

1 it -- if -- Dominion can choose whether or not to  
2 ask for recertification or not. And if they choose  
3 not to recertify, their system would be  
4 grandfathered, presumably, but they could not  
5 market, lease or sell the equipment. Assuming they  
6 come into compliance with Senate Bill 61, which is  
7 what this body has decided all vendors need to do.  
8 Correct?

9 MR. KING: Yes.

10 MS. NUSSMEYER: But --

11 MR. KING: Yes, Mr. Chairman, that's -- that's  
12 correct. The --

13 VICE CHAIRMAN LONG: Okay.

14 MR. KING: -- the two key components are that  
15 a system that's been certified once does not have  
16 to be recertified. It's subject to the  
17 restrictions that you just spoke about. But it  
18 does, if it's grandfathered, so to speak, have to  
19 comply with Indiana law such as SEA 61.

20 MS. NUSSMEYER: Uh-huh.

21 CHAIRMAN BENNETT: So when will we decide if  
22 this complies with SEA 61?

23 VICE CHAIRMAN LONG: That's going to be the  
24 August --

25 CHAIRMAN BENNETT: August 28th?

1 VICE CHAIRMAN LONG: -- August 18th or  
2 whatever we meet after --

3 CHAIRMAN BENNETT: Sometime between  
4 August 28th and October 1st.

5 VICE CHAIRMAN LONG: Or --

6 PROXY CELESTINO-HORSEMAN: -- meet before?

7 VICE CHAIRMAN LONG: We can't do it the 9th;  
8 they won't have -- if they had it done, that would  
9 be great. But we can't do it the 9th.

10 MS. NUSSMEYER: So, again, Mr. Chairman, if I  
11 may. The Commission would meet again to  
12 essentially listen to VSTOP provide a report on the  
13 results of the test plan. And then if those  
14 results are favorable, then the Commission would  
15 essentially give your blessing for the company to  
16 move forward with implementation.

17 So then that would be two to three weeks that  
18 Dominion is suggesting it would take to do the  
19 implementation. And so then when you would meet a  
20 second time, would be to consider the  
21 recertification request. Which I believe Dominion  
22 has applied for recertification, correct?

23 DR. BAGGA: Yes. Yes.

24 VICE CHAIRMAN LONG: And it's continued --  
25 your plan continues with that.

1 MR. PIPER: Correct.

2 VICE CHAIRMAN LONG: Okay. So that means  
3 we've got to have a meeting --

4 MS. NUSSMEYER: At least two more, yes.

5 VICE CHAIRMAN LONG: Yeah. Two more meetings.

6 PROXY CELESTINO-HORSEMAN: Would it help to  
7 continue to require Dominion to report regularly to  
8 you on its status?

9 DR. BAGGA: That would certainly be helpful,  
10 if we get progress reports. Especially when it  
11 comes down for implementation. We would want --

12 PROXY CELESTINO-HORSEMAN: Would you want --

13 DR. BAGGA: -- regular reports of  
14 implementation status.

15 PROXY CELESTINO-HORSEMAN: -- would you want  
16 those once a week then like you were -- like you've  
17 been having them? Would that be sufficient?

18 DR. BAGGA: That seems reasonable to us.

19 VICE CHAIRMAN LONG: Okay.

20 MR. PIPER: Dominion has no -- no issue with  
21 that. We're more than happy to comply with that.

22 CHAIRMAN BENNETT: I'm sorry. I didn't hear  
23 your comment.

24 MR. PIPER: I said my -- Dominion has no issue  
25 with providing those updates and would be happy to

1 comply with that.

2 CHAIRMAN BENNETT: Okay.

3 VICE CHAIRMAN LONG: Would a motion be in  
4 order to approve the timeline and -- and to -- and  
5 to add that weekly reports continue until  
6 recertification is completed?

7 CHAIRMAN BENNETT: Yes. And the test plan.

8 VICE CHAIRMAN LONG: The test plan, the  
9 timeline. I move we approve the -- the -- the  
10 timeline, the testing plan that you've recommended,  
11 and the weekly -- continuation of the weekly  
12 reports until such time as the recertification's  
13 approved.

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

16 PROXY CELESTINO-HORSEMAN: I'll second.

17 CHAIRMAN BENNETT: The motion is seconded.  
18 Any further discussion? Any discussion on that  
19 motion? Do we need to add to that motion an  
20 approval of the Dominion Voting System Development  
21 Completion Report?

22 VICE CHAIRMAN LONG: Let's do that in a second  
23 motion. Probably I should have made that motion  
24 first. But -- and I can table -- I can ask to  
25 table that one and -- and move to adopt their

1 recommendation today first, if you would prefer,  
2 Mr. Chairman.

3 CHAIRMAN BENNETT: Yeah. Why -- why don't we  
4 do that. The motion to adopt the recommendation of  
5 VSTOP with regard to the Dominion Voting System  
6 development completion report; is that what I'm  
7 hearing?

8 VICE CHAIRMAN LONG: I'm -- I -- I'm not  
9 following the formal Robert's Rules of Order. I --  
10 I would put this motion first. I would move we  
11 adopt the VSTOP recommendation for the approval as  
12 they made here today regarding where we are today.

13 CHAIRMAN BENNETT: Okay. Second for that  
14 motion?

15 PROXY CELESTINO-HORSEMAN: Second.

16 CHAIRMAN BENNETT: Any further discussion?  
17 All in favor say "Aye."

18 ALL COMMITTEE MEMBERS: Aye.

19 CHAIRMAN BENNETT: All opposed, nay. Ayes  
20 have it; motion carried. Now we have a second  
21 motion.

22 VICE CHAIRMAN LONG: And the second motion was  
23 to approve the -- the timeline, the testing  
24 criteria for the --

25 CHAIRMAN BENNETT: Plan.

1 VICE CHAIRMAN LONG: -- testing plan; thank  
2 you. And the --

3 CHAIRMAN BENNETT: Weekly report.

4 VICE CHAIRMAN LONG: -- weekly reports  
5 continuation.

6 CHAIRMAN BENNETT: Okay. Is there a second  
7 for that motion?

8 VICE CHAIRMAN LONG: It has been seconded.

9 PROXY CELESTINO-HORSEMAN: Second.

10 CHAIRMAN BENNETT: Second. Any further  
11 discussion? All in favor say "Aye."

12 ALL COMMITTEE MEMBERS: Aye.

13 VICE CHAIRMAN LONG: I -- I'm sorry. Aye.

14 CHAIRMAN BENNETT: All opposed say "Nay."  
15 Ayes have it; motion carries.

16 Thank you. Anything further with regard to  
17 Dominion Voting Systems?

18 VICE CHAIRMAN LONG: Not unless anybody has --  
19 I don't have anything else.

20 CHAIRMAN BENNETT: Hearing none, we will move  
21 then to Lake County's small precinct consolidation.

22 As a result of recent legislation enacted  
23 concerning the consolidation of certain small  
24 precincts in Lake County, I'll ask Mr. King and  
25 Mr. Kochevar to briefly describe the content of

1 Senate Bill 220 to Commission members.

2 MR. KING: Thank you, Mr. Chairman, members of  
3 the Commission.

4 Following the legislative session, the  
5 Election Division staff compiled a document called  
6 the 2017 Indiana Election Legislative Summary or  
7 Legislation Summary, I should say. And so what  
8 I'll present to you is from that document.

9 Under Senate Enrolled Act 220, which was  
10 codified as Public Law 262-2017, a small precinct  
11 committee was established in Lake County consisting  
12 of the Director and Assistant Director of the Lake  
13 County Board of Elections and Registration, and  
14 other employees of the board, if approved by  
15 unanimous vote of the entire membership of the  
16 board, provided that a partisan balance is  
17 maintained.

18 The small precinct committee was required to  
19 determine the following three items. One, the  
20 precincts in the county that had fewer than 600  
21 active voters, as that terms is defined in the  
22 election code, as of November 1, 2016. Secondly,  
23 whether compliance with the precinct boundary  
24 standards set forth in State law such as  
25 prohibiting crossing the State legislative lines,

1 congressional district lines, physical features as  
2 examples, would prevent the combination of a  
3 precinct described above with one or more adjoining  
4 precincts.

5 And then finally, the third point, potential  
6 savings in the administration of elections  
7 resulting from the combination of precincts  
8 described above. The small precinct committee was  
9 to establish a proposed plan to console precincts  
10 within the county that's consistent with the  
11 standards above.

12 Not later than noon, June 1st, 2017, the Lake  
13 County Board of Elections and Registration was  
14 required to adopt a Proposed Precinct Establishment  
15 Order implementing the findings of the committee  
16 and to file the proposed order with the Election  
17 Division no later than noon, August 1, 2017.

18 The legislation went on to provide that if the  
19 Lake County Board does not file a Proposed Precinct  
20 Establishment Order as required, then the Indiana  
21 Election Commission shall adopt a Precinct  
22 Establishment Order for the county not later than  
23 September 1, 2017, based on the county committee's  
24 proposed plan.

25 However, if the Commission does not have the



1 county committee's proposed plan and findings, the  
2 Commission shall adopt an order the Commission  
3 determines for real-life savings for the county and  
4 not impose unreasonable obstacles on the ability of  
5 the voters of the county to vote at the polls.

6 The legislation provided that a Proposed  
7 Precinct Establishment Order approved under this  
8 law would take effect January 1, 2018. However, if  
9 a -- an objection to a proposed order is filed  
10 under the normal procedures in Indiana Election  
11 Law, the Proposed Precinct Establishment Order  
12 would take effect January 1, 2018. Unless three  
13 members of the Election Commission affirmatively  
14 voted to sustain the objection, the bill was  
15 upon -- effective upon passage, which was May 2nd,  
16 2017.

17 And I'll defer to Mr. Kochevar, if you'd like  
18 to add any further information on that.

19 MR. KOCHEVAR: Mr. Chairman, members of the  
20 Commission. I would agree with Co-Director King's  
21 summary of Senate Enrolled Act 220. A summary of  
22 this is included in the Indiana Election  
23 Legislative Summary, as Co-Director King noted. It  
24 is on Page 16 and 17 and is publicly available on  
25 the Indiana Election Division's Web site.

1           This summary was produced based on review of  
2   Senate Enrolled Act's affecting Title Three, the  
3   Indiana Election Code, done by my counterpart,  
4   Co-Director -- or Co-General Counsel Dale Simmons,  
5   as well as reviewed by Co-Director King and  
6   Co-Director Nussmeyer. And, thus, in my view,  
7   serves at least a -- our understanding of the  
8   summary of this Senate Enrolled Act.

9           And also, Mr. Chairman, with your permission,  
10   I'll defer to Co-Director Nussmeyer for any  
11   additional thoughts on this.

12           MS. NUSSMEYER: I have nothing further to add.  
13   Thank you.

14           MR. KOCHEVAR: Thank you.

15           CHAIRMAN BENNETT: Is it agreed that the ball  
16   is essentially in the Commission's court at this  
17   point in time?

18           VICE CHAIRMAN LONG: I think so.

19           MS. NUSSMEYER: Uh-huh.

20           CHAIRMAN BENNETT: Okay.

21           VICE CHAIRMAN LONG: Unfortunate --  
22   unfortunately.

23           CHAIRMAN BENNETT: Yeah. Can the Co-Directors  
24   confirm whether any (inaudible) consolidation plan  
25   filed by the Lake County Board of Election that's

1 been filed -- the election division as of this  
2 date?

3 MR. KING: Mr. Chairman, members of the  
4 Commission. No, no such plan has been filed.

5 MS. NUSSMEYER: Agreed.

6 CHAIRMAN BENNETT: Based on my understanding  
7 that a plan has not been field by the deadline set  
8 forth in the statute, we have prepared a draft for  
9 consideration by the Commission members which would  
10 establish procedures for this Commission to address  
11 this matter.

12 On Monday of this week I asked that this draft  
13 be circulated to Commission members for review.  
14 And a copy of the draft is included in your binder,  
15 the last document before the back cover of your  
16 binder.

17 For purposes of discussion I will move the  
18 adoption of these procedures as presented. Is  
19 there a second for discussion purposes?

20 VICE CHAIRMAN LONG: To get it on the floor  
21 for discussion, I'll second that. And then when we  
22 get to discussion, I have some comments.

23 CHAIRMAN BENNETT: All right.

24 VICE CHAIRMAN LONG: And I'd like to thank you  
25 all for what you've done.

1 CHAIRMAN BENNETT: We have a motion and a  
2 second, and so we will move to discussion.

3 VICE CHAIRMAN LONG: I would like, for the  
4 record, to thank you for taking the time and effort  
5 to put this together. It's obviously been thought  
6 through, and virtually every word of it is  
7 agreeable, I think.

8 We have some suggestions if -- I -- I asked  
9 the staff to put together, and -- and spoken to my  
10 fellow member here on this side of the aisle, and  
11 would hand out to you, for your consideration -- I  
12 don't mind discussing them publicly so everyone can  
13 understand. But this has gone through a couple of  
14 drafts to try to accommodate. There's -- there's  
15 one for -- one for Brad also. I think there's a  
16 couple there.

17 MS. NUSSMEYER: Yeah.

18 VICE CHAIRMAN LONG: And if I might, your  
19 draft said that anyone could submit a -- a plan. I  
20 was troubled by that because the precincting plans  
21 are extremely complicated, as you had alluded to;  
22 that there are certain statutory requirements and  
23 legislative district lines and congressional  
24 district lines and local problems with County  
25 Council medic district lines; that until you all

1 have gotten the distinct pleasure of going through  
2 a statewide reprecincting process, as only Brad and  
3 I of this body can attest to, I think, you don't  
4 know how involved they are. And I think if we got  
5 anybody in Lake County that's submitted one of  
6 these, it would be -- could be disastrous because  
7 of the technicalities of it.

8 We had proposed, and I do propose, for  
9 consideration that the -- the submission be limited  
10 to members of the Lake County Board of Elections  
11 and Voter Registration, the deputy or deputy  
12 director of the Lake County Board of Elections and  
13 Vote -- and Voter Registration or the Lake County  
14 Democratic, Republican or Libertarian Party Chairs.

15 Surely this -- as broad as that is, I think if  
16 anyone's up there that wants to get -- get on with  
17 one of those people, one of those groups, that that  
18 could happen.

19 CHAIRMAN BENNETT: Should we take your  
20 comments one at a time? Do you want to go --

21 VICE CHAIRMAN LONG: Let me just summarize  
22 them --

23 CHAIRMAN BENNETT: Okay.

24 VICE CHAIRMAN LONG: -- and -- so that you get  
25 the gist. Because I don't think we're making

1 seer -- the -- we had added just as an add -- the  
2 only word we took off of yours is "any person" and  
3 replaced it with those words. And then we've  
4 added, as required by the -- the statute, those  
5 precincts with fewer than 600 active voters would  
6 be targeted for the consolidation.

7 And -- and -- and it's our position that we  
8 should properly -- we should recommend that any  
9 proposed consolidation of the precincts not exceed  
10 1200 active voters, recognizing that the law does  
11 allow for 2,000. And we're suggesting that Lake  
12 County has thirteen, I believe, precincts that  
13 exceed 1200. So we're down to 585. So I don't  
14 think that's a -- a -- a -- a big change.

15 I think legislatively we're -- we're in a  
16 legislative role here. And -- and I just have some  
17 philosophical problems with the 2,000 limit. Not  
18 inclined, unless somebody can be tremendously  
19 persuasive, to -- to vote for a precinct that has  
20 as many as 2,000 active voters. Because that could  
21 theoretically have a -- if we have a voting  
22 precinct population of maybe three or 4,000.

23 The -- we -- we just added the words in  
24 Paragraph 2, if -- if a timely submitted plan does  
25 not contain the maps, which I -- I -- I don't know

1 that it's -- it's substantially different than what  
2 yours says. But --

3 And then we did add and -- and I would so  
4 encourage that anybody, before we approve one, if  
5 the -- the Lake County Board of Elect -- Elections  
6 and Registration can submit a properly approved and  
7 qualified plan after the July 13th deadline, that  
8 your procedures and deadlines adopt that anyone  
9 other than that group it would not be considered.  
10 But if the Lake County Board of Voter Registration  
11 submitted one, I would -- I would hate to have had  
12 something in here that we said, "Thank you all very  
13 much" and approve it and somebody challenges it:  
14 Well, your procedures didn't allow that to be  
15 submitted. And that's -- you know how us lawyers  
16 are.

17 The -- we added that the -- the law, as I  
18 understand it, allows us to submit plans. Don't  
19 count on one from me. I've been through one  
20 election re -- redo in Lake County. It was very  
21 pleasant but that was all I needed.

22 Plans proposed by the Commission members would  
23 not be bound by our deadlines. And then we just --  
24 the next one in five, that's just a technical  
25 correction to change -- "any person" refers to the

1 eligible submitters. And we've added to that we  
2 would meet on your suggested date. We'll make that  
3 work at 1:30, August the 9th. That looks -- that  
4 may be a -- in Room 233 of the Statehouse. I  
5 assume that's one of the legislative hearing rooms  
6 and probably available for podcasting. It's --  
7 we've done that before too. And to review, discuss  
8 the proposed plans. And we may adopt the final  
9 order establishing -- and that would be our final  
10 goal at that time.

11 As I say, Mr. Chairman, you all did a good job  
12 putting this together. We tweaked it a little bit  
13 to try to -- the limitations of size is sort of a  
14 heads up, at least from my perspective, that I -- I  
15 just don't -- I think 2,000 is too big. I think  
16 it's -- it's potentially challengeable. 1200 seems  
17 to be, as I understand this bill, was in hearing in  
18 the House.

19 And these guidelines -- I think they were  
20 looking at 500 voters. And -- and, to be honest,  
21 when the law says it's 500 or six -- or 600, that's  
22 pretty clear to me that's nondiscretionary. I  
23 think the legislature said 600, and the 12 -- 2000  
24 is -- it may not exceed that. That's -- I think  
25 that's up to us to make that ultimate decision.



1 That's just courtesy notice that I -- I wouldn't  
2 intend to vote for anything that would exceed 1200  
3 active voters.

4 And that I would strongly encourage, just my  
5 thoughts, that the Lake County folks sit down and  
6 work this out. We did that once before on their  
7 Commissioners' districts a few years back.  
8 Reasonably sure -- I don't believe any of you  
9 all -- were you here then?

10 CHAIRMAN BENNETT: I was. Oh, with Lake  
11 County?

12 VICE CHAIRMAN LONG: We all -- we did it. We  
13 all caught hell about it. One of those judges told  
14 me one time, the perfect judicial decision is when  
15 you make everybody mad. And I think we -- that was  
16 a perfect decision.

17 So that's my thought. And -- and I back off  
18 and welcome anyone's comments with regard --

19 CHAIRMAN BENNETT: I appreciate your  
20 thoughtful comments. And we should discuss them.

21 I have one question and that is, is it -- is  
22 there a statutory requirement that we open the  
23 floor to "any person"? Is that -- or is that  
24 something that we can limit?

25 VICE CHAIRMAN LONG: I'd defer that to our

1 counsels.

2 MR. KOICHEVAR: I'm not aware of any statutes  
3 in Title Three or -- and, actually, I'll defer to  
4 Co-Director King on this on EOPA, which I don't  
5 think we have follow with the precincting plan.  
6 It's not mentioned specifically in that -- in  
7 Senate Rule Act 220.

8 MR. KING: Uh-huh. Mr. Chairman, members of  
9 the Commission. I would agree with the  
10 Mr. Kochevar on a couple points. First of all, I  
11 don't think this is an adversarial proceeding in  
12 the sense that the Open generally covers it. So I  
13 don't think that's -- that's relevant.

14 With regard to restrictions, the Commission  
15 has general authority to administer election law.  
16 It's been given specific duties under the statute.  
17 And I think so long as the procedures have a  
18 rational basis that limiting time of submission,  
19 who can submit meets the rationality test.

20 CHAIRMAN BENNETT: Okay. So --

21 MR. KING: I -- I would -- I would just raise  
22 one issue in quickly reviewing this. I did not, in  
23 my initial review, see anything in the proposed  
24 changes that violated State statute. I think there  
25 is -- there's one point, to make sure that there is

1 understanding, clarification on, and that's the  
2 deadline, if the Lake County Board were to submit  
3 an agreed plan. The statute referenced August 1st,  
4 2017. But it presupposed that there would be a  
5 June 1st action. So, just to be clear, what --  
6 what the deadline is, if Lake County were to come  
7 to an agreement, would be helpful.

8 VICE CHAIRMAN LONG: And -- and we talked  
9 about that a little bit when I talked to Angie and  
10 Karen. I think we want to encourage this as  
11 quickly as we can. But if they came in here on  
12 Oct -- August the 8th with a fully documented,  
13 agreed plan, I'd be inclined to vote for it.  
14 Because I think it's -- it's a local issue; it's  
15 their problem. And if they solve it, I -- I -- I  
16 was very reluctant to ever knock them out of the  
17 opportunity to settle it in their -- on their home  
18 court.

19 I -- I -- if -- if -- you know, I think we  
20 could. But I think that would -- I just  
21 philosophically think that they're going to come up  
22 with a better plan themselves than we might come up  
23 with.

24 MR. KLUTZ: Does that -- I mean, does that  
25 create any limbo for us in not wanting to take

1 action because we hear a plan is in the works? Or,  
2 I mean --

3 VICE CHAIRMAN LONG: Somebody's gonna' -- I  
4 plan on looking at -- hopefully we'll get them in.  
5 And -- and staff's gonna' -- we're gonna' have --  
6 all these technical requirements are gonna' have to  
7 be advised by staff. I mean, and -- and -- and I  
8 assume the legislative services agency, who reviews  
9 these precincting plans for their compliance with  
10 the whatever, all the things that -- I can't  
11 remember all of them, but there's a lot of them --  
12 that to -- to say that this is -- this plan meets  
13 the qualifications.

14 So all of that would -- as soon as we get one,  
15 we'll start that process. And then I don't think  
16 I'm -- you know, I -- I guess if we get really  
17 credible information coming out of there, if Dan  
18 Dubovitz calls me and says, We -- I think we're  
19 going to work this out, I'd accept that as pretty  
20 good evidence or -- and other folks up there.

21 But we've -- we encouraged them, I encourage  
22 them here today, to do it themselves. It's so much  
23 better.

24 CHAIRMAN BENNETT: Should we put any kind of a  
25 deadline on this at all, even for Lake County

1     though? Just to --

2           MR. KLUTZ: The statute is clear. It says not  
3 later than August 1.

4           VICE CHAIRMAN LONG: That's when they have to  
5 submit it.

6           MR. KLUTZ: Yeah.

7           VICE CHAIRMAN LONG: And technically, I think,  
8 as I read the statute -- and I was a little  
9 confused on the two dates -- I think the June -- or  
10 July 13th date is a -- is a date that says they  
11 write us a -- a plan. But it doesn't have the  
12 technical drawings and all -- and then the -- the  
13 technical aspects of the -- of the actual plan with  
14 the precinct lines and all the things that they  
15 have to do has to come in before August the 1st.

16           That's how I interpreted that. They're  
17 telling us on July the 13th we've got a deal, or  
18 June the -- whatever the date.

19           MR. KLUTZ: June 1.

20           VICE CHAIRMAN LONG: June 1. We've got it,  
21 we've got it worked out, and we've got an  
22 agreement. Then they -- they're given that much  
23 lead time to get the technical data together.

24           CHAIRMAN BENNETT: What if we just said the  
25 deadline for Lake County to submit plans shall be

1 August 1st? I mean, leaving everything you said  
2 that -- that other than Lake County, plans  
3 submitted after July 13th will not be considered.  
4 The deadline for the -- the submission of county --  
5 of plans by Lake County shall be August 1st.

6 VICE CHAIRMAN LONG: Let -- let -- let me be  
7 the devil's advocate to your position. And -- and  
8 not --

9 CHAIRMAN BENNETT: Not saying the deadline  
10 could be lifted.

11 VICE CHAIRMAN LONG: It's what --

12 CHAIRMAN BENNETT: It is the deadline.

13 VICE CHAIRMAN LONG: Well, if it's the  
14 deadline, and they can come in on the 5th --

15 MS. NUSSMEYER: Well, but haven't they already  
16 missed the deadline?

17 VICE CHAIRMAN LONG: They --

18 MS. NUSSMEYER: June 1st was the deadline to  
19 approve the plan. So at this point I would say the  
20 August 1st deadline -- I'm not an attorney. But I  
21 would agree that the August 1st deadline isn't  
22 applicable because they missed the June 1st  
23 deadline.

24 PROXY CELESTINO-HORSEMAN: Oh, I --

25 MR. KLUTZ: Not even considering --

1 PROXY CELESTINO-HORSEMAN: I guess my question  
2 would be is you -- you have to -- the Commission --  
3 if the Commission's gonna' draw these, it has to be  
4 done by September 1st; is that right?

5 VICE CHAIRMAN LONG: Yes.

6 PROXY CELESTINO-HORSEMAN: So the Commission  
7 has to draw this by September 1st, I guess. And I  
8 won't be sitting here that day.

9 VICE CHAIRMAN LONG: You might be.

10 CHAIRMAN BENNETT: I think you guys have  
11 already taken care of this though. Because if you  
12 look at item four where you changed that it says --  
13 Paragraph 4 where you said, Plans proposed by the  
14 Commission members are not bound by the new  
15 July 13th, '17 deadline.

16 PROXY CELESTINO-HORSEMAN: But that's this  
17 Commission.

18 CHAIRMAN BENNETT: The Commission could adopt  
19 whatever --

20 VICE CHAIRMAN LONG: Yes.

21 CHAIRMAN BENNETT: -- is provided by the --

22 VICE CHAIRMAN LONG: You're probably right.

23 PROXY CELESTINO-HORSEMAN: Yes. Yes.

24 CHAIRMAN BENNETT: -- by the -- by the county.

25 And we could say --

1 VICE CHAIRMAN LONG: -- adopt this as our plan  
2 and we'll submit it.

3 PROXY CELESTINO-HORSEMAN: Right. I mean --

4 CHAIRMAN BENNETT: But that keeps the pressure  
5 on them, if we haven't -- we haven't stated it.

6 PROXY CELESTINO-HORSEMAN: Yeah. 'Cause what  
7 this -- what it does is it -- even if -- even if  
8 your staff starts working up a plan so it has  
9 something by September 1st, it keeps the pressure  
10 on Lake County. 'Cause if they know -- if they  
11 want anything approved and they want it to be their  
12 plan, they're going to have to get it in here.

13 So the question becomes then, you drop what --  
14 I guess what you're showing is -- expressing is,  
15 we'll drop whatever we're doing, if you get us the  
16 plan in time for us to adopt something and deal  
17 with it by September 1st.

18 VICE CHAIRMAN LONG: I -- I agree with you on  
19 your comment. Because the reason I didn't want it  
20 in there is because I didn't want somebody to  
21 challenge it and say, We've made -- I was getting  
22 ready to say, well, maybe we add another paragraph  
23 says, We reserve the right to change these at any  
24 time. But I think if -- you're probably right that  
25 that's why the discussions are so good.



1 CHAIRMAN BENNETT: You've done that.

2 VICE CHAIRMAN LONG: And I -- and I -- and  
3 I'm -- I'm -- I'm comfortable with that. And --

4 MR. KLUTZ: Mr. Chairman, if I could just add  
5 one more technical comment to the addition of  
6 bottom of number one.

7 I want to make sure we capture the definition  
8 of act -- active of voters that's in the statute.  
9 And so I guess I would just propose perhaps, as  
10 required by and in accordance with IC, I just want  
11 to make sure that we are all operating and the  
12 active voters. 'Cause it is --

13 VICE CHAIRMAN LONG: Yes, I agree. And it's  
14 clear -- it's clear in the -- I mean, if it's  
15 defined, I -- that -- that would be the definition  
16 I would want to use.

17 CHAIRMAN BENNETT: So you'd add --

18 MR. KLUTZ: -- required by and in accordance  
19 with.

20 CHAIRMAN BENNETT: -- in accordance with 33-6.

21 MS. NUSSMEYER: Commissioner Klutz, you're  
22 looking at 3-5-2-1.7 for definition of active  
23 voter?

24 MR. KLUTZ: Well, no. I think it's --

25 VICE CHAIRMAN LONG: Oh, that should go out.

1 Yeah, this word should --

2 MR. KLUTZ: Well, it says, As defined in IC  
3 3-11-18-2 (sic).

4 MS. NUSSMEYER: Okay.

5 MR. KLUTZ: But it's referenced within this  
6 citation we use. So 3-11-18.1-2.

7 VICE CHAIRMAN LONG: Okay.

8 CHAIRMAN BENNETT: 3-11-18.1-2.

9 MR. KLUTZ: 18.1.

10 CHAIRMAN BENNETT: Okay. So did we decide we  
11 were going to have a deadline stated in here?

12 VICE CHAIRMAN LONG: August --

13 CHAIRMAN BENNETT: August 1st for Lake County  
14 of --

15 VICE CHAIRMAN LONG: Well, I -- I'm  
16 comfortable with that, with your agreed  
17 interpretation of the -- the second page; that --  
18 that if they can convince, I -- I guess, three of  
19 us that they've got their own plan, that I might be  
20 an easy vote to get on that one, if they come --  
21 so --

22 CHAIRMAN BENNETT: So they do have a deadline  
23 of August 1st. But the plan -- the Commission can  
24 submit the plan.

25 VICE CHAIRMAN LONG: We just don't tell them

1 that.

2 CHAIRMAN BENNETT: I don't know if they're  
3 going to see these rules. Or --

4 VICE CHAIRMAN LONG: Yeah. I think we have to  
5 send them to them.

6 CHAIRMAN BENNETT: Okay.

7 VICE CHAIRMAN LONG: And I think we should put  
8 them on our Web site, publish them or whatever we  
9 do, once we adopt a -- a set of procedures. But,  
10 again, I -- I was very happy when I saw the work  
11 that you did on the 7th.

12 CHAIRMAN BENNETT: Okay. Thank you all for  
13 your discussion. So --

14 PROXY CELESTINO-HORSEMAN: Oh, Mr. Chairman.  
15 When we're talking about active voters, do we mean  
16 actually the definition contained in 3-5-2-1.7?  
17 'Cause one -- the one that we're talking about here  
18 refers to active voters when we're discussing vote  
19 centers.

20 MR. KLUTZ: So what I'm referring to is the  
21 Senate Rule Act 220(d)(1) where it -- it says  
22 active voters. And then it references where the  
23 definition's at.

24 CHAIRMAN BENNETT: As defined by 3-11-18.1-2,  
25 November 1st, 2016.

1 PROXY CELESTINO-HORSEMAN: What -- what -- do  
2 you think that they -- do you think they could have  
3 meant the wrong definition? Because when you go  
4 and look at that one definition in 18.2, it says,  
5 As used in this chapter, active voter means voters  
6 not an inactive voter under 37-38.2. But -- which  
7 is then a whole chapter itself. But they define  
8 active voters.

9 VICE CHAIRMAN LONG: Surely the legislature  
10 wouldn't have made a mistake. God, that's --  
11 that's heresy here.

12 CHAIRMAN BENNETT: I wouldn't think we'd want  
13 to vary from -- straight from the legislation.

14 PROXY CELESTINO-HORSEMAN: No, I agree. But  
15 that's -- it's odd.

16 CHAIRMAN BENNETT: Well, I think we better go  
17 play the hand we were dealt.

18 VICE CHAIRMAN LONG: Well, if -- if we use  
19 that cite, it puts us back to the other one. And  
20 it's just the reverse of it. It's not an inactive  
21 voter under 37 -- yeah, it is the whole chapter.

22 PROXY CELESTINO-HORSEMAN: Yeah. It means the  
23 whole thing. And it just goes to correcting the  
24 registration records and such.

25 CHAIRMAN BENNETT: All right. Well, we

1 have -- I don't know if we have a scribe who's been  
2 keeping track of these changes.

3 VICE CHAIRMAN LONG: There isn't.

4 MR. KING: I'm trying.

5 VICE CHAIRMAN LONG: Clerical. Second page,  
6 was there any -- was there any that's been struck  
7 out that shouldn't be?

8 CHAIRMAN BENNETT: Yeah. Number 5 --  
9 Paragraph 5, that page addition should remain.  
10 Okay. Any part -- no, no, no. We keep the -- the  
11 red because we changed the definition of -- of who  
12 can submit the plans.

13 MR. KING: Submit by any person.

14 CHAIRMAN BENNETT: Any party noted in  
15 Section 1.

16 VICE CHAIRMAN LONG: Party goes out; person  
17 goes out.

18 CHAIRMAN BENNETT: And one -- and one -- and  
19 parties are now limited to members of the  
20 accounting board.

21 MR. KING: Got you.

22 VICE CHAIRMAN LONG: And I think, just for the  
23 purpose -- procedurally, if -- if I make a motion  
24 to amend the motion, and then we vote on that  
25 amendment, and then if that passes, then we pass on

1 the motion. Is that the procedural matter?

2 MR. KING: Yes, sir.

3 VICE CHAIRMAN LONG: Let's see if I can state  
4 this correctly. And we have -- I have an extra  
5 clean copy. My motion is going to be other than  
6 draft up here --

7 CHAIRMAN BENNETT: We have a motion and second  
8 on the adoption of the procedures right now.

9 VICE CHAIRMAN LONG: Yeah. And I'm gonna' --

10 CHAIRMAN BENNETT: We just had our decision.

11 VICE CHAIRMAN LONG: And I think I can make a  
12 motion to amend that motion and -- and -- and  
13 incorporate this language. And if everybody  
14 agrees, then we then move to adopt the motion that  
15 has been amended.

16 CHAIRMAN BENNETT: Yes. Correct.

17 VICE CHAIRMAN LONG: So my motion would be,  
18 while during this discussion that the red line and  
19 deleted line delineation, as set forth in the  
20 document entitled "Draft" that has been circulated,  
21 be incorporated as they are with these exceptions.  
22 And -- and we can get some help here.

23 Number one, the simple one in Paragraph  
24 Number 5, the deleted word "any," in quotes, is  
25 reinstated or -- or was not -- that that's taken

1 out. It stays in as any party instead of any  
2 person.

3 And then we were talking in Paragraph 1 after  
4 the end of the red line before the period we would  
5 add, "As defined by Indiana Code 3-11-18.1-2."

6 CHAIRMAN BENNETT: Right. I think the motion  
7 or the suggestion was it should read, "As required  
8 by and in accordance with --

9 VICE CHAIRMAN LONG: Okay.

10 CHAIRMAN BENNETT: -- 3-11-18.1-2."

11 VICE CHAIRMAN LONG: Okay. I'll -- and -- and  
12 I don't have any problem -- oh, okay. You were  
13 changing this statute and you all agree.

14 MS. NUSSMEYER: We're adding.

15 MR. KLUTZ: We're adding.

16 VICE CHAIRMAN LONG: And required by the one  
17 that's there and --

18 MS. NUSSMEYER: And then at the end. And,  
19 correct me if I'm wrong, the 1200 active voters as  
20 defined by IC 3-11-18.1-2.

21 VICE CHAIRMAN LONG: That was what I was  
22 addressing. And do we need to add another  
23 statutory -- statutory citation up in the -- after  
24 the one that's there in the red line or in the red  
25 part?

1 CHAIRMAN BENNETT: Yes. We can do that.

2 VICE CHAIRMAN LONG: What -- what do you --  
3 what do you all think needs to be added up -- do  
4 you need something here?

5 CHAIRMAN BENNETT: We can say "as required by"  
6 and -- just leave it.

7 Okay. All right. So my understanding, I can  
8 take this by consensus, is that we would just  
9 leave -- we would just add the language at the end  
10 of the red line in Paragraph 1, delete the period  
11 and add "as defined by 3-11-18.1-2."

12 VICE CHAIRMAN LONG: Period.

13 CHAIRMAN BENNETT: Period. And then we could  
14 add that same addition after 600 active voters, "as  
15 defined by."

16 VICE CHAIRMAN LONG: Sure. I have no -- I  
17 would incorporate that in my motion to amend. And  
18 is there anything else that we need to get any  
19 notes on anything else?

20 CHAIRMAN BENNETT: Yes. On Paragraph 2, at  
21 the end, we were going to add the language, "The  
22 deadline for submission of a plan by Lake County is  
23 noon, Indianapolis time, on August 1st, 2017."

24 VICE CHAIRMAN LONG: Lake County Board of  
25 Election and Registration. That -- that's who's



1 supposed to submit the plan, isn't it?

2 MR. KING: Yes, sir.

3 VICE CHAIRMAN LONG: The Board of Election?  
4 Yeah. And I would -- I -- I have no problem with  
5 -- with -- just show that incorporated into my  
6 motion, if you will.

7 MR. KING: Okay.

8 VICE CHAIRMAN LONG: Anything else you got on  
9 it?

10 CHAIRMAN BENNETT: Is there any other  
11 amendments to the motion to the procedures? So we  
12 have a motion to amend the procedures as --

13 VICE CHAIRMAN LONG: -- stated.

14 CHAIRMAN BENNETT: -- stated.

15 VICE CHAIRMAN LONG: Unless you want to do it  
16 all. I'll be happy to let you try.

17 CHAIRMAN BENNETT: Do we have a second for  
18 that motion?

19 MR. KLUTZ: Second.

20 CHAIRMAN BENNETT: We have a motion; we have a  
21 second. Any further discussion? All in favor say  
22 "Aye."

23 ALL COMMITTEE MEMBERS: Aye.

24 CHAIRMAN BENNETT: All opposed say "Nay."  
25 Ayes have it; motion carried.

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June 23, 2017

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1 VICE CHAIRMAN LONG: Now motion to pass.

2 CHAIRMAN BENNETT: Thank you.

3 VICE CHAIRMAN LONG: We've got it down this  
4 far.

5 CHAIRMAN BENNETT: Is there a motion?

6 VICE CHAIRMAN LONG: You already got a motion.  
7 You -- you moved to pass the -- you have to amend  
8 that again?

9 CHAIRMAN BENNETT: We approved the amendment.  
10 Now we need a motion to pass as amended.

11 VICE CHAIRMAN LONG: As amended. So moved.

12 CHAIRMAN BENNETT: Motion to pass the  
13 procedures as amended.

14 VICE CHAIRMAN LONG: Unless you were --

15 CHAIRMAN BENNETT: I was gonna' make it so.  
16 You just made it.

17 VICE CHAIRMAN LONG: Okay.

18 CHAIRMAN BENNETT: I'll second it.

19 VICE CHAIRMAN LONG: Okay.

20 CHAIRMAN BENNETT: I'll second it. And any  
21 discussion? All in favor say "Aye."

22 ALL COMMITTEE MEMBERS: Aye.

23 CHAIRMAN BENNETT: All opposed say "Nay."  
24 Motion carried.

25 VICE CHAIRMAN LONG: Bipartisan commissions

1 work.

2 CHAIRMAN BENNETT: It's working. Good job.

3 All right. Let me see where we are.

4 VICE CHAIRMAN LONG: We've got a lot more  
5 business to do here.

6 CHAIRMAN BENNETT: The next Commission meeting  
7 will take place on August 9th, 2017 at 1:30 p.m. in  
8 Room 233 of the Statehouse. Indiana Election  
9 Commission has finished their business for the day.  
10 Is there a motion for the Indiana Election  
11 Commission to adjourn?

12 MR. KLUTZ: So moved.

13 CHAIRMAN BENNETT: We have a motion.

14 VICE CHAIRMAN LONG: Second.

15 CHAIRMAN BENNETT: Is there a second? We have  
16 a second. Those in favor --

17 VICE CHAIRMAN LONG: Just a second. We're  
18 gonna' jointly ask staff to send these out and  
19 publish this to all the people that can submit the  
20 plans. I don't think it has to be a motion. But  
21 on the record we're saying that -- let everybody  
22 that's involved here know what's going on and --

23 MS. NUSSMEYER: Uh-huh.

24 VICE CHAIRMAN LONG: Tell them that I said to  
25 get to work.

1           CHAIRMAN BENNETT: Okay. I think we have a  
2 motion and a second to adjourn. All in favor say  
3 "Aye."

4           ALL COMMITTEE MEMBERS: Aye.

5           CHAIRMAN BENNETT: All opposed, "Nay." Ayes  
6 have it. We are adjourned.

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8           (Time Noted: 3:18 p.m.)

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1 STATE OF INDIANA )

2 ) SS:

3 COUNTY OF HAMILTON )

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5 I, Lisa C. Pierce, a Notary Public in and for  
6 the County of Hamilton, State of Indiana at large,  
7 do hereby certify that the foregoing hearing was  
8 taken on behalf of the Indiana Election Commission  
9 at the Indiana Government Center, 402 West  
10 Washington Street, Conference Room 14,  
11 Indianapolis, Marion County, Indiana, on  
12 June 23, 2017, commencing at the hour of 1:38 p.m.,  
13 pursuant to Rules of Applicable Procedure;

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

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

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

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

4

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7

*Lisa C. Pierce*

8

NOTARY PUBLIC

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12 My Commission Expires:  
13       March 14, 2021

13

14 County of Residence:  
15       Hamilton

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June 23, 2017

Index: \$1,000..achieved

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