two it comes before you, then in month three
9 we decertify? I'm sorry. I have to have a little fun
10 today.

11 BOARD MEMBER BUSTAMANTE: So on the federal side
12 after you've gone through the testing and the hearing and
13 say the approval, at that point then there's a federal
14 process involved?

15 ELECTIONS ANALYST WAGAMAN: The federal process
16 starts before the state process. Generally, the policy
17 has been, due to the issues that came up previously, that
18 we will not start the state testing unless the federal
19 testing is at least completed. They wouldn't necessarily
20 have the qualification number, but the testing is
21 completed. Two, we may have the hearing, but actual
22 certification would not be issued until that qualification
23 number is attached to the voting system.

24 BOARD MEMBER BUSTAMANTE: Basically, what you're
25 saying, there could be three, maybe four systems available

1 in June.

2 ELECTIONS ANALYST WAGAMAN: My guess is by June
3 you would have at least three to four systems, if not
4 more. There are other vendors out there that I did not
5 mention that have not said they're coming forward at this
6 point. Avante has said they're going to come forward at
7 some point. Accupoll said they're going to come forward
8 at some point. Those are additional vendors. I don't
9 have specific dates for testing.

10 BOARD MEMBER BUSTAMANTE: Did you say Sequoia
11 hadn't submitted an application?

12 ELECTIONS ANALYST WAGAMAN: They submitted an
13 application for the version that this Panel has issues
14 with. But for the version that would include the changes
15 to deal with the conditions on the certification, they
16 have not submitted that. They're in the federal process
17 right now.

18 BOARD MEMBER BUSTAMANTE: Some people, not all
19 people.

20 CHAIRPERSON PÉREZ: Let's do this, since you've
21 been so patient to hear Mr. Bustamante and myself.

22 Mr. Kaufman, anything on this?

23 BOARD MEMBER BUSTAMANTE: I had one more
24 question.

25 What happens if the counties don't meet the

1 January 1, 2006, HAVA requirements? Do we know?

2 ELECTIONS ANALYST WAGAMAN: Not being a lawyer, I
3 would not want to speculate, other than --

4 BOARD MEMBER BUSTAMANTE: Is there any indication
5 from the folks on the federal side what that could be?

6 STAFF COUNSEL STUART: Not that I've heard of.

7 BOARD MEMBER BUSTAMANTE: Have we asked the
8 question?

9 STAFF COUNSEL STUART: I know with respect to the
10 statewide database they've said they're going to enforce
11 that vigorously.

12 BOARD MEMBER BUSTAMANTE: That's not my concern.

13 STAFF COUNSEL STUART: Other HAVA requirements
14 I'm not aware of.

15 BOARD MEMBER BUSTAMANTE: Have we asked the
16 question?

17 STAFF COUNSEL STUART: That, I would have to ask
18 Tony Miller about.

19 BOARD MEMBER BUSTAMANTE: Can we ask Tony Miller?

20 CHAIRPERSON PÉREZ: Can we do that? Is he
21 available in the building? Michael, I do not mean to pick
22 on you. I just want to make sure we are on the same page.

23 BOARD MEMBER BUSTAMANTE: I think -- I mean, if
24 you're going to play a hand of poker, you have to play
25 with the full deck.

1 And counties have no idea. As it is, the ground
2 has been shifting under their feet now for well over a
3 year. And there's this HAVA thing that's out there, and
4 it's either nothing or, you know, an ominous cloud that's
5 going to strip the counties in the state away from lots of
6 money. If we don't know what the answer is, it's going to
7 be difficult to make decisions. It's going to be
8 difficult for counties to make decisions, too. If they
9 know they're going to lose \$300 million on January the
10 1st, I'd be willing to bet Sonoma and other counties would
11 be willing to take anything, you know. I hate to put
12 names associated with counties, but counties may consider
13 taking something as opposed to nothing if they knew
14 funding would be lost forever.

15 CHAIRPERSON PÉREZ: It's especially difficult for
16 counties that are dealing with a grandfathered system
17 and --

18 ELECTIONS ANALYST WAGAMAN: Let me see if I can
19 answer part of that, and if there are any other questions
20 for me, I can answer them. And then I will go and let Mr.
21 Miller know his presence has been requested.

22 Specific to the 195, that was part of the -- what
23 just went over to DOF. They did not, I believe, recommend
24 a deadline for that money. So --

25 BOARD MEMBER BUSTAMANTE: Who they?

1 CHAIRPERSON PÉREZ: The Secretary.

2 ELECTIONS ANALYST WAGAMAN: The 301 Task Force
3 did not recommend it and that wasn't part of what I
4 believe the Secretary sent in his letter over to DOF.
5 That money does not disappear --

6 BOARD MEMBER BUSTAMANTE: That's not the question
7 I'm asking. It's irrelevant what the State wants. Those
8 are federal funds.

9 And the question is what will the federal
10 government do to those funds that have been allocated to
11 the states to be allocated to the counties. That's what I
12 want to know. It's irrelevant what the State wants
13 because --

14 CHAIRPERSON PÉREZ: And it's not just a question
15 about the funds that the feds have already allocated to
16 the states. But if there's an indication for future
17 funding rounds from the feds to the state, it's impacted
18 by our use or non-use of those funds over a certain time
19 line and what other kind of compliance issues.

20 BOARD MEMBER BUSTAMANTE: Sorry. I just don't
21 think we can be cavalier with hundreds of millions of
22 dollars that we're not even using. It's money that's
23 going to the counties. They're the ones who are losing
24 sleep.

25 ELECTIONS ANALYST WAGAMAN: That's fine. And

1 that's a question for Mr. Miller, who I will go get. If
2 there are any other certification questions, I'd be happy
3 to answer those.

4 CHAIRPERSON PÉREZ: Let me do this before you
5 leave then.

6 Stephen, Tal, Carl, any certification questions
7 before Michael goes up to get Tony Miller?

8 If would you bring Tony.

9 And then any of you -- let's do this. Let me
10 rephrase that. Let's do it in the same order.

11 Stephen, would you like to comment or raise issue
12 with respect to moving the July 1st, 2005, deadline?

13 VICE CHAIRPERSON KAUFMAN: Yeah. I'll make a
14 comment. And I guess I think I've been pretty consistent
15 on this for the last few months. I think under the
16 circumstances a change is warranted from the July 1, 2005,
17 date. I don't think there's any question about that.

18 And I echo Mr. Bustamante's concerns about the
19 fact that ultimately it really does seem like in a way
20 we're shooting in the dark right along with the counties
21 in trying to figure out what the situation is going to be
22 a year from now.

23 Having said that, you know, we are being driven
24 by the fact and I think the whole issue is being driven by
25 the fact right now that under HAVA counties are required

1 to be in compliance by January 1, 2006. And since I'm not
2 inclined to just keep this an open-ended process to
3 eternity, I do think we should have a deadline in place.
4 And it seems to me that mirroring the federal requirement
5 for the federal deadline is a good, if not a perfect,
6 system. It at least has some relationship to what the
7 realities are out there.

8 And if we decide in November or December, things
9 change on the federal level as well, that we need to
10 adjust the process, we've already done it before. I mean,
11 we went through this six months ago when we changed the
12 deadline to July or whatever it was, eight months ago.

13 So, you know, that's where I'm inclined to go at
14 this point. It's not perfect, and I don't think we're
15 going to come up with a perfect answer on this. But I
16 have great respect and concern for the counties. And
17 please don't take my absence there today as anything other
18 than having a really awful cold and not being able to get
19 on a plane this morning. I think this issue is really
20 important, and we need to provide the counties with the
21 support they deserve. But it just seems to me right now
22 that kind of middle ground position is probably the safest
23 place to be.

24 CHAIRPERSON PÉREZ: Thank you.

25 Mr. Guardino.

1 BOARD MEMBER GUARDINO: I concur. I think that's
2 well said, Stephen. I would concur.

3 CHAIRPERSON PÉREZ: Mr. Finney.

4 BOARD MEMBER FINNEY: I concur as well.

5 CHAIRPERSON PÉREZ: Mr. Bustamante.

6 BOARD MEMBER BUSTAMANTE: Yeah. I think Stephen
7 kind of summed it all up. I was one of those that was
8 very reluctant to change the date at all, and kind of
9 reluctantly went along with it to July. I mean, I just
10 cannot see the reason in the open-ended process. And I
11 think that as much as I would prefer to keep it to July, I
12 think we have to recognize the new realities here.

13 Before we conclude this -- what happened to Tony?

14 CHAIRPERSON PÉREZ: Another staff member is
15 getting Mr. Miller.

16 BOARD MEMBER BUSTAMANTE: Because I think --
17 well, I mean, I think I already know the answer. I'm sure
18 he's not going to have an answer.

19 CHAIRPERSON PÉREZ: Okay. Here's what I'm
20 hearing. I mean, all four of you are coming down on the
21 side of January 1st, 2005. I don't see the value in March
22 versus January.

23 Jana, can you tell us what informed -- March is
24 the next date instead of the next January or the next
25 July, or how did you come on March as our third option?

1 STAFF CONSULTANT LEAN: Well, the counties need
2 at least three months in order to get the equipment, test
3 the equipment. That's why I was thinking of a March
4 deadline and moving it out from January. As of January 1,
5 they wouldn't necessarily have to have it. Also because
6 they don't have to have the equipment in place until June,
7 I was thinking that would back it up a few months and
8 allow them to have enough time to --

9 CHAIRPERSON PÉREZ: Mr. Bustamante.

10 BOARD MEMBER BUSTAMANTE: One of the reasons why
11 I looked at January is not just because of the HAVA
12 requirements, but just with the realizations on the ground
13 that it takes months for training and getting the county
14 workers to get acquainted with the equipment, so that when
15 they actually are implemented in June, that we don't have
16 a catastrophe. Because, I mean, as we saw in the Bay
17 Area, there were simple solutions that weren't found
18 because most of the workers or a good chunk of the workers
19 out there weren't familiar with the systems and weren't
20 equipped to be able to handle the questions.

21 Hello, Mr. Miller.

22 So I mean, I think that -- yeah, three months
23 makes sense. But three months plus three months I think
24 makes a lot more sense.

25 CHAIRPERSON PÉREZ: And I share Mr. Bustamante's

1 concerns, and it's also informed not by experience as we
2 had here in California, but by what we saw in the Florida
3 primary problems they had in terms of acquiring a
4 technology and then trying to rush to implement the
5 technology.

6 And, again, I'll go back to the same point I made
7 in terms of voter confidence in the system. And I think
8 that the problems they had there primarily were
9 significantly training issues impacted by their rapid
10 transition did nothing to increase voter confidence with
11 their election.

12 Mr. Miller.

13 STAFF CONSULTANT LEAN: Can I make one more
14 point?

15 But also that was the deadline for them to submit
16 their project documentation plan. They don't have to
17 necessarily have it installed and in working order in
18 order to come to your Board, or they could have already
19 had it installed and ready to go. And if everyone is
20 trying to meet this January 1, 2006, deadline that's been
21 moved out -- because you might have already met it, have
22 your contract. But as you know, the project documentation
23 requirement is a big task for a county. They have to
24 submit a lot of paperwork for us to review in order to get
25 their money. So giving them a few more months, even if it

1 not substantial, it gives them a few more months to submit
2 the package to your Board.

3 CHAIRPERSON PÉREZ: You raise an interesting
4 issue. They could be compliant and just not have their
5 paperwork up to speed in terms of the money.

6 STAFF CONSULTANT LEAN: In moving it to June, you
7 might want to consider it, too. That's when the election
8 is. They're not going to have staff available to them in
9 order to come here and present their project documentation
10 plans. Keep that in the back of your mind.

11 CHAIRPERSON PÉREZ: What I'd like to do is go to
12 Mr. Miller, just because I appreciate you coming down here
13 so quickly. Thank you for doing that.

14 We've been having over the course of our last two
15 meetings discussions about the time line with respect to
16 project documentation plans for counties. And one of the
17 possibilities before us is to move our deadline to be
18 January 1st, 2006, consistent with HAVA deadlines. And
19 Mr. Bustamante had a series of questions with respect to
20 that. And we appreciate your helping us work through
21 those questions.

22 MR. MILLER: I'm Tony Miller with the Secretary
23 of State's Office.

24 BOARD MEMBER BUSTAMANTE: My question was, what
25 happens to -- do we know what will happen to counties or

1 the state if we don't meet the January 1 HAVA requirement?

2 MR. MILLER: We will get to visit with the
3 attorneys from the U.S. Department of Justice. The
4 Department of Justice has the enforcement responsibilities
5 under HAVA. And if states don't comply with the HAVA
6 requirements, then the U.S. Department of Justice has the
7 responsibility to seek enforcement by typically filing a
8 lawsuit in federal district court compelling compliance.
9 The U.S. DOJ has done that already with respect to one
10 California county and another county out of state to
11 enforce compliance with respect to activity at the March
12 2004 election.

13 BOARD MEMBER BUSTAMANTE: So would one of those
14 actions that DOJ could take be a return of funds?

15 MR. MILLER: DOJ itself would not have that
16 authority, but a court might have that authority. The law
17 itself is unclear with respect to what remedies the court
18 would have. And it's anybody's guess at this point
19 whether a court could impose a monetary penalty, including
20 the return of the money. But failure to comply with the
21 disability and access, for example, would almost certainly
22 result in a lawsuit.

23 The one exemption with respect to return of
24 money, so-called Section 102 money, which goes to replace
25 punch card voting systems, if money doesn't go to replace

1 punch card voting systems, that money does have to be
2 returned, the money that was not used, to replace punch
3 card voting systems. That so-called Section 102 money,
4 that money does go back.

5 But with respect to the provisions that kick in
6 January 1, 2006, the Title 2 provisions, there's no
7 automatic return of the money. But there's an automatic
8 likelihood of a lawsuit being filed by the U.S. Department
9 of Justice against the non-compliant county and the State
10 of California. And a court could impose monetary penalty,
11 including the return of money.

12 BOARD MEMBER BUSTAMANTE: On the 102 moneys, have
13 they all been fully allocated?

14 MR. MILLER: No. There's still about \$2 1/2
15 million. There's twelve counties that have not applied
16 yet for the money. Sixteen counties have received their
17 allocation, and two additional counties, Stanislaus and
18 San Bernardino, were waiting for the final spending
19 authority to be granted.

20 BOARD MEMBER BUSTAMANTE: What about the 301
21 moneys?

22 MR. MILLER: The 301, or so-called Section 251
23 money, the state plan money --

24 BOARD MEMBER BUSTAMANTE: Are those in jeopardy
25 of being lost?

1 MR. MILLER: If there's non-compliance with --

2 BOARD MEMBER BUSTAMANTE: If they haven't been
3 allocated by January the 1st, do they have a chance of
4 being lost?

5 MR. MILLER: We received \$94 million, which is in
6 the State of California's bank account. Another \$169
7 million is expected. All of that money is designed to be
8 allocated to comply with Title 2 --

9 BOARD MEMBER BUSTAMANTE: By January 1st?

10 MR. MILLER: Well, most of this goes into
11 effect -- some stuff is already in effect.

12 CHAIRPERSON PÉREZ: Let me ask a clarifying
13 question, I think.

14 MR. MILLER: Yes, Mr. Chairman.

15 CHAIRPERSON PÉREZ: The 301 money is not -- the
16 outcomes are expected by January 1, 2006, but the
17 expenditure or distribution of those funds, is there a
18 similar time requirement on them?

19 MR. MILLER: It's unlike the Section 102 money,
20 punch card replacement money. There's no 301 money, per
21 se. There's Title 2 state plan money. This is \$261
22 million, and is to comply with all the provisions of Title
23 2, which includes accessibility, which includes the
24 statewide database, and some other things. Most of those
25 provisions do become operative January 1, 2006.

1 CHAIRPERSON PÉREZ: The distinction I'm trying to
2 ask for is the provisions being operative is a question of
3 outcomes, my word, not the technical word. But is there a
4 parallel expectation of expenditure?

5 MR. MILLER: Yes. But it's not definitive as
6 with Section 102.

7 CHAIRPERSON PÉREZ: Thank you. Forgive the
8 inelegant phrasing of the question. I think your answer
9 gets to what I was --

10 MR. MILLER: Section 102 was allocated based on
11 \$3100 per precinct. Any precinct that doesn't comply,
12 that money goes back automatically.

13 CHAIRPERSON PÉREZ: Got it.

14 BOARD MEMBER BUSTAMANTE: Let me try it
15 inelegantly. I'm just trying to figure this out.

16 I mean, we're in a situation right now we're
17 trying to figure out whether or not we want to extend the
18 deadline. But we don't know if we extend the deadline
19 what ramifications there will be. My simple question is
20 one of trying to inform the counties. I want to know in
21 order for me to be able to make decisions, what happens on
22 January the 2nd? What happens to the HAVA funds on
23 January the 2nd? Do we have a fight on our hands with the
24 federal government? Is there an automatic trigger that
25 pulls the money back? Do they do nothing and still wish

1 us well? What happens?

2 MR. MILLER: There is no automatic trigger in
3 terms of return of the money. The consequences of
4 complying with provisions of HAVA on January 1, 2006, is
5 litigation probably, a lawsuit, and a court ultimately
6 taking action. And I cannot be presumptive with respect
7 to what a court might do. There's no automatic trigger as
8 with Section 102 where the money automatically goes back.

9 BOARD MEMBER BUSTAMANTE: Have you asked the
10 question?

11 MR. MILLER: Of EAC and the Department of
12 Justice. The fact of the matter is nobody knows what a
13 court would do.

14 CHAIRPERSON PÉREZ: Mr. Miller, if I may,
15 non-compliance and potential triggers with respect to DOJ
16 and potential litigation, the triggers with respect -- the
17 measure of non-compliance is not the expenditure or lack
18 of expenditure of the money; correct?

19 MR. MILLER: Correct. It's the results.

20 CHAIRPERSON PÉREZ: That's the distinction I was
21 trying to get, that the compliance questions are
22 outcome-driven, not expenditure-driven, is my way of
23 phrasing it. We're on the same --

24 MR. MILLER: Yeah. You're correct. But
25 obviously in order to have the outcome, money is required.

1 CHAIRPERSON PÉREZ: Right. But it doesn't
2 necessarily require expenditure of 100 percent of the
3 money. You could potentially get to the outcome with an
4 expenditure with a lesser percentage.

5 MR. MILLER: That is correct.

6 CHAIRPERSON PÉREZ: That still doesn't answer
7 your question, but it answers mine. I'm the Chairman, so
8 I get my questions answered first. Go ahead.

9 Mr. Kaufman, do you have any questions?

10 MR. MILLER: I apologize if I haven't been
11 able --

12 CHAIRPERSON PÉREZ: Go ahead, Mr. Bustamante.

13 MR. MILLER: If you want to give me another shot,
14 I'll try again. I'm sorry.

15 CHAIRPERSON PÉREZ: Did you ever watch the TV
16 show, "What's My Line?"

17 MR. MILLER: I'm not that old, Mr. Chairman.

18 With Kitty Carlisle and Bennett Cerf, no, never seen it.

19 CHAIRPERSON PÉREZ: Specially not Bennett Cerf.

20 Mr. Bustamante. I think the answer is we haven't
21 asked the question.

22 BOARD MEMBER BUSTAMANTE: Yeah, we haven't, it
23 doesn't sound like.

24 The Department of Justice -- the folks at Justice
25 aren't the ones that are administering HAVA, right? There

1 is a separate group, and I can't remember. DOC --

2 MR. MILLER: The EAC, Elections Assistance
3 Commission. But the EAC has no enforcement powers.

4 BOARD MEMBER BUSTAMANTE: No, but they have a
5 pretty big swagger at the party. And, you know, I mean,
6 if those folks have a feeling about things or, you know,
7 want to make a point, I'm certain there are members of
8 Congress and the Administration that are willing to listen
9 to what they have to say.

10 MR. MILLER: The EAC has a regulatory authority.
11 They do carry a stake in terms of, indeed, the power of
12 the podium. DOJ is the one that keeps reminding us they
13 have --

14 BOARD MEMBER BUSTAMANTE: They have a loaded gun.
15 But has EAC at all indicated what would happen
16 after January the 1st? Second question is, if they
17 haven't, have we asked them?

18 MR. MILLER: They have indicated they will refer
19 the matter to the Attorney General, Department of Justice,
20 U.S. DOJ for enforcement action. That's what they've
21 said.

22 BOARD MEMBER BUSTAMANTE: They've said that?

23 MR. MILLER: Yes, they have.

24 BOARD MEMBER BUSTAMANTE: So there isn't any
25 reason to believe they wouldn't want to come after the

1 funds and take them back and reallocate them perhaps
2 somewhere else?

3 MR. MILLER: They may, indeed, want to do that,
4 but they have not said that. And the HAVA itself does not
5 provide for that.

6 BOARD MEMBER BUSTAMANTE: Okay.

7 CHAIRPERSON PÉREZ: Mr. Kaufman, any questions?

8 VICE CHAIRPERSON KAUFMAN: No. I think you've
9 covered it.

10 CHAIRPERSON PÉREZ: Mr. Finney?

11 BOARD MEMBER FINNEY: No questions for me.

12 CHAIRPERSON PÉREZ: Would the non-attorney on the
13 phone like to ask any questions, Mr. Guardino?

14 BOARD MEMBER GUARDINO: No, no questions.

15 CHAIRPERSON PÉREZ: Okay. I've got nothing
16 further for Mr. Miller.

17 Do you have any, Mr. Bustamante?

18 BOARD MEMBER BUSTAMANTE: No. I have a headache.

19 CHAIRPERSON PÉREZ: Mr Miller, as always, thank
20 you for helping us.

21 MR. MILLER: Thank you, Mr. Chairman. I will
22 stay. If I can be of additional assistance, I will try,
23 Mr. Bustamante. I will try.

24 CHAIRPERSON PÉREZ: Okay. So where we were with
25 respect to Item VI, A, was I sense a consensus from the

1 four of you with respect to a January 1st, 2006, deadline.
2 I'm a little more predisposed to open-ended, but that's
3 just me being gushy and easy going today.

4 BOARD MEMBER BUSTAMANTE: What happened?

5 CHAIRPERSON PÉREZ: I had more caffeine today.

6 But four members is a clear consensus. Is there
7 a motion along these lines?

8 BOARD MEMBER BUSTAMANTE: Yes, Mr. Chairman.

9 VICE CHAIRPERSON KAUFMAN: This is Stephen
10 Kaufman.

11 I will make a motion to adopt staff
12 Recommendation 1, which is to extend the deadline to
13 January 1, 2006, and to require interim status reports
14 from the counties, which I guess we will also have to
15 discuss in terms of mechanically how we want to deal with
16 those.

17 BOARD MEMBER FINNEY: I'll second.

18 BOARD MEMBER BUSTAMANTE: I'd second.

19 CHAIRPERSON PÉREZ: Mr. Bustamante actually beat
20 you to the punch, Mr. Finney, but thank you.

21 Mr. Kaufman, a question for you. Would you feel
22 comfortable with an amendment that asks for the interim
23 report July 1st since that was the deadline we were
24 looking at anyway and it's not springing a new date on
25 counties?

1 VICE CHAIRPERSON KAUFMAN: Yeah. I think I'm
2 comfortable with that date. We may even want to add
3 another one if we wanted to do one in September or what
4 have you. But certainly comfortable with at minimum a
5 July report date.

6 CHAIRPERSON PÉREZ: And Mr. Bustamante is also
7 comfortable with that?

8 BOARD MEMBER BUSTAMANTE: Yeah.

9 CHAIRPERSON PÉREZ: So let the motion reflect
10 their willingness to have the referenced interim report be
11 a July 1st, 2005, interim report.

12 On the item, any discussion?

13 Hearing none, Debbie, why don't you call the roll
14 on this?

15 EXECUTIVE ASSISTANT PARSONS: John Pérez?

16 CHAIRPERSON PÉREZ: Aye.

17 EXECUTIVE ASSISTANT PARSONS: Michael Bustamante?

18 BOARD MEMBER BUSTAMANTE: Aye.

19 EXECUTIVE ASSISTANT PARSONS: Tal Finney?

20 BOARD MEMBER FINNEY: Aye.

21 EXECUTIVE ASSISTANT PARSONS: Carl Guardino?

22 BOARD MEMBER GUARDINO: Aye.

23 EXECUTIVE ASSISTANT PARSONS: Stephen Kaufman?

24 VICE CHAIRPERSON KAUFMAN: Aye.

25 CHAIRPERSON PÉREZ: We have unanimous consent

1 there. Okay. Very good.

2 Next item before us is Item IV, B, which is
3 consideration of policy to request the counties to give us
4 a detailed interim report.

5 And for that, Ms. Parsons.

6 EXECUTIVE ASSISTANT PARSONS: Included in your
7 packet is a sample of a format of the interim status
8 report. The counties who have not yet submitted their
9 project documentation plans would be asked to submit this
10 form with answers to five questions which are on the form.

11 The staff believes that by using this format the
12 VMB would gather enough information on the counties'
13 modernization status without placing a huge burden on
14 their time. This report could be incorporated using the
15 additional report's language already included in the
16 procedure guide.

17 The Board may want to consider asking the
18 counties who are implementing their voting system
19 conversion in phases to also submit this interim report on
20 their next plan phase. This could assist the VMB with
21 determining when the voting modernization funds will be
22 needed. And the Board would need to make a motion to
23 require this formal report from the counties and also to
24 include the format as Appendix F in the Voting
25 Modernization Act of 2002 Funding Application and

1 Procedural Guide.

2 CHAIRPERSON PÉREZ: Thank you, Ms. Parsons.

3 Mr. Bustamante, any questions? No.

4 Mr. Kaufman?

5 VICE CHAIRPERSON KAUFMAN: No.

6 CHAIRPERSON PÉREZ: Mr. Finney?

7 BOARD MEMBER FINNEY: No.

8 CHAIRPERSON PÉREZ: If there is no -- never mind.

9 I won't go to the questions.

10 Mr. Guardino?

11 BOARD MEMBER GUARDINO: No.

12 BOARD MEMBER BUSTAMANTE: This would be the July

13 1?

14 CHAIRPERSON PÉREZ: This would be the July 1.

15 Is there a motion to concur with staff

16 recommendation?

17 BOARD MEMBER BUSTAMANTE: So moved.

18 VICE CHAIRPERSON KAUFMAN: I'll second.

19 STAFF CONSULTANT LEAN: Would you like to have a
20 little discussion on the phased approach on those counties
21 who are -- I just --

22 CHAIRPERSON PÉREZ: Sure. Go ahead.

23 STAFF CONSULTANT LEAN: I just thought that
24 perhaps you might want to take a look at that. That isn't
25 something that's necessary. But you might want to have a

1 little discussion on that. But it's just a recommendation
2 of staff that you consider that, because these counties
3 who are doing different phases, they haven't started their
4 next phase, and you may want to consider that.

5 CHAIRPERSON PÉREZ: You're suggesting that this
6 also be used for interim phases that have yet to be begun
7 by counties who have submitted their plan?

8 STAFF CONSULTANT LEAN: That's correct.

9 CHAIRPERSON PÉREZ: Okay.

10 STAFF CONSULTANT LEAN: That would be a new
11 requirement. This isn't a requirement for any of the
12 counties who haven't moved forward. But the counties that
13 have moved forward that are in a phased approach so the
14 Board would know where they are in that second phrase. It
15 just doesn't necessarily have to be what the Board chooses
16 to do. Just wanted to bring that forward as a
17 possibility.

18 BOARD MEMBER BUSTAMANTE: Didn't we have a
19 requirement? I thought we had something.

20 CHAIRPERSON PÉREZ: No. We asked them to
21 delineate what their phases are, but this is a little more
22 active, a very early shot delineation. And I think it's
23 pretty consistent with the overall recommendation.

24 So who was the maker of the motion?

25 BOARD MEMBER BUSTAMANTE: That would be me.

1 CHAIRPERSON PÉREZ: Mr. Bustamante.

2 And the seconder was Mr. Finney?

3 BOARD MEMBER BUSTAMANTE: Kaufman.

4 CHAIRPERSON PÉREZ: Mr. Kaufman, you're
5 comfortable with that?

6 VICE CHAIRPERSON KAUFMAN: Yes.

7 CHAIRPERSON PÉREZ: Anything else on this?

8 Debbie, would you call the roll?

9 EXECUTIVE ASSISTANT PARSONS: John Pérez?

10 CHAIRPERSON PÉREZ: Aye.

11 EXECUTIVE ASSISTANT PARSONS: Michael Bustamante?

12 BOARD MEMBER BUSTAMANTE: Aye.

13 EXECUTIVE ASSISTANT PARSONS: Tal Finney? Tal
14 Finney?

15 BOARD MEMBER FINNEY: Aye.

16 EXECUTIVE ASSISTANT PARSONS: Carl Guardino?

17 BOARD MEMBER GUARDINO: Can you hear me? I'm
18 having trouble hearing Debbie. I'm hearing the Chairman
19 really well.

20 CHAIRPERSON PÉREZ: Carl, are you in concurrence
21 with us on this?

22 BOARD MEMBER GUARDINO: Yes.

23 CHAIRPERSON PÉREZ: Stephen Kaufman?

24 VICE CHAIRPERSON KAUFMAN: Aye.

25 CHAIRPERSON PÉREZ: Very good. Again, you got us

1 all in agreement.

2 The next item I have before us is Item IV, C,
3 which is additional funding rounds. Let me try to take a
4 very quick stab at this.

5 There are no additional funding rounds until we
6 use up or determine whether we're using up the money in
7 the additional funding round -- I mean the initial funding
8 round. So I would suggest we put this over until we have
9 an expression by a county that they're not going to use
10 their money or some other change in status with respect to
11 money we've already allocated.

12 BOARD MEMBER BUSTAMANTE: Is there supposed to be
13 a question mark after this?

14 CHAIRPERSON PÉREZ: Is there general consensus
15 with my position on this?

16 BOARD MEMBER BUSTAMANTE: Yeah.

17 CHAIRPERSON PÉREZ: Hearing no objection, the
18 next item I have is Item C, Other Business. And I have
19 one card for Item C. I have a card for an an initial R.
20 Cohn. Please come forward. Item 7, sorry.

21 MS. COHN: As I said at the earlier hearing, I'm
22 a layperson here. And I certainly was not expecting to
23 speak three times today. But my comments actually have
24 changed since you began speaking. You know, this process
25 began --

1 CHAIRPERSON PÉREZ: Would you give us your full
2 name?

3 MS. COHN: My name is Rafaella Cohn.

4 I want to say first of all that I appreciate the
5 action of the Panel. The comments by Ms. Atkinson, the
6 Registrar from Somona, and the exchange between Panel
7 members and Mr. Miller highlighting the position the
8 counties are in provided me with a great deal of
9 additional detail and information.

10 I think it's critical not to impose an artificial
11 time line. Reporting requirements are one thing.
12 Depriving counties of money one thing, a very important
13 piece. But compromising voter integrity is even far above
14 all that. My biggest concern -- and I'm going to say
15 this. I realize this is kind of an idealistic statement
16 or maybe a naive one. But I don't understand why the
17 Department of Justice or any federal agency would stand in
18 the way of ensuring that the next set of elections are the
19 best possible set of elections they can be. And I think
20 that would be my position if somebody from DOJ were
21 standing right in this room right now.

22 My concern is that we've jumped to the
23 conclusion -- and Mr. Miller, it sounds like you've
24 already had substantial interactions such that you believe
25 that on January 2nd, California would come in for some

1 hard fire.

2 I would like to propose -- and, again, I'm just a
3 person from somewhere out there. Okay. But it sounds to
4 me like there's such a thing -- I mean, I know there's
5 such a thing as stipulations, provocatively, say hey,
6 guys, we might need more time. What ever happened to
7 entering into some agreement along the way?

8 I'm only speaking for myself, but I would bet you
9 there's a lot of voters out there who would, if they knew
10 the situation, would get behind the state of California
11 and support taking the time that's needed for these
12 machines to get in order.

13 And the other piece of that is that I'm really a
14 little bit confused about sort of -- and I'm not going to
15 ask anybody to clarify this here. But I just want to give
16 you some feedback. I'm a little confused about what this
17 money would be used for when you talk about like either
18 upgrading old systems, or are you talking primarily about
19 verifying tape trails? Or are you talking about other
20 kinds of --

21 CHAIRPERSON PÉREZ: Our general practice is not
22 to respond to questions during this time, but we'll do it
23 because I think it's an important one.

24 As we discussed retrofitting, we were talking
25 about adding voter verifiable paper audit trails to DRES

1 the counties may have already purchased.

2 MS. COHN: Once again, I think based on your
3 answer, I would say that, you know, given what -- you
4 know, the buzz that's existed here around all the stuff
5 that's gone on in this nation, around elections, you know,
6 I, as one citizen, want to really support us doing
7 everything possible we can to support the counties to do
8 what they have to upgrade their systems and get paid and
9 share money and all that good stuff.

10 There's, I'm sure, much more I could say, but I
11 don't want to take more time. I did want to say one more
12 thing, which is I thought Mr. Berkman raised a very
13 important point about additional vendors or people who may
14 not be knowledgeable about the system and sort of how to
15 work it, but have really good ideas about new kinds of
16 machines. So whatever you can do to support that and
17 throw money towards people who are into those new kinds of
18 technologies, I really support that. I'm sorry about all
19 the time.

20 CHAIRPERSON PÉREZ: Thank you very much.

21 Any other business that any other members would
22 like to raise before we adjourn?

23 STAFF CONSULTANT LEAN: You moved the county
24 retrofitting --

25 CHAIRPERSON PÉREZ: Which one did I move?

1 STAFF CONSULTANT LEAN: You moved down to
2 discussion. You said we could move it down to Other
3 Business, the county's retrofit money. I think this was
4 already addressed. But that was something you moved down
5 to Other Business.

6 CHAIRPERSON PÉREZ: No. I thought that we dealt
7 with that in our discussion of what was previously Item V,
8 C, which is the discussion around the funds available
9 through the 301 Task Force.

10 STAFF CONSULTANT LEAN: I just have that in my
11 notes. Just want to clarify.

12 CHAIRPERSON PÉREZ: Okay. I want to make a
13 closing comment before we adjourn.

14 This is a difficult process for all of us. And I
15 think that, as one of the issues in play is voters'
16 confidence in voting technology and the integrity of votes
17 cast in this state and other places, that it's important
18 to note the work not only of the Secretary of State's
19 staff and the staff that helps us on a regular basis, but
20 quite frankly, the work of the registrars and election
21 officials throughout the state.

22 None of them take the challenge before us
23 lightly. And all of them are really trying to make sure
24 that as we go through this process, even as we disagree
25 about time lines, that first and foremost for all of them

1 is being able to conduct elections in a way that are both
2 efficient, in a way that protects the integrity of the
3 election process, and in a way that maximizes the
4 confidence the voters have they were able to do those two
5 things.

6 I want to thank all the staff from the Secretary
7 of State's Office and the folks representing the counties
8 who are here for their continued work, anything along
9 those lines.

10 Anything else before we adjourn?

11 STAFF CONSULTANT LEAN: I have some housekeeping
12 items.

13 With the motion you made on the interim report,
14 we will release that to the counties as soon as possible.
15 We will have the July 1st, 2005, as a deadline for that
16 report. We have a meeting scheduled for July 21st. I
17 believe staff can say we will have this information
18 available for you at this meeting.

19 The next scheduled Voting Modernization Board
20 meeting is March 17th, 2005. The only agenda item that
21 we've moved forward is the update on the Voting
22 Modernization Fund Pool of Money and the Bond Sales. If
23 we do not receive a project documentation, which I don't
24 anticipate doing such, from a county, that would be the
25 only agenda item at the next meeting. So I open it up to

1 the Board members to let us know if you want to continue
2 to schedule that meeting.

3 CHAIRPERSON PÉREZ: What's the pleasure of the
4 Board? If that's all that's before us, do you want to
5 just put off the March meeting? If we don't receive a
6 project documentation plan, then let's put off the
7 meeting. Please inform us as soon as you determine
8 whether or not we have any project documentation plans.

9 STAFF CONSULTANT LEAN: Next week is the
10 three-week deadline, next Friday, so we will know at that
11 time so we can send an e-mail. We can give you an interim
12 report, not a full staff report. But I will inform the
13 Chair of any updates we get on that item.

14 CHAIRPERSON PÉREZ: Very good. Thank you. With
15 that, we stand adjourned.

16 (Thereupon the Voting Modernization
17 Board meeting adjourned at 3:27 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 1st day of March, 2005.

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TIFFANY C. KRAFT, CSR, RPR

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