

**Indiana Election Commission**  
**Minutes**  
**August 19, 2011**

**Members Present:** Daniel A. Dumezich, Chairman of the Indiana Election Commission (“Commission”); S. Anthony Long, Vice Chairman of the Commission; Sarah Steele Riordan, member; Bryce Bennett, member.

**Members Absent:** None

**Staff Attending:** Trent Deckard, Co-Director, Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); J. Bradley King, Co-Director of the Election Division; Leslie Barnes, Co-General Counsel of the Election Division; Dale Simmons, Co-General Counsel of the Election Division; Abbey Taylor, Campaign Finance Election Division staff; Michelle Thompson, Campaign Finance Election Division staff.

**Also Attending:** Dr. Jay Bagga; Mr. Glenn Bailey; Ms. Susan Bevers; Mr. Tim Brown; Mr. Tom Burt; Ms. Terri Castle; Mr. Kevin Dogan; The Honorable Earl Harris; Mr. Abu Henderson; The Honorable Sue Landske; Mr. John Laughlin; The Honorable Amanda Lowery; Mr. Toby McClamroch; Mr. Deane Nelson; Mr. Steve Pearson; The Honorable Cherrish Pryor; The Honorable Linda Robbins; Mr. Judd Ryan; Dr. Raymond Scheele; Mr. Allan Sutherlin; Ms. Marlene Taylor.

## **1. Call to Order**

The Chair called the August 19, 2011 meeting of the Commission to order at 10:00 a.m. in the Indiana Government Center South Conference Center, Conference Room 22, at 402 West Washington Street, Indianapolis, Indiana.

The Chair noted that proper notice of the meeting had been given, as required by state law. A copy of the meeting notice, agenda, and designations of proxy are incorporated by reference in these minutes. *[Copies of all documents incorporated by reference are available for public inspection and copying at the Election Division Office.]*

## **2. Transaction of Business**

The Commission transacted the business set forth in the Transcript of Proceedings prepared by Ms. Rhonda J. Hobbs, RPR, of Connor+Associates Reporting. A copy of this document is incorporated by reference in these minutes.

The following corrections of scrivener’s errors in this document are approved by the Commission:

Page 5, line 5, replace “ordered” with “order”.

Page 14, line 17, replace “?” with “.”.

Page 15, line 18, replace “?” with “.”.

Page 22, line 5, replace “record” with “record of this”.

Page 46, line 25, replace “?” with “.”.

Page 57, line 15, replace “Battle” with “Battles”.

Page 72, line 1, replace “amidst” with “amiss”.

Page 92, line 8, replace “ Benter (Phonetic)” with “Bentner”.

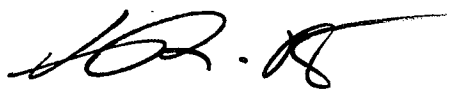
Page 99, line 15, replace “head” with “ahead”.

Page 101, line 24, replace “?” with “.”.

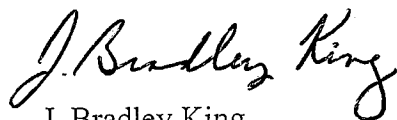
### 3. Adjournment

There being no further items on the Commission’s agenda, the Chair entertained a motion to adjourn. Mr. Long moved, seconded by Mr. Bennett, that the Commission do now adjourn. The Chair called the question, and declared that with four members voting “aye” (Mr. Dumezich, Mr. Long, Ms. Riordan, and Mr. Bennett), and no Commission member voting “no,” the motion was adopted. The Commission then adjourned at 12:43 p.m.

Respectfully submitted,

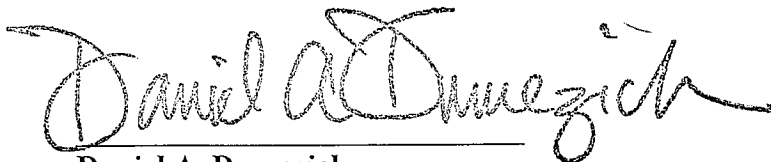


Trent DeCard  
Co-Director



J. Bradley King  
Co-Director

APPROVED:



Daniel A. Dumezich  
Chairman

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INDIANA ELECTION COMMISSION  
PUBLIC SESSION AGENDA

Conducted On: Friday, August 19, 2011

Location: Indiana Government Center  
South Conference Center, Room 22  
402 West Washington Street  
Indianapolis, Indiana 46204

A STENOGRAPHIC RECORD BY:  
Rhonda J. Hobbs, RPR  
Notary Public  
Stenographic Reporter

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Connor + Associates, Inc.  
1650 One American Square  
Indianapolis, IN 46282  
(317) 236-6022

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A P P E A R A N C E S

INDIANA ELECTION COMMISSION:

- Mr. Daniel Domezich - Chairman
- Mr. Anthony Long - Vice Chairman
- Ms. Sarah Riordan - Commission Member
- Mr. Bryce Bennett - Commission Member

INDIANA ELECTION DIVISION STAFF:

- Mr. Dale Simmons - Co-Legal Counsel
- Ms. Leslie Barnes - Co-Legal Counsel
- Mr. Bradley King - Co-Director
- Mr. Trent Deckard - Co-Director
- Ms. Michelle Thompson - Campaign Finance
- Ms. Abbey Taylor - Campaign Finance

1           CHAIRMAN D. DUMEZICH: This meeting of the  
2           Indiana Election Commission is called to order.  
3           All four members of the commission are present.  
4           Introduction, starting to my left, Miss Sarah  
5           Riordan, the Vice Chairman, Tony Long -- I'm the  
6           Chairman, Dan Dumezich, and to my right is our  
7           member, Mr. Bryce Bennett.

8           First of all, I'd like to thank Jon Myers for  
9           his service to this commission -- he will be  
10          missed, but I'm sure that Mr. Bennett is more than  
11          up to the challenge. Our Co-directors are Trent  
12          Deckard and Brad King, Co-general Counsel, Leslie  
13          Barnes and Dale Simmons, and the campaign finance  
14          staff is Abbey Taylor and Michelle Thompson. The  
15          court reporter is Rhonda Hobbs from Connor &  
16          Associates.

17          I want to remind everybody today on behalf of  
18          the court reporter, identify yourself when you  
19          begin to speak. Spell your name when identifying  
20          yourself. Speak clearly, and whatever you do, do  
21          not speak at the same time as others. The court  
22          reporter may ask you to pause briefly so she can do  
23          her work, please do so.

24          I request that Mr. Deckard and Mr. King  
25          confirm the commission meeting has been properly

1 noticed as required under the Indiana Open Door  
2 Law.

3 MR. B. KING: Mr. Chairman, Members of the  
4 Commission, notice of this of this meeting was  
5 posted in compliance with the Open Door Law.

6 CHAIRMAN D. DUMEZICH: I recognize Mr.  
7 Deckard and Mr. King to present the minutes of  
8 the June 27th, 2011 commission meeting.

9 MR. B. KING: Mr. Chairman, Members of the  
10 Commission, you were e-mailed earlier a scanned  
11 copy of the June 27th, 2011 commission meetings  
12 which have been reviewed and submitted for your  
13 approval by myself and Mr. Deckard.

14 CHAIRMAN D. DUMEZICH: Is there a motion to  
15 approve these minutes?

16 VICE CHAIR A. LONG: So moved.

17 CHAIRMAN D. DUMEZICH: Is there a second?

18 COMMISSION MEMBER S. RIORDAN: Second.

19 CHAIRMAN D. DUMEZICH: Any discussion?

20 (No response.)

21 CHAIRMAN D. DUMEZICH: Hearing none, all in  
22 favor say aye; all opposed, indicate by saying  
23 nay?

24 THE COMMISSION: Aye.

25 CHAIRMAN D. DUMEZICH: The ayes have it and

1 the minutes are approved. Approval of forms, I  
2 recognize Mr. Deckard and Mr. King to present  
3 2011-348 for the approval of election forms.

4 MR. B. KING: Thank you. Mr. Chairman,  
5 Members of the Commission, the forms ordered is  
6 behind the first tab in your binders. It's  
7 designated 2011-348. There was a typo on the  
8 agenda that referred to 318 but 348 is the  
9 correct number.

10 The Order asks for commission approval of a  
11 number of forms. They concern absentee ballot  
12 application forms, a large number of forms used for  
13 the process of certifying election returns by the  
14 county election boards and issuing certificates of  
15 election to local officials reporting primary  
16 results from the two major parties, and then  
17 finally, on Page 3 of the order, an update of the  
18 voter registration by mail application form.

19 Earlier today, we discovered that there is a  
20 typo we still need to correct on the last form on  
21 Page 3. That is the VRG-7, Indiana registration by  
22 mail application Spanish version, and so we request  
23 the deletion of that last form listed from Page 3  
24 of the form, but otherwise, would recommend it to  
25 you for your approval.

1           CHAIRMAN D. DUMEZICH:  Would it be, would  
2           it be your intent then to resubmit that form at  
3           a later date?

4           MR. B. KING:  Yes, Mr. Chairman.  We would  
5           be back to the commission with another order  
6           that would include this form.

7           CHAIRMAN D. DUMEZICH:  Okay.  For the  
8           purposes of discussion, is there a motion to  
9           approve the order as presented?

10          VICE CHAIR A. LONG:  I would make a motion  
11          to approve it as submitted.

12          CHAIRMAN D. DUMEZICH:  Is there a second?

13          COMMISSION MEMBER S. RIORDAN:  Second.

14          CHAIRMAN D. DUMEZICH:  Okay.  Any  
15          discussion?

16          VICE CHAIR A. LONG:  I have a question.

17          CHAIRMAN D. DUMEZICH:  Yes, sir.

18          VICE CHAIR A. LONG:  The VRG-7, is it back  
19          there -- I'm sorry, that's what -- I'm betting  
20          it should be the last form.

21          MR. T. DECKARD:  It should be the last one.

22          MR. B. KING:  Yes, that's correct.

23          VICE CHAIR A. LONG:  I don't see the  
24          Spanish language version.

25          MR. T. DECKARD:  There is an omission,



1 Mr. Vice Chair. I would pass this to you.

2 VICE CHAIR A. LONG: Can we find out what  
3 the error that you got -- well, I probably  
4 couldn't read it anyway. What is the error?

5 MR. B. KING: Mr. Vice Chair, the bottom  
6 right of the form --

7 VICE CHAIR A. LONG: First page?

8 MR. B. KING: Yes, the first page, has the  
9 No. 50504.

10 VICE CHAIR A. LONG: Yes.

11 MR. B. KING: The upper left has a  
12 different number, 54509.

13 VICE CHAIR A. LONG: Okay.

14 MR. B. KING: And so we need to amend the  
15 bottom right to reflect the upper left and we  
16 have a question about the text with regard to  
17 the second bullet, under the second bold heading  
18 where it refers to de la proxima eleccion  
19 municipal, whether we need to add or general,  
20 and I believe we should, but you want someone  
21 whose Spanish is more, more current than mine to  
22 confirm that and use the correct phrase.

23 CHAIRMAN D. DUMEZICH: I think your attempt  
24 was admirable.

25 MR. B. KING: Thank you, but not

1 persuasive.

2 CHAIRMAN D. DUMEZICH: My basis is my C in  
3 freshman high school.

4 VICE CHAIR A. LONG: Are we going -- is  
5 this a form that's going to be utilized in the  
6 upcoming election?

7 MR. T. DECKARD: It would be, yes, Mr. Vice  
8 Chair, and currently is utilized.

9 VICE CHAIR A. LONG: If we don't approve --  
10 this one is full and we don't approve it, what's  
11 going to happen with Spanish speaking voters  
12 regarding voter absentee and the mayoral  
13 election?

14 MR. T. DECKARD: Mr. Vice Chair, I would  
15 certainly welcome counsel to add anything, but I  
16 believe that currently we use the existing VRG-7  
17 the Commission has approved in the past until  
18 that time, and there is an update to this form.

19 This update was to reflect other changes made  
20 in the previous version of the VRG-7, and so until  
21 that time, an updated version of this form would be  
22 adopted. We would be using the current form  
23 approved by the commission.

24 VICE CHAIR A. LONG: But we're not going to  
25 in any way disfranchise anyone Spanish speaking?

1           MR. T. DECKARD: That is my belief, and I  
2 would invite Mr. King to concur.

3           MR. B. KING: Yes, Mr. Chairman, I agree  
4 with Mr. Deckard entirely.

5           VICE CHAIR A. LONG: The interpretation of  
6 my motion is that the motion would be to approve  
7 the order, except as to that particular form, is  
8 that what I...

9           CHAIRMAN D. DUMEZICH: I believe the form  
10 was pulled out of a packet.

11          COMMISSION MEMBER S. RIORDAN: Not mine.

12          VICE CHAIR A. LONG: And the order reflects  
13 it -- mine does anyway, so the motion, so we're  
14 clear, and the minutes would be that we're  
15 approving one VRG-7 and not the Spanish version,  
16 that would be deleted from the order before it  
17 would be entered; is that correct, or that's my  
18 motion?

19          CHAIRMAN D. DUMEZICH: Okay. What we'll  
20 do, what we'll do is since there's a motion to  
21 amend the order, do I hear a second for that?

22          COMMISSION MEMBER S. RIORDAN: Second.

23          CHAIRMAN D. DUMEZICH: Okay. Further  
24 discussion on that point?

25                 (No response.)

1 CHAIRMAN D. DUMEZICH: Hearing none, all in  
2 favor say aye?

3 THE COMMISSION: Aye.

4 CHAIRMAN D. DUMEZICH: All opposed,  
5 indicate by saying nay?

6 (No response.)

7 CHAIRMAN D. DUMEZICH: The ayes have it and  
8 the motion is adopted.

9 VICE CHAIR A. LONG: For simplicity, I'll  
10 move then that we approve the order as amended.

11 CHAIRMAN D. DUMEZICH: Okay. If there's no  
12 further discussion, the question on the adoption  
13 of the order --

14 MR. B. KING: You need a second for the  
15 motion.

16 CHAIRMAN D. DUMEZICH: I need a second to  
17 approve the order?

18 COMMISSION MEMBER S. RIORDAN: Second.

19 CHAIRMAN D. DUMEZICH: Okay. If there's no  
20 discussion, the question on the adoption of the  
21 Order 2011-348 is presented, all in favor  
22 indicate by saying aye?

23 THE COMMISSION: Aye.

24 CHAIRMAN D. DUMEZICH: All opposed, say  
25 nay?

1 No response.)

2 CHAIRMAN D. DUMEZICH: The ayes have it and  
3 the order is approved. Use of signature stamps,  
4 there's a motion -- is there a motion to  
5 authorize the election division staff to affix  
6 each member signature stamp to the final copy of  
7 this order and any other documents approved by  
8 the commission at this meeting, and for Mr.  
9 Bennett, to sign the order on his behalf until a  
10 stamp becomes available?

11 VICE CHAIR A. LONG: So moved.

12 CHAIRMAN D. DUMEZICH: Is there a second?

13 COMMISSION MEMBER S. RIORDAN: Second.

14 CHAIRMAN D. DUMEZICH: In there's no  
15 further discussion, the question on the adoption  
16 of the motion, all in favor say aye?

17 THE COMMISSION: Aye..

18 CHAIRMAN D. DUMEZICH: All opposed?

19 (No response.)

20 CHAIRMAN D. DUMEZICH: The ayes have it.  
21 The motion is approved. Campaign finance.  
22 We're going to have presentations by Miss Taylor  
23 and Miss Thompson, so I recognize Michelle  
24 Thompson and Abbey Taylor to present the  
25 information regarding campaign finance

1 settlement agreements.

2 MS. M. THOMPSON: Mr. Chairman, under the  
3 campaign finance tab, the first page is the  
4 settlement agreements. SEIU Healthcare Indiana  
5 Hoosier PAC was left off the list to ratify at  
6 our last meeting so I've added it to this list,  
7 plus Mr. Wallace -- they both agreed to pay the  
8 settlement agreement and waive the hearing.

9 CHAIRMAN D. DUMEZICH: Any more  
10 information?

11 MS. M. THOMPSON: That's all.

12 CHAIRMAN D. DUMEZICH: Is there any  
13 information to ratify the campaign finance  
14 settlement agreements as presented?

15 COMMISSION MEMBER S. RIORDAN: So moved.

16 CHAIRMAN D. DUMEZICH: Is there a second?

17 VICE CHAIR A. LONG: Second.

18 CHAIRMAN D. DUMEZICH: Any discussion?

19 (No response.)

20 CHAIRMAN D. DUMEZICH: If there's no  
21 discussion -- since there's no further  
22 discussion, all in favor, indicate by saying  
23 aye?

24 THE COMMISSION: Aye.

25 CHAIRMAN D. DUMEZICH: All opposed,

1 indicate by saying nay?

2 (No response.)

3 CHAIRMAN D. DUMEZICH: The ayes have it and  
4 the motion is approved. I recognize Michelle  
5 and Abbey to present information regarding  
6 Orders 2011-349 through 2011-416, which adopts  
7 the campaign finance orders in accordance with  
8 the enforcement actions approved at the  
9 June 27th, 2011 commission meeting.

10 Because of their number and size, there are  
11 not copies of these orders in anyone's binders, but  
12 Michelle and Abbey can answer any questions that  
13 you may have regarding these matters.

14 MS. M. THOMPSON: Yes. Mr. Chairman and  
15 Members of the Commission, Orders 2011-349  
16 through 2011-415 has been --

17 CHAIRMAN D. DUMEZICH: 16.

18 MS. M. THOMPSON: Yeah, 15 have been  
19 prepared from the last meeting. Order No.  
20 2011-416 has been prepared to rescind the order  
21 for the SEIU PAC that we made, and these orders  
22 are ready for adoption.

23 VICE CHAIR A. LONG: Move to adopt the  
24 order?

25 CHAIRMAN D. DUMEZICH: I hear to move to

1 move to adopt the order, do I hear a second?

2 COMMISSION MEMBER S. RIORDAN: Second.

3 CHAIRMAN D. DUMEZICH: Okay. All in favor  
4 of approving Orders 2011-349 through 416 as  
5 presented, all in favor say aye?

6 THE COMMISSION: Aye.

7 CHAIRMAN D. DUMEZICH: Any opposed?

8 (No response.)

9 CHAIRMAN D. DUMEZICH: The ayes have it. I  
10 recognize Michelle and Abbey to present  
11 information about the referral of enforcement  
12 matters to the Attorney General. A list of  
13 these referrals are included in your binder.  
14 These referrals are for the information of the  
15 commission and no commission action is needed.  
16 If you have any comments on those, please  
17 discuss them now?

18 VICE CHAIR A. LONG: Congratulations.

19 Thank you for moving these along in the  
20 administrative process and for doing your job as  
21 always.

22 CHAIRMAN D. DUMEZICH: Okay.

23 Administration of the oath to individuals  
24 testifying before the commission. Everyone  
25 present who plans on testifying today regarding



1 any matter coming before the commission,  
2 including campaign finance or voting systems  
3 matters, please stand for the administration of  
4 the oath. I recognize Dale Simmons to  
5 administer the oath.

6 MR. D. SIMMONS: Please stand and raise  
7 your hand and say I do after the administration  
8 of the oath?

9 (The participants complied.)

10 MR. D. SIMMONS: Do you solemnly swear  
11 under the penalties of perjury that the  
12 testimony you are about to give at the  
13 commission meeting today is the truth, the whole  
14 truth and nothing but the truth, say I do?

15 THE PARTICIPANTS: I do.

16 CHAIRMAN D. DUMEZICH: We have established  
17 a new procedure for those of you who have not  
18 been here before or not been here recently. We  
19 give the opportunity for committees with  
20 representatives present today to accept reduced  
21 penalties all mass -- a trick I learned in the  
22 Schererville Court from Senator Landske, thus  
23 greatly reducing the time we all have to be  
24 here. I'm going to read these procedures. I  
25 want you to pay attention. Those who do not pay

1 attention will be severely punished, if only I  
2 had the power to.

3 In accordance with the procedures of the  
4 commission used at the last several meetings, we  
5 want to give any committee present a final  
6 opportunity to pay a reduced civil penalty by  
7 waiving the right to present evidence and arguments  
8 before the commission.

9 Any committee is welcomed to present evidence  
10 and arguments for the proposed penalty to be  
11 waived, but this is an opportunity for those who  
12 want to waive that presentation and accept a  
13 reduced penalty. So during this session, if you  
14 want to get up and talk, this is not your time.

15 The arrangements are as follows: If it is the  
16 committee's first violation, the arrangement is for  
17 the committee to agree to pay 25 percent of the  
18 proposed fine, plus mailing costs. If it's the  
19 committee's second violation, the arrangement is  
20 for the committee to agree to pay 50 percent of the  
21 proposed fine, plus mailing costs. If it is the  
22 third violation, the committee would agree to pay,  
23 shockingly, 75 percent of the proposed violation,  
24 plus mailing costs.

25 Starting at the first row in the front of the

1 room, is there anyone, any first-time violators who  
2 want to accept this agreement? If so come forward,  
3 state your name, then the committee's name, the  
4 cause number, and indicate you are willing to  
5 accept the 25 penalty without further discussion.

6 If you want to present evidence or you want to  
7 ask to waive the proposed penalty, you're going to  
8 have to wait until everybody's done, okay. We are  
9 going to only hear people who are willing to waive  
10 and accept the penalties as indicated, okay.

11 First row, anybody in the first row who  
12 would -- come forward, state your name, committee's  
13 name and the number?

14 MR. A. SUTHERLIN: My name is Allan  
15 Sutherlin. The committee is Jon Costas for  
16 attorney general, File No. 99-5742. I'm the  
17 responsible party and I'll accept the reduced  
18 penalty.

19 VICE CHAIR A. LONG: What page is...

20 MS. M. THOMPSON: Page 11. Mr. Chairman,  
21 this is Jon Costas for attorney general, Cause  
22 No. 2011-5742-380, has a proposed civil penalty  
23 of \$654.36 and the committee is closed.

24 CHAIRMAN D. DUMEZICH: Do you realize that  
25 by accepting this, you have 25 percent of the

1 fine, plus mailing costs?

2 MR. A. SUTHERLIN: That's correct.

3 CHAIRMAN D. DUMEZICH: Very good.

4 VICE CHAIR A. LONG: Thank you.

5 CHAIRMAN D. DUMEZICH: Thank you. Next?

6 MR. T. BROWN: Mr. Chairman, Tim Brown for  
7 Citizens for Tim Brown, Administrative Cause No.  
8 2011-3776-329.

9 CHAIRMAN D. DUMEZICH: Do you understand by  
10 accepting the reduced penalty, you're going to  
11 pay 25 percent, plus mailing costs?

12 MR. T. BROWN: Yes.

13 CHAIRMAN D. DUMEZICH: It's a pleasure to  
14 see you again.

15 VICE CHAIR A. LONG: Page?

16 MS. M. THOMPSON: Page 7.

17 MR. T. BROWN: 2011-3776.

18 VICE CHAIR A. LONG: We got it.

19 CHAIRMAN D. DUMEZICH: That's it.

20 VICE CHAIR A. LONG: We'll send you a  
21 letter.

22 CHAIRMAN D. DUMEZICH: You're going to get  
23 a letter.

24 MR. T. BROWN: Okay.

25 CHAIRMAN D. DUMEZICH: Come forward, sir.

1 Number, please, and state your name for the  
2 record?

3 MR. A. HENDERSON: My name is Abu  
4 Henderson.

5 MS. M. THOMPSON: First page.

6 MR. A. HENDERSON: I believe the number is  
7 2009-5730-298.

8 MS. M. THOMPSON: Mr. Chairman, it's on  
9 Page 1 and Page 3, Henderson for State Rep,  
10 Cause No. 2009-5730-298 and 2009-5730-152.

11 CHAIRMAN D. DUMEZICH: Modify.

12 MS. M. THOMPSON: Proposed civil penalty on  
13 the 298 one is \$1,003.53, and on the second one  
14 again, \$1,003.45.

15 CHAIRMAN D. DUMEZICH: You understand that  
16 you're going to be responsible to pay one  
17 quarter of that fine, plus mailing costs,  
18 Mr. Henderson?

19 MR. A. HENDERSON: Yes, I do.

20 CHAIRMAN D. DUMEZICH: Very good, sir.  
21 Thank you. Row 2?

22 (No response.)

23 CHAIRMAN D. DUMEZICH: Row 3 -- come on  
24 down. Good day, sir. State your name, state  
25 the number.

1 MR. G. BAILEY: My name is Glenn Bailey.

2 My number is 2011-6020-218.

3 MS. M. THOMPSON: Mr. Chairman, Page 4.  
4 Committee to Elect Glenn Bailey for State Rep,  
5 Cause No. 2011-6020-218. His proposed civil  
6 penalty is \$1,004.36.

7 CHAIRMAN D. DUMEZICH: You realize by  
8 accepting this, you'll pay 25 percent, plus  
9 mailing costs, sir?

10 MR. G. BAILEY: Yes.

11 CHAIRMAN D. DUMEZICH: Very good, sir.

12 Thank you.

13 MR. G. BAILEY: Thank you.

14 CHAIRMAN D. DUMEZICH: Row 4?

15 (No response.)

16 CHAIRMAN D. DUMEZICH: Row 5?

17 (No response.)

18 CHAIRMAN D. DUMEZICH: Row 6?

19 (No response.)

20 CHAIRMAN D. DUMEZICH: Okay. Starting with

21 the front of the room. We're now going to the

22 50 percent of the penalty, second violation.

23 Row 1?

24 (No response.)

25 CHAIRMAN D. DUMEZICH: Row 2?

1 (No response.)

2 CHAIRMAN D. DUMEZICH: Row 3?

3 (No response.)

4 CHAIRMAN D. DUMEZICH: Row 4?

5 (No response.)

6 CHAIRMAN D. DUMEZICH: Row 5?

7 (No response.)

8 CHAIRMAN D. DUMEZICH: We don't have a Row

9 6, do we -- okay, 75 percent penalty, third  
10 violation -- anybody in here looking to take the  
11 75 percent and leave?

12 (No response.)

13 CHAIRMAN D. DUMEZICH: Okay, that means  
14 we're done. So that means anybody remaining  
15 will be called to present evidence in these  
16 matters. Before doing so, I want to note that  
17 in the past the commission has followed certain  
18 procedures for conducting campaign finance  
19 hearings, and I propose the commission use the  
20 same procedures today.

21 A) When each campaign finance matter is  
22 called, the hearing will begin with recognizing the  
23 campaign finance staff to provide information about  
24 the documents in a manner provided to the  
25 commission members, including letters from the

1 committee and notice given to each campaign  
2 committee.

3 B) Unless there's an objection, the documents  
4 provided to the commission by the election division  
5 will be entered into the record meeting at that  
6 time. C) After the finance staff completes the  
7 presentation, a representative of the committee  
8 will be recognized first and may present their case  
9 for no longer than 5 minutes.

10 The commission members may ask questions  
11 during the presentation, but the time spent during  
12 these answers will not be counted against the  
13 presenter's time. The Election Division may signal  
14 the Chair when the presenter's time is up.

15 E) If the presenter offers additional  
16 documents or other physical evidence, not  
17 previously received by the commission, then the  
18 original must be provided to the Election Division,  
19 in particular, please give it to Dale, to preserve  
20 for the record.

21 If the Commission finds that a committee has  
22 violated the campaign finance statutes, state law  
23 requires a unanimous vote of all four commission  
24 members to waive or reduce the penalty set by state  
25 law.



1           G) If the Commission makes a decision at this  
2 meeting to either fine a committee or dismiss a  
3 case against the committee, then the Election  
4 Division will prepare a final order for the  
5 commission to approve at a later meeting.

6           If a committee is fined today, the committee  
7 will receive a notice from the Election Division to  
8 pay the fine after the commission election adopts  
9 the final order. So it may be sometime after today  
10 before a committee will be required to pay the  
11 fine.

12           H) The commission generally begins at the  
13 front of the room and ask those present to come  
14 forward to have their matter heard. It is very  
15 helpful if you can speak up and say the cause  
16 number on your hearing material so the Commission  
17 and the staff can quickly look it up on our  
18 records.

19           Remember to identify yourself when you start  
20 speaking. Are there any questions or objections  
21 from commission members or any committee present to  
22 these procedures?

23           (No response.)

24           CHAIRMAN D. DUMEZICH: Hearing none, is  
25 there a motion from a commission member for the

1 commission to adopt these procedures for today's  
2 hearing?

3 VICE CHAIR A. LONG: So moved.

4 CHAIRMAN D. DUMEZICH: Second?

5 COMMISSION MEMBER S. RIORDAN: Second.

6 CHAIRMAN D. DUMEZICH: If there's no  
7 discussion, the question on the adoption of the  
8 procedures motion, all in favor, say aye?

9 THE COMMISSION: Aye.

10 CHAIRMAN D. DUMEZICH: All opposed, nay?

11 (No response.)

12 CHAIRMAN D. DUMEZICH: The ayes have it and  
13 the motion is approved. So we will now begin  
14 our campaign enforcement action portion of this  
15 hearing. The Commission will proceed to open  
16 its hearings on such. The binders include  
17 campaign finance spreadsheets prepared by Abbey  
18 and Michelle.

19 Anybody in the first row that wants to come  
20 forward during this part?

21 (No response.)

22 CHAIRMAN D. DUMEZICH: Second row?

23 (No response.)

24 CHAIRMAN D. DUMEZICH: Third -- oh, second,  
25 come on down. Come on. Please state your name

1 and say the number, please?

2 MS. C. PRYOR: Up here?

3 CHAIRMAN D. DUMEZICH: No, right up here,  
4 and you've got to give them your name and the  
5 number so they know what to look up because  
6 they're going to start and they're going to tell  
7 us what they think you did and then you're going  
8 to have an opportunity to tell us what you did  
9 or didn't do.

10 MS. C. PRYOR: My name is Cherrish Pryor, a  
11 state representative. I'm here representing the  
12 Indiana Black Legislative Caucus. I do not have  
13 a cause number.

14 MS. M. THOMPSON: I have one for you. It's  
15 Page 7. This is the Indiana Black Legislative  
16 Caucus Political Action Committee,  
17 2011-3908-339, has a proposed civil penalty of  
18 \$554.36, and they have been before the board  
19 three times.

20 MS. C. PRYOR: Wow -- okay. I guess my  
21 case is I'm actually new to taking over and  
22 filing the paperwork for the PAC for the Indiana  
23 Legislative Caucus and the information went to  
24 the person that was formerly filling out the  
25 paperwork.

1           When we found out about the late -- when I  
2           found out about the fact that the PAC was late,  
3           that was on a Thursday, and the following day was a  
4           Friday, which was a holiday, and so I did not have  
5           an opportunity to fill out the paper and file our  
6           PAC information until that Monday.

7           CHAIRMAN D. DUMEZICH: Did the person you  
8           were replacing notify the election division that  
9           they were no longer the contact person for your  
10          organization?

11          MS. C. PRYOR: I do not know whether they  
12          did or not.

13          CHAIRMAN D. DUMEZICH: When you were  
14          appointed the position, did you inform the  
15          finance division, or the commission, the state  
16          election board that you were the proper contact  
17          person?

18          MS. C. PRYOR: No, I did not.

19          COMMISSION MEMBER S. RIORDAN: We can make  
20          sure we're on board with that today; right?

21          MS. M. THOMPSON: Right.

22          COMMISSION MEMBER S. RIORDAN: Okay.  
23          Representative Pryor is now the person who gets  
24          served with all of the appropriate paperwork and  
25          so forth.

1 MS. C. PRYOR: Whatever I need to do or  
2 paperwork that I need to fill out to make sure  
3 that I get the information so it doesn't happen  
4 again, I will be happy to know that. I don't  
5 think we have been late since I filled out the  
6 PAC. I thought we were late twice and not three  
7 times, but I do apologize.

8 VICE CHAIR A. LONG: You were late back in  
9 2003, 1999 and 1998. Those were the old ones.

10 MS. C. PRYOR: I was not a member of the  
11 legislature.

12 VICE CHAIR A. LONG: I say that so that  
13 you'll know that that predated you a good bit.

14 MS. C. PRYOR: A good bit. Thank you.

15 CHAIRMAN D. DUMEZICH: Do you know if they  
16 amended the articles to make sure that you were  
17 the -- to indicate that you're the treasurer?

18 MS. C. PRYOR: I know that I did it at the  
19 bank. I, personally, have not signed anything  
20 other than our paperwork.

21 CHAIRMAN D. DUMEZICH: But the PAC has got  
22 to amend their articles of incorporation to make  
23 sure they're correct.

24 MS. C. PRYOR: I don't recall ever doing  
25 that.

1           VICE CHAIR A. LONG: Will you all send her  
2           a form so that she can do that. Gave these  
3           ladies where you want it mailed and they will  
4           send you the form and you can fax it or bring it  
5           back to -- mail it back in and they'll have that  
6           information.

7           MS. C. PRYOR: Okay.

8           CHAIRMAN D. DUMEZICH: Okay. Any other  
9           questions?

10          (No response.)

11          CHAIRMAN D. DUMEZICH: Any other further  
12          discussions?

13          (No response.)

14          CHAIRMAN D. DUMEZICH: Any motions on this  
15          matter?

16          VICE CHAIR A. LONG: I think --  
17          understanding we're dealing with a legislative  
18          entity here and they change hands quickly and  
19          it's been 8 years since their last -- it's going  
20          back 13 years before that, I would recommend and  
21          move that we deviate and reduce the fine to  
22          50 percent, plus the mailing costs due to a new  
23          legislative member undertaking that.

24          CHAIRMAN D. DUMEZICH: There's a motion on  
25          the floor to reduce the fine to 50 percent plus

1 mailing costs, do I hear a second?

2 COMMISSION MEMBER S. RIORDAN: Second.

3 CHAIRMAN D. DUMEZICH: Hearing a second,  
4 any further discussion by any member on this?

5 (No response.)

6 CHAIRMAN D. DUMEZICH: All in favor of  
7 reducing the fine by 50 percent, plus mailing  
8 costs, please indicate by saying aye?

9 THE COMMISSION: Aye.

10 CHAIRMAN D. DUMEZICH: All opposed?

11 (No response.)

12 CHAIRMAN D. DUMEZICH: The ayes have it.

13 MS. C. PRYOR: Thank you.

14 CHAIRMAN D. DUMEZICH: You're in and you  
15 got it reduced.

16 VICE CHAIR A. LONG: Get the address out so  
17 they can fix you up.

18 CHAIRMAN D. DUMEZICH: Because next time we  
19 won't reduce it. Next time we'll be really  
20 mean.

21 MS. C. PRYOR: I'm going to have it in on  
22 time.

23 CHAIRMAN D. DUMEZICH: Especially, if  
24 you're a legislator. Let's see, that was the  
25 second row. May I have the third row?

1 MR. J. LAUGHLIN: Good morning.

2 CHAIRMAN D. DUMEZICH: May I have the name  
3 and cause number, sir?

4 MR. J. LAUGHLIN: My name is John Laughlin,  
5 Cause No. 2011-4951-349.

6 MS. M. THOMPSON: Mr. Chairman, that's on  
7 Page 8. This is the Marion County Green Party,  
8 Cause No. 2011-4951-349. He has a proposed  
9 civil penalty of \$654.36 and has been before the  
10 commission two other times.

11 CHAIRMAN D. DUMEZICH: Okay, sir.

12 MR. J. LAUGHLIN: Well, I'm the new  
13 treasurer of the Marion County Green Party.  
14 We're not that active. I did check the mailbox.  
15 I wasn't too happy doing that, but that's what  
16 happened.

17 VICE CHAIR A. LONG: Is this a motion to  
18 reconsider?

19 CHAIRMAN D. DUMEZICH: I don't believe so.

20 VICE CHAIR A. LONG: That's what it says on  
21 the page.

22 MS. M. THOMPSON: Motion to reconsider his  
23 pre-primary, 2011 fine of \$654.36.

24 VICE CHAIR A. LONG: We have already  
25 entered an order --



1 MS. M. THOMPSON: Right.

2 VICE CHAIR A. LONG: -- for that one to get  
3 approved today, possibly.

4 MS. M. THOMPSON: No, I don't think...

5 CHAIRMAN D. DUMEZICH: No. He barely got  
6 notice of it so...

7 MS. A. TAYLOR: That was 2011.

8 MR. J. LAUGHLIN: See, we have a PO box,  
9 and all I want to do is have this stuff sent to  
10 my home rather than the box, which is downtown.  
11 Now we only have \$140 in our account, and as I  
12 said, we're not that active. We've never had...

13 CHAIRMAN D. DUMEZICH: Is there a motion to  
14 reduce the proposed penalty against this  
15 committee to say \$135, plus mailing costs?

16 VICE CHAIR A. LONG: If you -- do y'all  
17 intend to stay active or are you going to close  
18 it out?

19 MR. J. LAUGHLIN: Well, I've visited the  
20 Vancouver and the West Coast a couple of years  
21 ago, and the Green Party is very active out  
22 there. As far as the situation here, I can't  
23 answer that question for the party, but we  
24 intend to -- we did put on one candidate last  
25 year and I can't say.

1           VICE CHAIR A. LONG: I'd move to reduce  
2           their penalty to \$135, plus the mailing costs.

3           CHAIRMAN D. DUMEZICH: Hearing a motion to  
4           reduce \$135, plus mailing costs, do I hear a  
5           second?

6           COMMISSION MEMBER S. RIORDAN: Second.

7           CHAIRMAN D. DUMEZICH: Hearing a second,  
8           all in favor of the motion to reduce the fine to  
9           \$135, plus mailing costs, indicate by saying  
10          aye?

11          THE COMMISSION: Aye.

12          CHAIRMAN D. DUMEZICH: All opposed?

13          (No response)

14          CHAIRMAN D. DUMEZICH: The ayes have it.

15          MR. J. LAUGHLIN: I sure want to thank you  
16          guys. I'll show you that's all the money we  
17          got.

18          CHAIRMAN D. DUMEZICH: Yes, that was the  
19          idea.

20          MR. J. LAUGHLIN: All right. I'm done.

21          CHAIRMAN D. DUMEZICH: Let's see, next --  
22          that would be the third row, anybody else in the  
23          third row?

24          (No response.)

25          CHAIRMAN D. DUMEZICH: Fourth row?

1 (No response.)

2 CHAIRMAN D. DUMEZICH: Fifth row, fifth and  
3 final row?

4 (No response.)

5 MS. M. THOMPSON: We may have some  
6 clean-ups.

7 CHAIRMAN D. DUMEZICH: Okay, start  
8 clean-up.

9 MS. M. THOMPSON: Mr. Chairman, on Page 1  
10 you have Team Patterson and on Page 5 is Team  
11 Patterson. This was tabled from the last  
12 meeting for this committee to close and they  
13 did.

14 VICE CHAIR A. LONG: They did?

15 MS. M. THOMPSON: Yes, they did.

16 VICE CHAIR A. LONG: In regard to Team  
17 Patterson, the 109 cause number and the 222  
18 cause number, I move to dismiss.

19 CHAIRMAN D. DUMEZICH: Hearing a motion to  
20 dismiss against, what is it, Team Patterson?

21 VICE CHAIR A. LONG: Team Patterson.

22 CHAIRMAN D. DUMEZICH: Do I hear a second?

23 COMMISSION MEMBER S. RIORDAN: Second.

24 CHAIRMAN D. DUMEZICH: Hearing a second,  
25 all in favor of the motion, indicate by saying

1 aye?

2 THE COMMISSION: Aye.

3 CHAIRMAN D. DUMEZICH: All opposed?

4 (No response.)

5 CHAIRMAN D. DUMEZICH: Hearing none, the  
6 motion carries.

7 MS. M. THOMPSON: Okay. On Page 5 and Page  
8 6, we have Steve for State, who has asked for a  
9 request for continuance on Cause No.  
10 2011-6116-236 and 252.

11 MS. A. TAYLOR: And 271.

12 MS. M. THOMPSON: Oh, and 271?

13 MS. A. TAYLOR: Yeah.

14 CHAIRMAN D. DUMEZICH: Have these been  
15 continued before?

16 MS. M. THOMPSON: No.

17 MS. A. TAYLOR: No.

18 VICE CHAIR A. LONG: These are motions to  
19 reconsider all of them, three of them?

20 MS. M. THOMPSON: Yes, there's three of  
21 them they wanted to bring back before the  
22 commission and couldn't be here today.

23 VICE CHAIR A. LONG: I move we grant the  
24 motion.

25 CHAIRMAN D. DUMEZICH: Hearing a motion to

1 grant the continuance, do I hear a second?

2 COMMISSION MEMBER S. RIORDAN: Second.

3 CHAIRMAN D. DUMEZICH: All in favor of the  
4 motion to continue those three causes, indicate  
5 by saying aye?

6 THE COMMISSION: Aye.

7 CHAIRMAN D. DUMEZICH: All opposed?

8 (No response.)

9 CHAIRMAN D. DUMEZICH: Hearing none, the  
10 ayes have it.

11 MS. M. THOMPSON: Okay. On Page 8 we have  
12 the Patriots' Project PAC, Cause No.  
13 2011-5846-362, also has a request for a  
14 continuance.

15 VICE CHAIR A. LONG: Third time request?

16 MS. M. THOMPSON: I believe so.

17 VICE CHAIR A. LONG: Move to grant motion  
18 to continue.

19 CHAIRMAN D. DUMEZICH: Hearing a motion to  
20 continue, do I hear a second?

21 COMMISSION MEMBER S. RIORDAN: Second.

22 CHAIRMAN D. DUMEZICH: Hearing a second,  
23 any discussion?

24 (No response.)

25 CHAIRMAN D. DUMEZICH: Hearing none, all in

1 favor of the motion to continue --

2 VICE CHAIR A. LONG: -- say aye -- oh, I'm  
3 sorry, who...

4 MS. M. THOMPSON: Patriots' Project PAC.

5 CHAIRMAN D. DUMEZICH: Patriots' Project  
6 PAC, indicate by saying aye?

7 THE COMMISSION: Aye.

8 CHAIRMAN D. DUMEZICH: All opposed?

9 (No response.)

10 CHAIRMAN D. DUMEZICH: The ayes have it.

11 MS. M. THOMPSON: And then also we have is  
12 the corporation, Infrastructure Engineering,  
13 which has requested a continuance.

14 VICE CHAIR A. LONG: Where are they?

15 MS. M. THOMPSON: I don't have them.

16 VICE CHAIR A. LONG: I don't have them.

17 MS. A. TAYLOR: It's at the end of the  
18 letters under the purple tab.

19 VICE CHAIR A. LONG: I don't see them on  
20 this list.

21 MS. M. THOMPSON: They're not. They're  
22 separate. They're behind the letters.

23 VICE CHAIR A. LONG: I see the -- I find  
24 the written motion, where's the...

25 MS. M. THOMPSON: It should be right in

1 front of that motion.

2 VICE CHAIR A. LONG: Oh, excess  
3 contribution.

4 MS. M. THOMPSON: Yeah, I'm sorry. We  
5 didn't have that one.

6 CHAIRMAN D. DUMEZICH: Is this their first  
7 continuance?

8 MS. M. THOMPSON: I don't -- no, I don't  
9 think so.

10 CHAIRMAN D. DUMEZICH: Second?

11 VICE CHAIR A. LONG: You know, that's not a  
12 hard fast rule. Their recipient was a good  
13 organization anyway.

14 CHAIRMAN D. DUMEZICH: Do I hear a motion  
15 to continue?

16 VICE CHAIR A. LONG: I will move, I will  
17 move to grant the motion to continue.

18 COMMISSION MEMBER S. RIORDAN: Second.

19 CHAIRMAN D. DUMEZICH: Hearing a second,  
20 any discussion?

21 (No response.)

22 CHAIRMAN D. DUMEZICH: Hearing none, all in  
23 favor of granting the motion to continue,  
24 indicate by saying aye?

25 THE COMMISSION: Aye.

1 CHAIRMAN D. DUMEZICH: All opposed?

2 (No response.)

3 CHAIRMAN D. DUMEZICH: The ayes have it.

4 MS. M. THOMPSON: Now we have Majid for  
5 House and --

6 MS. A. TAYLOR: Majid for State  
7 Representative Committee.

8 MS. M. THOMPSON: Majid for State  
9 Representative Committee, Cause No. 2009-5414-36  
10 and...

11 MS. A. TAYLOR: 117.

12 MS. M. THOMPSON: 117.

13 MS. A. TAYLOR: And 120.

14 MS. M. THOMPSON: And 120.

15 VICE CHAIR A. LONG: I've got them on Page  
16 2.

17 MS. A. TAYLOR: Two on Page 2 and one on  
18 Page 3.

19 CHAIRMAN D. DUMEZICH: What's the scoop?

20 VICE CHAIR A. LONG: Were these tabled  
21 before?

22 MS. A. TAYLOR: No.

23 MS. M. THOMPSON: This has been...

24 VICE CHAIR A. LONG: This isn't the person  
25 that came to get the notice and was going to



1 send a letter.

2 MS. M. THOMPSON: And the letter -- he did  
3 write the letter and that's under your purple  
4 tab there.

5 VICE CHAIR A. LONG: And the committees  
6 have all been closed?

7 MS. M. THOMPSON: Correct. All paperwork  
8 is up to date.

9 VICE CHAIR A. LONG: I think the  
10 consistency with what we done on the one that we  
11 tabled, if they close the committee, we would  
12 dismiss them, and I would make that motion to be  
13 consistent with that understanding, that this  
14 person did make the trip, because I understand  
15 from the e-mail correspondence, did make the  
16 trip, attend the meeting and did not receive the  
17 notice of the resetting, I believe is what the  
18 case was, and I think should be given full  
19 courtesy and consideration for that so I make  
20 that motion to dismiss the case.

21 CHAIRMAN D. DUMEZICH: Hearing the motion  
22 on matters 2009-5414-117, 2009-5414-36 and  
23 2011-5414-120 regarding the Majid for the House  
24 District 39. There's been a motion made to  
25 dismiss, do I hear a second?

1 COMMISSION MEMBER S. RIORDAN: Second.

2 CHAIRMAN D. DUMEZICH: Hearing a second,  
3 any discussion?

4 (No response.)

5 CHAIRMAN D. DUMEZICH: Takes the vote of  
6 all four members to dismiss, all in favor of  
7 dismissing, indicate by saying aye?

8 THE COMMISSION: Aye.

9 CHAIRMAN D. DUMEZICH: All opposed?

10 (No response.)

11 CHAIRMAN D. DUMEZICH: Hearing none, 4-0,  
12 the three counts against, or three matters Majid  
13 for the House District 39 are dismissed.

14 VICE CHAIR A. LONG: Is that all?

15 MS. M. THOMPSON: That's all.

16 CHAIRMAN D. DUMEZICH: Is there anybody who  
17 did not show up today?

18 MS. A. TAYLOR: Yes.

19 CHAIRMAN D. DUMEZICH: Can you indicate who  
20 they are?

21 VICE CHAIR A. LONG: I bet we have -- Page  
22 4, we've got Dan Fleming, that's a motion to  
23 reconsider, and we've got that correspondence  
24 for the request?

25 CHAIRMAN D. DUMEZICH: Then let's deny the

1 motion.

2 VICE CHAIR A. LONG: Then I move to deny  
3 it.

4 CHAIRMAN D. DUMEZICH: Hearing a motion to  
5 deny a motion for reconsideration of Dan  
6 Fleming -- the Committee to Elect Dan Fleming,  
7 indicate by saying aye?

8 THE COMMISSION: Aye.

9 VICE CHAIR A. LONG: Can somebody second  
10 it?

11 COMMISSION MEMBER S. RIORDAN: Do you need  
12 a second -- I'll second the motion.

13 CHAIRMAN D. DUMEZICH: Hearing a second,  
14 any discussion?

15 (No discussion.)

16 CHAIRMAN D. DUMEZICH: Hearing none, all in  
17 favor of denying the motion to continue in the  
18 Dan Fleming --

19 VICE CHAIR A. LONG: To reconsider.

20 CHAIRMAN D. DUMEZICH: To reconsider,  
21 indicate by saying aye?

22 THE COMMISSION: Aye.

23 CHAIRMAN D. DUMEZICH: All opposed?

24 (No response.)

25 CHAIRMAN D. DUMEZICH: The ayes have it.

1 MS. A. TAYLOR: Page 9.

2 CHAIRMAN D. DUMEZICH: Except for that one,  
3 no one else is a motion to reconsider; right, so  
4 we could...

5 VICE CHAIR A. LONG: Can I make a motion?

6 CHAIRMAN D. DUMEZICH: That's what I'm  
7 thinking.

8 COMMISSION MEMBER S. RIORDAN: Can we call  
9 through these just to make sure?

10 VICE CHAIR A. LONG: As I make my motion,  
11 can we do that, just call, and if they're here  
12 and anybody wants to speak to them, they can  
13 hold up their hand. With regard to Robert D.  
14 Green, Page 9, that's Cause No. 2011-3689-376;  
15 Friends of Steve Johnson, Page 9, 2011-396-377;  
16 Committee to Elect Kevin Brown as Indiana  
17 Superintendent of Public, I'm assuming  
18 Instruction -- I don't know if we have a  
19 Superintendent of Public Nuisance or whatever,  
20 but that's Page 10, 2011-5804-378; Hoosiers for  
21 Witwer on Page 10, 2011-3951-379; and Committee  
22 to Elect John Cunningham, Page 11, Cause No.  
23 2011-6173-381, and I would move, unless someone  
24 appears here today to speak otherwise, that  
25 proposed fines be imposed, plus mails costs.

1           CHAIRMAN D. DUMEZICH: Hearing a motion to  
2           default the individuals who did not show up  
3           today, the committees who did not show up today  
4           to contest their claims, I have a motion to  
5           default for the total amount of the fine, plus  
6           mailing costs; do I hear a second?

7           COMMISSION MEMBER S. RIORDAN: I have one  
8           comment before we second that motion. I think  
9           Citizens for Witwer, the treasurer, or Hoosiers  
10          for Witwer, wrote a letter on July 26 requesting  
11          that we waive \$50 late fee because the committee  
12          hasn't got any money in it account and they  
13          intended to file on time and they encountered  
14          technical difficulty in logging on to file so  
15          maybe we should not include that Hoosiers for  
16          Witwer in our...

17          CHAIRMAN D. DUMEZICH: Remove them from  
18          default.

19          VICE CHAIR A. LONG: Okay.

20          COMMISSION MEMBER S. RIORDAN: So if the  
21          motion's been made but not yet seconded...

22          CHAIRMAN D. DUMEZICH: The motion's made  
23          but not yet seconded, do I hear a motion to  
24          amend then?

25          COMMISSION MEMBER S. RIORDAN: Is that

1 proper procedurally or does he still have a  
2 motion to do what he wants to do with it?

3 VICE CHAIR A. LONG: I can amend it, if not  
4 seconded. You think I should amend it?

5 CHAIRMAN D. DUMEZICH: I think we have to  
6 have a second on the motion, then we have to  
7 have a discussion that we...

8 COMMISSION MEMBER S. RIORDAN: Okay, I'll  
9 second the motion.

10 CHAIRMAN D. DUMEZICH: Okay. Any  
11 discussion?

12 COMMISSION MEMBER S. RIORDAN: Yes. So I'm  
13 going to leave that discussion. I'm going to  
14 say that Hoosiers for Witwer wrote a letter  
15 asking for the penalty to be waived, they don't  
16 have any money, and they did chime in with us  
17 today and so I would suggest that maybe we not  
18 support the motion and call another motion.

19 VICE CHAIR A. LONG: I would move to amend  
20 my motion by deleting Hoosiers for Witwer from  
21 the motion, Cause No. 2011-3951-379, to dispose  
22 of them, and then we can hold the other ones in  
23 contempt.

24 CHAIRMAN D. DUMEZICH: Hearing a motion to  
25 remove Hoosiers for Witwer from the larger

1 group --

2 COMMISSION MEMBER B. BENNETT: Was there a  
3 second on that, the motion to amend?

4 COMMISSION MEMBER S. RIORDAN: Not yet.

5 CHAIRMAN D. DUMEZICH: Not yet. That's  
6 what I was going to ask for. If you just want  
7 to second it, then...

8 COMMISSION MEMBER B. BENNETT: I'll second  
9 it.

10 CHAIRMAN D. DUMEZICH: Okay. All in favor  
11 of the amended motion --

12 VICE CHAIR A. LONG: We've got to vote on  
13 the motion to amend first, don't we?

14 MR. B. KING: Yes.

15 CHAIRMAN D. DUMEZICH: All in favor to vote  
16 on the motion to amend the motion to default  
17 everyone with the exception of --

18 COMMISSION MEMBER S. RIORDAN: Hoosiers for  
19 Witwer.

20 CHAIRMAN D. DUMEZICH: -- Hoosiers for  
21 Witwer, please indicate by saying aye?

22 THE COMMISSION: Aye.

23 CHAIRMAN D. DUMEZICH: All opposed?

24 (No response.)

25 CHAIRMAN D. DUMEZICH: The motion carries.

1           VICE CHAIR A. LONG:  And then we need to  
2           vote to default.

3           COMMISSION MEMBER S. RIORDAN:  Approve the  
4           motion as amended.

5           VICE CHAIR A. LONG:  I think that's right.  
6           I'm so confused now.

7           CHAIRMAN D. DUMEZICH:  That's why I wanted  
8           to default them.

9           COMMISSION MEMBER S. RIORDAN:  So I'm going  
10          to move --

11          VICE CHAIR A. LONG:  No, you've got to vote  
12          first.

13          COMMISSION MEMBER S. RIORDAN:  Okay.

14          VICE CHAIR A. LONG:  On default, the  
15          original motion as amended.

16          CHAIRMAN D. DUMEZICH:  Do we have -- all in  
17          favor of amending the original motion.

18          VICE CHAIR A. LONG:  We've already voted on  
19          that, Mr. Chair.

20          MR. B. KING:  You have a motion that's  
21          pending before you.

22          CHAIRMAN D. DUMEZICH:  I have an amended  
23          motion that's pending before me.

24          MR. B. KING:  It's questions on the  
25          adoption of the amended?



1           CHAIRMAN D. DUMEZICH: All in favor of  
2           adopting the amended --

3           MR. B. KING: The motion as amended.

4           CHAIRMAN D. DUMEZICH: The motion as  
5           amended; indicate by saying aye?

6           THE COMMISSION: Aye.

7           CHAIRMAN D. DUMEZICH: All opposed?

8           (No response.)

9           CHAIRMAN D. DUMEZICH: The motion carries.  
10          Now we do Witwer. Do I hear a motion to -- what  
11          was the status of Witwer, was he already -- he  
12          was not defaulted so...

13          VICE CHAIR A. LONG: He's never been  
14          defaulted and this is his -- never been before  
15          the commission before and filed a letter, I  
16          believe, is the status of it.

17          CHAIRMAN D. DUMEZICH: Do we have a motion  
18          to reduce the fine associated with the committee  
19          to elect Hoosiers for Witwer.

20          COMMISSION MEMBER S. RIORDAN: Is the  
21          committee still open?

22          MS. A. TAYLOR: Yes.

23          MS. M. THOMPSON: Uh-huh.

24          MS. A. TAYLOR: I believe there's a debt,  
25          long-standing debt to himself.

1 VICE CHAIR A. LONG: I have one in my  
2 committee 1994.

3 CHAIRMAN D. DUMEZICH: I had one in 2002.

4 VICE CHAIR A. LONG: I think I'll have to  
5 check it.

6 CHAIRMAN D. DUMEZICH: You want to do a  
7 joint fund raiser? I think I owe me like  
8 \$14,000.

9 MS. A. TAYLOR: There is a debt from 2001.

10 CHAIRMAN D. DUMEZICH: In the amount of?

11 MS. A. TAYLOR: \$23,000.

12 CHAIRMAN D. DUMEZICH: He's a big winner  
13 today.

14 COMMISSION MEMBER B. BENNETT: Who is 'it  
15 owed to?

16 CHAIRMAN D. DUMEZICH: Himself.

17 COMMISSION MEMBER B. BENNETT: Himself.

18 MS. A. TAYLOR: I'm sorry, two debts from  
19 1995, and one from 2001 totaling \$23,000.

20 COMMISSION MEMBER S. RIORDAN: Can he close  
21 his committee with a debt the --

22 MS. A. TAYLOR: No.

23 COMMISSION MEMBER S. RIORDAN: So I'm going  
24 to move that we waive the fine.

25 COMMISSION MEMBER B. BENNETT: I'll second

1           that.

2           CHAIRMAN D. DUMEZICH: Okay. There's been  
3 a motion to waive the fine, it's been seconded,  
4 so all in favor of waiving the fine for Hoosiers  
5 for Witwer, please indicate by saying aye?

6           THE COMMISSION: Aye.

7           CHAIRMAN D. DUMEZICH: All opposed?

8           (No response.)

9           CHAIRMAN D. DUMEZICH: The vote carries 4-0  
10 as required by statute. The motion is granted.  
11 In light of the -- what appears to be like  
12 \$35,000, one would have thought that the 50  
13 would not have been that bad.

14          VICE CHAIR A. LONG: Another 50 to go.

15          CHAIRMAN D. DUMEZICH: Okay.

16          VICE CHAIR A. LONG: Can I ask a question  
17 before we move out from this section?

18          CHAIRMAN D. DUMEZICH: Sure.

19          VICE CHAIR A. LONG: We've got a motion to  
20 dismiss that was filed in that one case -- I  
21 just noticed it, on that Infrastructure  
22 Engineering. That would be taken up, I guess,  
23 at the time that it's reset?

24          MS. M. THOMPSON: Correct.

25          VICE CHAIR A. LONG: Can you make sure that

1 we're copied on that as well?

2 MS. M. THOMPSON: I will.

3 CHAIRMAN D.. DUMEZICH: Anything else?

4 VICE CHAIR A. LONG: I have nothing else  
5 for campaign finance.

6 CHAIRMAN D. DUMEZICH: Okay. We have a  
7 campaign finance complaint filed by Mr. Deane  
8 Nelson. We have a campaign finance matter which  
9 is not an enforcement action but is instead a  
10 complaint. On March 24th of this year, Mr.  
11 Deane Nelson of Vincennes sent an e-mail to both  
12 co directors, Mr. Deckard and Mr. King,  
13 complaining that a violation of campaign finance  
14 law which prohibits state legislators from  
15 receiving contributions during the long session  
16 had occurred.

17 I asked each commission member be provided a  
18 copy of this complaint, along with Representative  
19 Battles, who is mentioned by name in the complaint.  
20 These persons were all notified by e-mail three  
21 days later. I also asked the commission members to  
22 be prepared to attend a commission meeting  
23 regarding the matter during the first week of April  
24 either by proxy or in person -- all the members  
25 agreed to do so.

1           However, almost immediately after that,  
2           Representative Battles and several other House  
3           members returned to the Statehouse from Illinois  
4           and I decided that there was no longer a need for  
5           an expedited commission meeting to deal with the  
6           complaint -- I think they came back because of  
7           me -- that being said, the complaint still raises a  
8           very serious issue regarding the enforcement of  
9           campaign finance laws which apply to all 150  
10          legislators and to every statewide official.

11           This commission may have the opportunity to  
12          provide some clear guidance to all these elected  
13          officials and candidates for office and the  
14          political parties as to what fundraising activity  
15          and contributions this law covers and whether this  
16          campaign finance law will be consistently enforced  
17          against all.

18           I've asked Mr. Nelson simply come here today  
19          and present his complaint to the commission so the  
20          commission can begin the process of making a  
21          determination as to whether there is a substantial  
22          reason to believe that an election violation --  
23          election law violation has occurred in this matter.

24           With that, you can come forward. I'd ask that  
25          you identify yourself and spell your name for the

1 record?

2 MR. D. NELSON: My name is Deane Nelson,  
3 and it's D-E-A-N-E, N-E-L-S-O-N. Would you mind  
4 if I sit?

5 CHAIRMAN D. DUMEZICH: Please. Have you  
6 taken the oath today?

7 MR. D. NELSON: Yes, sir, about 10, 15  
8 minutes ago.

9 CHAIRMAN D. DUMEZICH: You have 15 minutes  
10 to present your complaint to the commission.  
11 The members may ask questions, but if they do  
12 so, that time will not be counted against you.

13 MR. D. NELSON: I don't think I'll take  
14 that long.

15 CHAIRMAN D. DUMEZICH: Okay.

16 MR. D. NELSON: Again, my name is Deane  
17 Nelson, I'm from Vincennes, Indiana, and I'm the  
18 one that filed the complaint. During the most  
19 recent legislative session, many of the  
20 Democratic legislators visited Illinois and  
21 stayed in a hotel while the House was in  
22 session.

23 During this time this was happening, it was  
24 many press releases saying it was not a political  
25 event. It was mainly on their own volition. But

1 when the Democratic Party, the Indiana Democratic  
2 Party paid for expenses, I didn't think that was  
3 correct so I filed a complaint.

4 Now I cannot explain all the Indiana election  
5 laws -- we've got so many experts here, but I filed  
6 a complaint and I think there are two levels to  
7 take a look at. The first one is the State  
8 Democratic level. The Indiana Democratic Party  
9 filed a CFA form, and on their expenses they coded  
10 payments to Citibank and Comfort Inn for about  
11 \$95,000 in expenses.

12 Now as I read the law related to finance  
13 campaigns in detail who the individual was paid  
14 for. This was paid to Citibank for meals and  
15 expenses, the company. It doesn't detail it was  
16 paid for people staying in Illinois.

17 The second thing on this CFA form doesn't  
18 state -- I would argue that it was a transfer of  
19 payment in kind for personal expenses for these  
20 legislators.

21 Because it was not a campaign, an ordinary  
22 political event, they went voluntarily to Illinois  
23 to stay and incurred expenses. The Indiana  
24 Democratic Party paid those expenses. Their  
25 employer, the State legislators, did not require

1           them to move from the state temporarily and stay in  
2           Illinois. So they incurred an expense that the  
3           Party paid for.

4           By doing so, Indiana Democratic Party used  
5           campaign contributions that they received in March  
6           to pay for those personal expenses of those  
7           legislators. That's one argument. That's the  
8           State level.

9           The second level I would submit is looking at  
10          each individual legislator's thing. I'm not aware  
11          of any individual legislator soliciting funds to  
12          fund for campaign contributions for this, but they  
13          did receive payments for their benefit by the  
14          Indiana Democratic Party during the long session.

15          This was in-kind transfer and therefore could  
16          be included as a violation receiving contributions  
17          during the long session. I submit that the  
18          committee should investigate, determine if the  
19          Indiana Democratic Party should amend their CFA to  
20          accurately reflect -- report the expenses to each  
21          individual legislator and the amount, and the  
22          requirement is, I believe, \$200.

23          Any expenses that a legislator incurred that  
24          the Democratic Party paid for should be detailed on  
25          their CFA form and the CFA-5 form from -- should be



1 submitted from the political party to each  
2 individual.

3 Second, were the expenses in Illinois personal  
4 expenses for the legislators that the Democratic  
5 Party paid for? We're assuming they were not for a  
6 political campaign -- ordinary political party,  
7 they were used for political personal purposes for  
8 their own staying in a hotel.

9 Third, determine if each legislator should and  
10 has received in-kind transfer of paid personal  
11 expenses while they were in the long session,  
12 therefore, violating Indiana statutes.

13 CHAIRMAN D. DUMEZICH: Any questions?

14 (No response.)

15 CHAIRMAN D. DUMEZICH: Hearing none, I'm  
16 not going to entertain a motion concerning the  
17 complaint at this time, but I advise the members  
18 at our next meeting I plan on placing the matter  
19 on this agenda again and I wish to hear from any  
20 interested party that wishes to testify in this  
21 matter. That includes any State legislator and  
22 any representative of the State Democratic Party  
23 or any person that might have given a  
24 contribution to the State Democratic Party that  
25 would like to, would like to speak to it.

1           In addition, I think what I'd like to do is  
2           have -- I'd instruct staff to review the filings of  
3           the State Party and the -- any representative who  
4           went to Champaign to see how they recorded, so I  
5           can get an idea, of how they recorded these  
6           expenses, if at all.

7           COMMISSION MEMBER S. RIORDAN: Mr. Chairman,  
8           I have a couple of questions. I understand that  
9           you're not going to entertain a motion with  
10          regard to Mr. Nelson's complaint today, but  
11          you're going to place the matter on the agenda  
12          for our next meeting, and precisely, what matter  
13          procedurally are you talking about; is there a  
14          formal complaint that's been filed with proper  
15          notice given to all interested parties and all  
16          defendants?

17          CHAIRMAN D. DUMEZICH: Yes, I believe so.  
18          I believe that it was filed by e-mail and  
19          transmitted to the members of this commission  
20          and to Mr. Battles, who's, specifically, named,  
21          and to the Democratic Party during the first  
22          part of the year when it was originally filed,  
23          and I had originally set this for a hearing, as  
24          I had said, at the end of April. So I think,  
25          you know, at that point in time everybody was on

1 notice.

2 Now as of today, the reason I'm not going to  
3 hear it any further is because I don't believe that  
4 they've had proper notice for this hearing. Having  
5 said that, I'm going to give them the opportunity  
6 to come and speak to the matters that have been  
7 raised by this witness.

8 COMMISSION MEMBER S. RIORDAN: As I  
9 understand it, the Complainant has, I'm not  
10 going to say stated a claim, but has made  
11 assertions that concern the Indiana Democratic  
12 Party and every Democratic member of the Indiana  
13 General Assembly, each and every one  
14 individually?

15 CHAIRMAN D. DUMEZICH: Mr. Battle, and  
16 that's why I specifically mentioned him, but I  
17 consider the other people to be interested  
18 parties, and I ask if they were, in fact,  
19 interested parties, if they feel like they have  
20 the need to come, they should.

21 COMMISSION MEMBER S. RIORDAN: Because in  
22 my packet for today, I only see e-mail  
23 communications among people in the room here and  
24 Representative Battles, and I think that's all.  
25 So I would be very concerned if the complaint,

1 if the allegations, the assertions are intended  
2 to constitute a complaint against or an  
3 investigation of every member of the  
4 Democratic --

5 CHAIRMAN D. DUMEZICH: Only those that went  
6 to...

7 COMMISSION MEMBER S. RIORDAN: --  
8 Delegation, that they all have an opportunity to  
9 know exactly what's going on. And then  
10 secondly -- as my second question, it sounds as  
11 though maybe what you are doing, Mr. Chairman,  
12 is proposing that an investigation be opened and  
13 I would like the advice of counsel as to what  
14 action is required by the commission to open  
15 such an investigation. Can the chairman do that  
16 unilaterally or does it require some vote by the  
17 commission as a whole?

18 CHAIRMAN D. DUMEZICH: Actually, I believe  
19 that that does speak to issues like this. Any  
20 member of the commission can do it on their own.

21 VICE CHAIR A. LONG: I would join in the  
22 request pending that we've got counsel and  
23 there's statutes that relate to our  
24 investigative authority.

25 CHAIRMAN D. DUMEZICH: I certainly want to

1       make sure procedurally that every, every aspect  
2       of this is pursued to its end, but we have a  
3       statute and the statute says that people  
4       cannot -- that legislators cannot get  
5       contributions, solicit contributions during the  
6       course of a legislative long session. That's  
7       very very serious.

8               COMMISSION MEMBER S. RIORDAN: I couldn't  
9       agree with you more, Mr. Chairman, about the  
10      existence of that statute and others, but I also  
11      think that as important an issue an issue as  
12      this may raise, we can't simply have a cattle  
13      call where we say anybody who wants to come and  
14      talk about this can come and talk about this. I  
15      think that the statutes --

16             CHAIRMAN D. DUMEZICH: I think the Open  
17      Door Law requires that anybody that's interested  
18      can come.

19             COMMISSION MEMBER S. RIORDAN: No, no, I  
20      don't disagree with the Open Door Law requires,  
21      but in the terms of the process that this  
22      commission follows when we investigate matters  
23      of campaign finance violations, that all of the  
24      procedural requirements are just as important as  
25      the substantive requirements.

1           And I think that what we -- what I'm asking  
2           and I think what Vice Chairman Long is asking that  
3           we ensure that -- exactly what that process is  
4           going to be, that it will be very clear, so that  
5           everyone who is an interested party -- certainly,  
6           anyone against whom the allegations are being made  
7           has an opportunity to come before the commission,  
8           be sworn, and present whatever they want to  
9           present.

10           But as far as the request that the staff open  
11           up files and start looking at different matters, I  
12           just want to understand procedurally do we -- does  
13           a member of the commission have the authority to  
14           request that unilaterally or does the commission  
15           have to take action?

16           CHAIRMAN D. DUMEZICH: I think the  
17           commissioner may make that request. If you want  
18           to instruct your staff, your counsel to look at  
19           that question, that's something you can  
20           certainly do. That would be your prerogative.

21           VICE CHAIR A. LONG: I would be interested  
22           in any of your counsel, if you have authority to  
23           unilaterally do that based on the statutes under  
24           which we operate? I'd like to hear it from both  
25           counsel.

1 COMMISSION MEMBER S. RIORDAN: Absolutely.

2 VICE CHAIR A. LONG: Not just our counsel.  
3 This isn't -- I don't want this to generate into  
4 a political issue that the -- the e-mail that  
5 I've read basically is his suspicions as to  
6 what's done. He's apparently tried to  
7 supplement it today and has supplemented it  
8 today -- Mr. Johnson (sic) has, with some  
9 definitive issues, and I think the issue then  
10 becomes as he presented it, subject to the  
11 complaint, has it reached a level that warrants  
12 an investigation, and if so, who makes that  
13 determination?

14 CHAIRMAN D. DUMEZICH: I would rather  
15 gather more information before we make a  
16 determination as to whether a full-blown  
17 investigation is necessary.

18 VICE CHAIR A. LONG: Well, any  
19 investigation. There's no differentiation in  
20 the statute that I know of that differentiates  
21 investigation for full blown or half blown or...

22 CHAIRMAN D. DUMEZICH: Well, the  
23 investigation would involve the issuance of  
24 subpoenas.

25 VICE CHAIR A. LONG: No, not necessarily.

1 CHAIRMAN D. DUMEZICH: Could, it could.

2 VICE CHAIR A. LONG: It could, but it  
3 also --

4 CHAIRMAN D. DUMEZICH: Would you like to go  
5 to that level?

6 VICE CHAIR A. LONG: Have the staff  
7 undertake to secure evidence and submit it to  
8 the commission for us to conduct an  
9 investigation, if the Complainant has -- I just  
10 think that -- I'm just asking for our lawyers,  
11 both sides, to weigh in on their opinion of who  
12 has the authority to start an investigation?

13 COMMISSION MEMBER S. RIORDAN: I think  
14 Commissioner Long is right, and we're probably  
15 on the same page, why don't we ask our counsel  
16 to dig into the statutes and give us either  
17 their joint or separate opinions about how the  
18 process should go from here.

19 We have a citizen's e-mail complaint and then  
20 we've had a citizen come and testify under oath.  
21 We haven't seen any documents. There hasn't been  
22 any cross-examination. What is the next step and  
23 what procedural requirements have to be made before  
24 we can go forward?

25 And I would say, you know, if it's a



1 reasonable request, that we can get back to us in a  
2 couple of weeks back on that, then I think that  
3 would be great, just so that we're assured that the  
4 steps we're taking are not by the seat of our pants  
5 and that they're all -- they've all been thoroughly  
6 vetted and thought through.

7 CHAIRMAN D. DUMEZICH: Well, and I'm going  
8 to do this -- I think that is a good idea that  
9 we proceed forward, but right now, I'd like to  
10 say that on September 29th, since I know I'm  
11 going to be in town that day, that would be the  
12 next step, and until I find out that there is a  
13 violation of some sort of procedure, I'm going  
14 to again ask that the Democratic legislators  
15 that are interested and the State Democratic  
16 Party have representatives, if they are in fact  
17 interested, attend the hearing at that time.

18 Obviously, I don't have the right to subpoena  
19 them. I'm not subpoenaing them. I'm just asking.  
20 And my intent, unless I have -- unless there is  
21 some procedural violation here, my intent would be  
22 to thoroughly investigate whether or not a  
23 violation has occurred and whether a contribution  
24 was solicited during the course of the legislative  
25 long session.

1 VICE CHAIR A. LONG: Absent an opinion.

2 CHAIRMAN D. DUMEZICH: If you don't want to  
3 show up, don't show up, but I'm going to be  
4 here.

5 VICE CHAIR A. LONG: If we don't show up,  
6 we won't have a meeting, I don't think.

7 CHAIRMAN D. DUMEZICH: Oh, yeah. I can  
8 take testimony.

9 COMMISSION MEMBER S. RIORDAN: Well,  
10 let's -- we've always been extremely cooperative  
11 when it comes to issues that, you know, get into  
12 to the partisan realm, and I hope that we can do  
13 that again. I'm certainly willing to do that.

14 It seems to me that if we can gather the  
15 collective knowledge and review the statutes of our  
16 counsel to give us some advice about the best and  
17 most lawful way to go forward, that that would be  
18 in everybody's best interest.

19 VICE CHAIR A. LONG: I don't even know  
20 who --

21 CHAIRMAN D. DUMEZICH: It's quite  
22 refreshing -- I mean, it's really good hear and  
23 I get that, that you would agree that we would  
24 work procedurally to go forward on this to make  
25 sure that there are no missteps and that we

1           thoroughly investigate any violation that would  
2           be a significant assist, and I applaud you for  
3           that. Thank you.

4           VICE CHAIR A. LONG: My problem is I don't  
5           know who the complaint is against.

6           CHAIRMAN D. DUMEZICH: Democratic State  
7           Party. I'd say it's a pretty clear one.

8           VICE CHAIR A. LONG: Well, we've never had  
9           a complaint, at least that I know of, that's not  
10          been reduced to writing, and I mean, we've got  
11          staff and --

12          CHAIRMAN D. DUMEZICH: It was an e-mail;  
13          right?

14          VICE CHAIR A. LONG: -- issues that we have  
15          to resolve.

16          MR. B. KING: Yes.

17          CHAIRMAN D. DUMEZICH: There was an e-mail.  
18          It was reduced to writing.

19          COMMISSION MEMBER S. RIORDAN: I know, but  
20          I mean, in terms of notice, it doesn't make  
21          clear who the -- I mean, we can get into the  
22          legal technicalities of what constitutes, you  
23          know, a fair -- a short and planned statement of  
24          a plan; right, if that's even required here.

25          But we've got some issues that we've got to deal

1 with; mainly, the fact that Commissioner Long is  
2 a member of the State Central Committee.

3 And so we need to figure out whether we have  
4 to obtain proxies and who's -- you know, this  
5 didn't say the Indiana Democratic Party, and you  
6 mentioned that we need to look at the Indiana  
7 Democratic Party so we have to consider what our  
8 relationship is there, and if there's a conflict of  
9 interest, we need to proceed accordingly. So  
10 that's a, that's an issue that really matters, I  
11 think.

12 CHAIRMAN D. DUMEZICH: That's a matter of  
13 law until we make a determination, then I  
14 think -- I would, I would welcome Vice Chairman  
15 Long to be here to hear all the testimony into  
16 those things and vote on it.

17 VICE CHAIR A. LONG: I'm not going to  
18 participate in any vote of anyone that  
19 determines a complaint against the Indiana  
20 Democratic Central Committee --

21 COMMISSION MEMBER S. RIORDAN: Neither am  
22 I.

23 VICE CHAIR A. LONG: -- because I serve as  
24 a member of that committee.

25 CHAIRMAN D. DUMEZICH: Okay.

1           COMMISSION MEMBER S. RIORDAN: And I serve  
2 as their counsel.

3           VICE CHAIR A. LONG: And that's why I think  
4 that we have to come a point procedurally to  
5 understand formally who the complaint is  
6 challenging, and not just his declarations and  
7 what substantive evidence he's got.

8           I think to conduct an inquiry, I think, is an  
9 investigation, and I don't think the commission has  
10 determined that there is an issue before a  
11 substantial question has been raised, a substantial  
12 reason to believe that an election law violation  
13 may have occurred or has occurred.

14           And I think as far as any investigation, that  
15 has to be -- as you stated in your opening, that  
16 has to be determined. And I think it's up to the  
17 Complainant to submit that material and not for a  
18 commissioner individually or the commission  
19 collectively to go out and do the investigation  
20 for -- before that decision is made.

21           CHAIRMAN D. DUMEZICH: Tony, you pulled a  
22 news article out of your pocket about Mr.  
23 Battles -- the person that Mr. Battles defeated  
24 in the general election. What was his name, the  
25 representative?

1 MR. D. NELSON: Beckerman.

2 CHAIRMAN D. DUMEZICH: What was that?

3 MR. D. NELSON: Beckerman.

4 CHAIRMAN D. DUMEZICH: No, no, no.

5 MR. B. KING: I think it was Woodruff.

6 CHAIRMAN D. DUMEZICH: Yeah, Woodruff. You  
7 pulled, you pulled something out of your pocket  
8 and said I read this in the newspaper. I want  
9 to call him in and talk to him about that.

10 VICE CHAIR A. LONG: Not true.

11 CHAIRMAN D. DUMEZICH: Well, let's have  
12 those...

13 VICE CHAIR A. LONG: If you're talking  
14 about Troy Woodruff --

15 CHAIRMAN D. DUMEZICH: Troy Woodruff.

16 VICE CHAIR A. LONG: We had a, we had a  
17 written complaint filed by a citizen of Gibson  
18 County, there was a complaint that was filed,  
19 that Mr. Woodruff had violated the disclosure or  
20 the -- whatever, the disclaimer law.

21 Charles Mayfield, a citizen of Gibson County  
22 had written a request and sent by note or a letter  
23 and filed a complaint and I forwarded that to the  
24 election division, and a copy of that letter -- my  
25 letter dated July 6th, 2006, enclosed note from the

1 Mr. Mayfield and read it into the minutes.

2 So I didn't pull something out of my pocket.  
3 Whoever told you that is just, you know, not being  
4 candid with you -- I mean, I'm reading from the  
5 minutes of that meeting and that indicates that  
6 there is a complaint by Charles Mayfield that are  
7 incorporated into the minutes.

8 CHAIRMAN D. DUMEZICH: I'd like to see the  
9 minutes of that meeting.

10 VICE CHAIR A. LONG: At that meeting Dale  
11 Simmons said, and I quote, that Indiana Code  
12 3-6-4.1-21(b) states that the commission, if the  
13 commission determines that there is substantial  
14 reason to believe that an election law violation  
15 has occurred, it shall expeditiously make an  
16 investigation, which would be the first step.

17 At this point in time we had a written  
18 complaint that was specific in that matter, and  
19 that those -- I mean, it's just, just you're  
20 mistaken, and I think innocently. I make no  
21 challenge to your credibility or your professional  
22 standing, but that was in 2006, July or August of  
23 2006 at a meeting, and whoever reported to you that  
24 I pulled a newspaper article out of my pocket and  
25 said I want to investigate it is just not being

1 candid with you, because I wrote a -- I received a  
2 complaint as a commissioner and forwarded it on to  
3 the Division, which I thought was the procedure.

4 CHAIRMAN D. DUMEZICH: To the extent, to  
5 the extent that my comment was in error, I  
6 apologize.

7 VICE CHAIR A. LONG: Oh, you don't need to  
8 apologize.

9 CHAIRMAN D. DUMEZICH: I don't mind.

10 VICE CHAIR A. LONG: You do not -- I don't  
11 attribute that source to you. Obviously, I  
12 think somebody's told you that, and that's the  
13 person that's in error.

14 CHAIRMAN D. DUMEZICH: In any event, I feel  
15 that the e-mail that was sent by this gentleman,  
16 the witness in this case, rises to a sufficient  
17 level to constitute a complaint against the  
18 state representative, Mr. Battles, and the  
19 Democratic State Central Committee.

20 With that in mind, September 29th, 10:00, be  
21 there. And in the meantime, counsel should work  
22 together to determine that we have -- we fully  
23 comply with any procedural aspect to get us to that  
24 meeting.

25 And if they find, if they find that we have



1           been deficient in any regard, let's also have them  
2           make recommendations to make sure that we know how  
3           we can rectify any deficiency, and to the extent  
4           that it is -- that it can be agreed to among the  
5           counsel, it should be submitted on one memo.

6           To the extent that that there is something  
7           that there is a significant difference, each  
8           counsel may submit memos in support of their  
9           position where they cannot reach a conclusion  
10          regarding the proper procedure and the state law.

11          VICE CHAIR A. LONG: I would suggest that  
12          we have separate memos that we share -- our  
13          counsel shares with us and your counsel with  
14          you.

15          CHAIRMAN D. DUMEZICH: Hopefully, we just  
16          get one.

17          VICE CHAIR A. LONG: Well, I agree. I hope  
18          so.

19          CHAIRMAN D. DUMEZICH: My attention span is  
20          limited. I can only deal with about 15 pages.  
21          Mr. Nelson, thank you.

22          MR. D. NELSON: Thank you.

23          CHAIRMAN D. DUMEZICH: And commission  
24          members, thank you and thank you for your  
25          discussion and hopefully we can figure out if

1 something is amidst here. Voting System --  
2 yeah, that's the next one, Voting System  
3 Technical Oversight Program, the VSTOP. I  
4 recognize Dr. Ray Scheele and Dr. Jay Bagga and  
5 Dr. Joe Losco of Ball State University to  
6 present the Voting System Technical Oversight  
7 Program Report.

8 COMMISSION MEMBER S. RIORDAN: Mr. Chairman,  
9 could I request that we have a five-minutes  
10 break?

11 CHAIRMAN D. DUMEZICH: Certainly.

12 COMMISSION MEMBER S. RIORDAN: I would move  
13 to adjourn for five minutes.

14 CHAIRMAN D. DUMEZICH: Hearing a motion --

15 MR. B. KING: To recess.

16 CHAIRMAN D. DUMEZICH: -- to recess.

17 COMMISSION MEMBER S. RIORDAN: To recess,  
18 sorry, recess. Forgive me.

19 VICE CHAIR A. LONG: I make the motion that  
20 we recess.

21 CHAIRMAN D. DUMEZICH: Second, do I hear a  
22 second?

23 COMMISSION MEMBER B. BENNETT: Second.

24 CHAIRMAN D. DUMEZICH: All in favor say  
25 aye?

1 MR. T. McCLAMROCH: Toby McClamroch. I'm a  
2 lawyer with Bingham McHale. We represent ES&S  
3 in this matter.

4 MR. T. BURT: Good morning. I'm Tom Burt  
5 and I'm the Chief Operating Officer for election  
6 systems and software.

7 MR. J. RYAN: Judd Ryan, Regional Sales  
8 Manager of election systems and software.

9 CHAIRMAN D. DUMEZICH: Anyone that's going  
10 to speak out of the group today, have you taken  
11 the oath?

12 MR. S. PEARSON: Yes.

13 MR. R. SCHEELE: Yes.

14 CHAIRMAN D. DUMEZICH: You have?

15 MR. T. BURT: Yes.

16 MR. J. RYAN: Yes.

17 CHAIRMAN D. DUMEZICH: Okay, everybody's  
18 indicated -- all six people have indicated that  
19 they have taken the oath and they realize that  
20 anything that they say is testimony before the  
21 commission. Dr. Scheele, please provide the  
22 commission with an update pending the  
23 application of ES&S for approval as the Unity  
24 3.2.1.0 voting system and the status of the  
25 related issues with the previously certified

1 THE COMMISSION: Aye.

2 CHAIRMAN D. DUMEZICH: All opposed?

3 (No response.)

4 CHAIRMAN D. DUMEZICH: Motion has it, a  
5 five-minute recess.

6 (A recess was taken.)

7 CHAIRMAN D. DUMEZICH: I would like to  
8 reconvene the hearing. It has been about eight  
9 minutes since we took the look and we're coming  
10 back in at 11:38. This is the Voting Systems  
11 Technical Oversight Program or VSTOP. I  
12 recognize Dr. Ray Scheele, but in fact, what I'd  
13 like to do is each one state your name and where  
14 you're from, for the record, since we have  
15 additional, additional parties here.

16 DR. R. SCHEELE: Sure. I'm Ray Scheele. I  
17 co-direct the VSTOP Program through the Bowman  
18 Center at Ball State University. With me is the  
19 other co-directors.

20 MR. J. BAGGA: I'm Jay Bagga, co-director  
21 of the VSTOP Program at Ball State University.

22 MR. S. PEARSON: I'm Steve Pearson and I'm  
23 Vice President of certification for ES&S. I  
24 manage the federal and state certification  
25 process for the company.

1 Unity 3.2.0.0 system.

2 DR. R. SCHEELE: Yes. Thank you, Mr.  
3 Chairman and Commissioners. In one sense, these  
4 are -- these two voting systems are connected  
5 because one of the major components, the DS200  
6 is the one that now -- we'll address in terms of  
7 some of the problems that has occurred.

8 Let's talk about the 3.2.1.0 first, if we  
9 could. The 3.2.1.0, as you will recall, we have  
10 field tested at Ball State University. We had  
11 several runs with it and we've been working very  
12 closely with ES&S and they've been very  
13 cooperative, in terms of working with us, to  
14 address these anomalies that we first uncovered in  
15 our field tests at Ball State University, which was  
16 an inconsistent count.

17 We worked with ES&S and Wyle Labs, which is a  
18 certified voting system technical testing lab out  
19 of Huntsville, Alabama, and we worked up a test  
20 that they performed that addressed one of the major  
21 problems we had. We had five issues overall.  
22 Three of these working with ES&S have now been  
23 resolved. We sent a report down and I think  
24 perhaps you got it. I know the staff members  
25 received it.

1           So this leaves two issues unresolved on  
2           3.2.1.0, or as we refer to it, the 3.2.1.0. We've  
3           been working with ES&S on these two issues as well.  
4           One is a fairly minor issue dealing with what I  
5           call the nomenclature problem, dealing with  
6           firmware versus the hardware and what the system is  
7           going to be called.

8           We suggested, and I think ES&S is following  
9           through on this, that maybe we don't want to go  
10          ahead with this system with one number of firmware  
11          and/or hardware and the EAC in Washington is  
12          testing a system with a different number, with a  
13          different firmware, or other states are looking at  
14          more or less the same system with different  
15          nomenclatures.

16          So this is one thing that we've talked about  
17          with other states, and I know ES&S is aware of this  
18          as well because we've had long discussions with  
19          them about it, so I think they're going to follow  
20          through. This is really a EAC problem as well and  
21          they're recognizing it so we're working on that.

22          The other issue that remains unresolved is the  
23          ballot skew issue. This is now currently under an  
24          examination by the EAC and we are awaiting the test  
25          results coming out of EAC and their investigation

1 into the ballot skew issue on 3.2.1.0.

2 That's a very brief summary of the 3.2.1.0.

3 Let me quickly mention that 3.2.0.0, if you go back  
4 into your minutes, to the March meeting, we had the  
5 time line set out on everything that had happened  
6 through March 9th, or excuse me, it was March 7th  
7 of this year on our evaluation of the 3.2.0.0.

8 Approximately, at that same time you'll recall  
9 in our February meeting the EAC came out with  
10 technical advisories on that system, and shortly  
11 thereafter, a formal investigation was launched by  
12 the EAC in Washington D.C.

13 At that time the EAC thought that the formal  
14 investigation might take only about ten weeks --  
15 although they did say if other problems develop, it  
16 may take longer. That formal investigation is  
17 taking longer. It's still under investigation, the  
18 3.2.0.0 by the EAC, so consequently, not much has  
19 changed.

20 The issues are still the same as in March and  
21 we're awaiting the data and information and  
22 findings coming out of the EAC with respect to that  
23 system. So that's a very quick overview of where  
24 those two systems are right now.

25 CHAIRMAN D. DUMEZICH: Time frame, can you

1 give us any predictions in your discussions  
2 with...

3 DR. R. SCHEELE: Right. In our discussions  
4 with the EAC, they said they would like to get  
5 it resolved as quickly as possible. Now  
6 that's -- they can't tie themselves. One of the  
7 problems they came up with is, of course, and  
8 it's always a problem when you deploy systems,  
9 okay, but once it's out in the field, there  
10 might be another problem that comes up. So  
11 consequently, it's kind of a revolving target  
12 sometimes they're giving so they can't really  
13 give us a date.

14 CHAIRMAN D. DUMEZICH: Anything else you'd  
15 like to say for the record?

16 DR. R. SCHEELE: The only other thing is  
17 we've also been working very closely with Mark  
18 Manganaro on engineering change orders that  
19 you're familiar with, and that's been a long  
20 deliberate process, but we've got a list of  
21 those that we've given to the co-directors, and  
22 if we get to that, then we can discuss that  
23 later.

24 CHAIRMAN D. DUMEZICH: A representative  
25 from ES&S, any comments?



1           MR. S. PEARSON: I don't think we have  
2           comments about the 3.2.0.0, although -- you  
3           know, if there's -- obviously, we'd like to  
4           reserve -- if there's a motion that relates to  
5           the 3.2.0.0, and if there's some kind of issue  
6           that's raised by a clerk that makes a comment.

7           MR. T. McCLAMROCH: I think on the 3.2.1.0  
8           though -- I'd like to make a short comment --  
9           it's really a legal comment, but in essence, and  
10          Mr. Pearson is here and in charge of  
11          certification issues for ES-S. I mean,  
12          essentially, let me put this in perspective.

13          The 3.2.1.0 was designed to resolve the issues  
14          that were submitted -- that were the subject of the  
15          federal issues that arose out of Cuyahoga County,  
16          Ohio. In fact, what we have is we have submitted  
17          that for certification and it has been -- and I  
18          think Dr. Scheele, you know, properly stated their  
19          position on this, but I just would like to make the  
20          point that -- the very point, the reason that the  
21          3.2.1.0 was designed was to resolve those issues.

22          So we still have this investigation of the  
23          3.2.0.0, which is now the condition by which we are  
24          now being threatened of decertification, and the  
25          point I'd like to make is really a legal one, which

1 is, and it goes to the very essence of the VSTOP  
2 relationship, which is -- according to Indiana law,  
3 the standard that you -- prior to certification  
4 that you are required to undertake is to, is to  
5 submit whatever system someone applies for to an  
6 independent testing laboratory; right, and then  
7 those results, and it used to be, as most of you  
8 understand or will remember, is that those  
9 independent laboratory results, in this case, Wyle  
10 Laboratory, when you receive that certification  
11 from that independent testing lab, then you would  
12 certify the system; correct -- I mean, I think  
13 that's accurate, but then what happened is  
14 legislature a couple of years ago created VSTOP.

15 And my contention, and I'm not really asking  
16 for action on this, as much as to determine whether  
17 there's disagreement, the point is the VSTOP is  
18 required by the wording of the statute. There's  
19 been a lot of discussion today about the statutes.  
20 Statute requires that the VSTOP evaluates the  
21 results from the independent testing laboratory and  
22 then issue a recommendation, and essentially, what  
23 we have here is -- I think I'm correct and Dr.  
24 Scheele can -- knows this better than I do, but I  
25 think that implicit in what he's saying is -- I

1 don't want to -- I don't want to be too strong in  
2 how I say this -- signed off would be a too strong  
3 of a word, but I don't think that the results of  
4 the Wyle Laboratory tests, I think they have been  
5 reviewed by Ball State, and I think -- I don't want  
6 to say signed off on, but it sounds like that's no  
7 longer a condition, that the results of the Wyle  
8 Laboratory tests are not an issue that stand  
9 between us and certification; is that accurate?

10 DR. R. SCHEELE: The tests we've received,  
11 yes, that's accurate.

12 MR. T. McCLAMROCH: Yeah. And so my point  
13 is --

14 CHAIRMAN D. DUMEZICH: And that's the Wyle  
15 test?

16 DR. R. SCHEELE: Right.

17 MR. T. McCLAMROCH: And so essentially,  
18 what I'm saying is the position that we're in  
19 right now is that VSTOP has taken the position  
20 that there are two issues remaining. Both of  
21 those, according to the testimony, relate to  
22 issues that are being reviewed by the EAC, and  
23 I'm simply submitting to you that's inconsistent  
24 with our statute.

25 Our statute very clearly, and I'm happy to

1 read it to you, but what it requires is that the  
2 VSTOP evaluate the results of the independent test  
3 laboratory and make a recommendation. We issue  
4 dozens of technical advisory reports over the year.  
5 If those technical advisory reports become the  
6 subject of a hesitation by the VSTOP, we'll never  
7 get anything certified.

8 You as a commission certainly have the  
9 discretion to consider anything you want. I'm not,  
10 I'm not disagreeing that you have the right to hold  
11 up the certification, but what I am indicating is  
12 to the extent that you're looking to VSTOP for a  
13 recommendation -- I mean, I'm happy to go through  
14 the statute, if you'd like, but it's very clear  
15 their role is to evaluate the recommendation of the  
16 independent laboratory only.

17 And so our point is we think we're -- we think  
18 because we do have -- the 3.2.1.0 was designed to  
19 resolve the issues of the 3.2.0.0. We've designed  
20 it, we've worked with Wyle Labs to resolve those  
21 issues that are subject to the federal  
22 investigation, we've submitted it to you, and now  
23 we're being held up by this EAC investigation, and  
24 I understand that as it relates to the 3.2.0.0  
25 being on the table, but I hesitate to think that it

1 should interfere with Ball State's recommendation.

2 VICE CHAIR A. LONG: I've got a question so  
3 that I'm clear. It's your contention that the  
4 statute says that Ball State has no authority to  
5 investigate technical issues that may have come  
6 to our attention maybe by way of their  
7 information, maybe by -- from any source, and we  
8 would refer to them for technical advice  
9 relative to that -- the first question I have is  
10 they don't have the authority to do that?

11 MR. T. McCLAMROCH: No. And in fact, I  
12 think that you very specifically by statute --  
13 in the decertification statute have the  
14 authority to ask them their opinion -- I think  
15 the statute says whether or not we're still in  
16 compliance with the technical requirements, that  
17 you have the authority to request that review,  
18 as you did at the February meeting. At the  
19 February meeting you asked them to do. They  
20 came back in March and provided that report to  
21 you.

22 VICE CHAIR A. LONG: And just as an  
23 observation, I would agree with you that  
24 historically because of the lack of having the  
25 expertise available to us, the VSTOP Program has

1 not provided us -- when we got Wyle lab and  
2 there was another lab that we utilized, or that  
3 was utilized -- not we, but when we had the  
4 independent testing authority report, we had no  
5 basis to do a technical evaluation.

6 And I have expressed time after time after  
7 time on how uncomfortable I was making decisions  
8 with regard to matters that were way beyond my  
9 ability to understand without having an  
10 independent -- i.e., an independent to, or someone  
11 that we select that's been provided to us to give  
12 us technical expertise.

13 But you are absolutely correct, that before,  
14 as uncomfortable, at least on the years that I've  
15 been here, we did. When we got independent testing  
16 authority approval, we approved, and the question I  
17 think now is beyond that, that once we get that  
18 approval and get their analysis of that approval  
19 from the independent testing authority, that we are  
20 in a position procedurally of asking them for  
21 further information.

22 That would make us more at peace in making a  
23 sound decision that protects the voters and  
24 certainly the taxpayers and all those clerks out  
25 here that are in stress, I'm sure as you all are.

1           We, historically, have had a very strong  
2           relationship with our vendors, and I'm proud of  
3           that, and -- but at least do you challenge -- I  
4           assume that your answer is you do not challenge  
5           that we have the authority to investigate -- ask  
6           them to investigate on our behalf those other  
7           issues?

8           MR. T. McCLAMROCH: That's correct.

9           VICE CHAIR A. LONG: Thank you.

10          DR. R. SCHEELE: If I could just comment  
11          on -- of course, we -- as you all know, the EAC  
12          certification of a voting system is not required  
13          under Indiana statute. However, the independent  
14          testing labs do not always test to the Indiana  
15          code requirements. They will be testing to the  
16          manuals developed by the -- actually, now and  
17          the current day, by the EAC.

18          We develop protocols that hone in on the  
19          Indiana code requirements that you've all approved  
20          for use by VSTOP. And in turn, those protocols  
21          rely heavily upon the voting system standards that  
22          have been developed nationally. So consequently,  
23          although we do not require EAC approval in Indiana  
24          to certify a voting system, nonetheless, the  
25          standards have to be adhered to that are the

1       prevailing standards in the industry, and that's  
2       what we do.

3               We go through all of the VSTL reports very  
4       carefully, and we work with ES&S in the field tests  
5       to make sure every checklist is checked in terms of  
6       our evaluation, but we go beyond that as well.  
7       When problems occur, we try to investigate those,  
8       and problems often occur in other jurisdictions,  
9       and I know the vendors also take that very  
10      seriously and they try to address it. So we try to  
11      stay up-to-date with all the technical aspects of  
12      each voting system.

13              COMMISSION MEMBER S. RIORDAN: I've got a  
14      question or two. So what's being held up right  
15      now is the certification of 3.2.1.0.?

16              MR. S. PEARSON: Yeah.

17              COMMISSION MEMBER S. RIORDAN: And I'm  
18      interested in finding out the implications of  
19      holding up that certification, so how many  
20      counties are affected by the holding up of that  
21      certification, Part 1, and Part 2 is when will  
22      they be effective; in other words, before...

23              MR. T. BURT: This is Tom Burt. I'll  
24      address that. There are three counties and I  
25      would invite the counties to come, if anything I



1 state is not accurate. Newton County, Jackson  
2 County and Monroe County all have an expectation  
3 to receive this system. Newton County has the  
4 3.2.0.0 system. Jackson and Monroe under  
5 contracts are expecting a system and  
6 understandably are hesitant -- although 3.2.0.0  
7 is certified in Indiana, are hesitant to take  
8 delivery of that system, given the motion to  
9 decertify.

10 And so practically speaking, and again, I  
11 don't want to speak on behalf of the counties, but  
12 I think their position is they don't want to take  
13 delivery of 3.2.0.0 because of that motion that  
14 stands and would prefer to wait until 3.2.1.0 is  
15 certified. And so our ability to deliver the  
16 equipment that they have contracted to purchase  
17 from us is now, practically speaking, dependent on  
18 3.2.1.0 being certified in Indiana.

19 VICE CHAIR A. LONG: A point of  
20 clarification. The contracts that Jackson and  
21 Monroe are under are not for the 3.2.0.0 but for  
22 the 3.2.1.0, if I understand -- if counsel --  
23 I'm not trying to box anybody in here.

24 MR. T. BURT: The contracts are silent, in  
25 terms of a specific firmware version. The

1 contracts are for the hardware scanners, DS200  
2 and don't specifically cite a firmware version.

3 MR. K. DOGAN: If I might speak.

4 CHAIRMAN D. DUMZICH: Who are you?

5 MR. K. DOGAN: Kevin Dogan. I am an  
6 attorney representing the Monroe County Board of  
7 Commissioners and the Board of Commissioners of  
8 Monroe County do have a contract with ES&S that  
9 we entered into in January of this year, but we  
10 also have an amendment to that contract that  
11 does speak to this software and the original  
12 purchase did not.

13 MR. T. BURT: That's true.

14 MR. K. DOGAN: At some appropriate time I  
15 would like to speak to amendment for that  
16 contract.

17 VICE CHAIR A. LONG: We want to hear from  
18 the counties that are here, too.

19 MS. A. LOWERY: I'm Amanda Lowery, Jackson  
20 County, L-O-W-E-R-Y. Jackson County purchased  
21 the system in December of 2010, expecting to  
22 receive the DS200 system with software Version  
23 3.2.0.0. I had scheduled delivery under the  
24 advisement that there were some issues but I was  
25 assured that the issues would be resolved with

1           Version 3.2.1.0, and that's what I would be  
2           receiving in Jackson County.

3           That was anticipated to happen within a 30-day  
4           time frame -- it did not, and therefore, I  
5           have -- I conducted my May primary with old  
6           equipment that I still had in the county and now  
7           I'm looking at having to do the same in November  
8           because of consistent problems with the system.

9           VICE CHAIR A. LONG: Is someone here from  
10          Newton?

11          MS. M. TAYLOR: We aren't having an  
12          election this year.

13          CHAIRMAN D. DUMEZICH: Can you state your  
14          name, please?

15          MS. M. TAYLOR: Marlene Taylor, I'm the  
16          chief deputy clerk, and we do not have an  
17          election this year so we're waiting, waiting to  
18          see what happens here. Our attorney has  
19          submitted a letter indicating his wanting to  
20          terminate the contract with ES&S.

21          VICE CHAIR A. LONG: The contract is for  
22          what?

23          MS. M. TAYLOR: Our contract is for -- what  
24          do you mean?

25          VICE CHAIR A. LONG: Did he specify the

1 firmware.

2 MS. M. TAYLOR: It specifies the DS200 and  
3 there is an amendment to our contract as well,  
4 addendum to the contract as well that addresses  
5 the firmware, so I think it states that in our  
6 letter.

7 CHAIRMAN D. DUMEZICH: So that's the  
8 scanner?

9 MR. T. BURT: Yeah, the DS200 is the, is  
10 the tabulator.

11 MS. L. ROBBINS: I'm Linda Robbins, Monroe  
12 County Clerk, and with this election -- well,  
13 I'll take you back. We did not accept the  
14 delivery of the DS200s but they had already  
15 picked up our old equipment, therefore, we had  
16 no equipment for the spring election.

17 ES&S offered and helped us do a paper ballot  
18 system with central count. We've gone with this  
19 long enough and we're so unsure that at this point  
20 Monroe County for this election will do a paper  
21 ballot with no vendor and do a hand count centrally  
22 in order to do this election.

23 CHAIRMAN D. DUMEZICH: Okay.

24 MS. L. ROBBINS: We've been held up so long  
25 with this.

1 MS. A. LOWERY: I will also agree that  
2 Jackson County has sent a termination letter to  
3 ES&S dated July 20th, and we are frustrated  
4 beyond comprehension.

5 VICE CHAIR A. LONG: Could I ask the  
6 counties that have sent these letters, have you  
7 received correspondence from ES&S?

8 MS. A. LOWERY: We have received  
9 correspondence.

10 VICE CHAIR A. LONG: To the effect of...

11 MS. A. LOWERY: I'll let my attorney  
12 address that, the letter was addressed to her.

13 MS. S. BEVERS: I'm Susan Bevers,  
14 B-E-V-E-R-S, Jackson County attorney. We  
15 received correspondence after our initial letter  
16 of termination on July 20th. I replied to  
17 ES&S's response and they responded again as well  
18 offering to assist us using the old machines, or  
19 in the alternative, to provide us with different  
20 models, but not the DS200 that are certified in  
21 Indiana, but they are older machines, just newer  
22 than what we have, and we also had a meeting  
23 with ES&S that occurred yesterday to voice some  
24 of our frustrations, and that's where we stand.

25 VICE CHAIR A. LONG: What system -- did I

1 understand you to say they offered you an older  
2 system that was certified in Indiana; do they  
3 have an older system that has an active  
4 certification?

5 MS. A. LOWERY: Jackson County currently  
6 has Eagle and Ivotronic machines from ES&S that  
7 we have used for, I believe, the past ten years.  
8 ES&S contacted former Clerk Benter (Phonetic)  
9 sometime last year to let her know that we  
10 needed to look at buying a new system because  
11 our old system was, was old -- it was old.

12 It was getting to the point where parts were  
13 becoming difficult to find to service the machines.  
14 Software changes could not -- we were to the point  
15 where we could not make software upgrades with the  
16 systems we have currently. Memory was becoming  
17 full. It's becoming an issue. We need to move  
18 forward. And she purchased the, or signed the  
19 agreement in December.

20 CHAIRMAN D. DUMEZICH: How many machines do  
21 you figure you guys have?

22 MS. A. LOWERY: We generally have 33 and  
23 30, so 63 machines total.

24 COMMISSION MEMBER S. RIORDAN: How about  
25 Monroe County?

1 MS. M. TAYLOR: Our original contract was  
2 for 60, 70 DS200s, and the same for Automarks.

3 COMMISSION MEMBER S. RIORDAN: And how  
4 about Newton?

5 MS. M. TAYLOR: We have 18 DS200s and 9  
6 Automarks.

7 VICE CHAIR A. LONG: You have 18 in stock  
8 now?

9 MS. M. TAYLOR: Yes.

10 VICE CHAIR A. LONG: So you have the whole  
11 system in place with the 3.2.0.0 and now  
12 realizing that there's some problems with it?

13 MS. M. TAYLOR: Yes, and we have not had a  
14 response. I believe this letter was sent out  
15 certified mail on August 16, 2011 from our  
16 county attorney so...

17 COMMISSION MEMBER S. RIORDAN: But no  
18 elections?

19 MS. M. TAYLOR: No elections.

20 COMMISSION MEMBER S. RIORDAN: November  
21 elections?

22 MS. M. TAYLOR: November elections.

23 MR. T. BURT: Is it true, Marlene, that an  
24 election has taken place on that equipment  
25 already?

1 MS. M. TAYLOR: Yes.

2 MR. T. BURT: Okay. So it has been used,  
3 Version 3.2.0.0, in Newton County?

4 MS. M. TAYLOR: And we did have some  
5 trouble with our 2010 general election. In  
6 fact, we had to hold hearings and we had  
7 complaints by two candidates. We had hired an  
8 attorney on behalf of the election board and it  
9 did end up costing us quite a bit of money to  
10 listen to people's complaints, and the  
11 complaints do coincide with some of the issues  
12 that we had and some of the things that you have  
13 sent and technical bulletins so...

14 COMMISSION MEMBER S. RIORDAN: And VSTOP is  
15 not giving us the go ahead on 3.2.1.0 because  
16 there's one remaining issue -- well, there's the  
17 ballot skew, and then the second issue, remind  
18 me again, is...

19 MR. R. SCHEELE: It's actually a -- well,  
20 Jay, you might want to...

21 MR. J. BAGGA: Well, the issue is with the  
22 question number because we have -- ES&S have 35  
23 question number 3.2.1.0, software/firmware, and  
24 there was some problems that were discovered,  
25 and then we worked with ES&S to resolve those



1 problems, and Wyle has tested those, and so we  
2 have a new -- and the same for in question  
3 number for System 3.2.1.0.

4 COMMISSION MEMBER S. RIORDAN: Okay.

5 VICE CHAIR A. LONG: What's standing  
6 between 3.2.1.0 and a recommendation from you  
7 to -- that we should certify?

8 MR. J. BAGGA: The main issue is the skew  
9 issue which leads to non-conformity with ES&S  
10 (indiscernible.)

11 COMMISSION MEMBER S. RIORDAN: And how -- I  
12 mean, give me an example of how a ballot skew  
13 problem might occur and what it would look like?

14 MR. J. BAGGA: So when a ballot is scanned,  
15 the different sizes of ballots, they can range  
16 from 11, 13 inches, all the way up to 19 inches,  
17 and when a ballot is scanned by an optical scan  
18 system, a digital image is made, and the ballot  
19 skew issue is -- the right region of the ballot  
20 is marked -- scanned an additional image, so it  
21 can miss the mark. It can miss the vote because  
22 of that skew.

23 COMMISSION MEMBER S. RIORDAN: How many  
24 ballot styles do you have in Monroe and how many  
25 ballot styles do you have in Jackson, and is

1           this is something that would be affected, is  
2           there a potential for -- I mean, I know in  
3           Marion County, there are more than I even want  
4           to think about, and so the ballot skew issue can  
5           be a real problem with us, but what I'm  
6           interested in is it something that's going to be  
7           a real problem for you in November, because that  
8           may give us time to -- I don't know -- I mean,  
9           I'm not going to solve your disputes with your  
10          vendors, but I'm just trying to think about if  
11          we can go ahead and certify -- is this, is this  
12          a problem that matters, and it may matter and it  
13          may not?

14                 MR. K. DOGAN: If I could speak for Monroe  
15                 County -- once again, Kevin Dogan, and my last  
16                 name is spelled D-O-G-A-N. We've indicated that  
17                 we're not going to be using the machines for  
18                 this election this fall and so it wouldn't  
19                 matter to us for this election. In the future,  
20                 it could, and we're not prepared to accept  
21                 machines that have such a potential problem.

22                 COMMISSION MEMBER S. RIORDAN: And I'm not  
23                 going to support any position either way on what  
24                 you end up doing. I'm just trying to  
25                 understand, is this problem that's holding up

1 certification, something that's a real problem  
2 for people who are actually holding the  
3 machines, so for November, no, you're not using  
4 the 3.2.1.0?

5 CHAIRMAN D. DUMEZICH: So no one's using  
6 it; right this November?

7 COMMISSION MEMBER S. RIORDAN: What about  
8 you guys?

9 MS. A. LOWERY: Jackson County is not using  
10 the 3.2.1.0.

11 CHAIRMAN D. DUMEZICH: No one's using it  
12 this November, so at least we're not up against  
13 that; right?

14 MS. A. LOWERY: Right.

15 CHAIRMAN D. DUMEZICH: Then with that in  
16 mind...

17 COMMISSION MEMBER S. RIORDAN: So the  
18 problem, the ballot skew problem is something  
19 that's going to come up when there are different  
20 ballot styles; right, that's when it's an issue?

21 CHAIRMAN D. DUMEZICH: It's when it's  
22 18-inch ballot or above; right, is that when the  
23 skew comes into question?

24 MR. S. PEARSON: Can we explain? Can we  
25 put this ballot skew in perspective?

1 COMMISSION MEMBER S. RIORDAN: Yes.

2 MR. T. BURT: And first of all, and I think  
3 this is kind of what's happening, is everybody  
4 is starting to get a little bit deeper into  
5 understanding how systems operate. Optical scan  
6 systems always have some element of skew. For  
7 every ballot that's ever inserted in any optical  
8 scan system, there is always skew.

9 Our systems have skew ballot compensation  
10 logic. We have to handle imperfections in the way  
11 that ballots are printed, variance in the way that  
12 systems are manufactured from the -- that come from  
13 the plant, variations of the way that a voter would  
14 submit a ballot. It's very unlikely that it's  
15 going to be perfectly straight.

16 So the systems and what people don't, and this  
17 is the missing information, I think, that's  
18 alarming people because they weren't aware of this,  
19 the systems compensate for that. We expect skew  
20 and we adjust the system to manage the skew, and  
21 we've certified our system for both 11-inch,  
22 14-inch, 17-inch and 19-inch ballot with dual side  
23 and multiple page ballots.

24 The system, actually when you insert it, when  
25 it begins its scan process, it determines how much

1 skew there is and it applies logic to locate the  
2 ovals, the oval areas throughout the ballot, and I  
3 think that that's the misrepresentation here.  
4 We've passed all federal standard requirements for  
5 accuracy.

6 COMMISSION MEMBER S. RIORDAN: So then what  
7 is the ballot skew problem?

8 MS. L. ROBBINS: I can show you an example  
9 here if you want to.

10 MR. T. McCLAMROCH: Can I -- I mean, I  
11 don't want to go through a clerk, but I think  
12 it's important to understand why the EAC is  
13 looking at this issue; right -- it arises out of  
14 a test in Cuyahoga County, Ohio; correct -- go  
15 head, Steve, and explain just the -- it's --  
16 there is not a skew, I think -- I'm afraid of  
17 even asking this question, probably in an  
18 election; is that correct?

19 MR. S. PEARSON: That is correct.

20 MR. T. McCLAMROCH: And I think just to add  
21 to that, in all laboratory testing by Wyle, EAC  
22 VSTOP, there has not been a single instance  
23 discovered where skew caused a problem with a  
24 vote not being recognized.

25 In all laboratory testing, all concern about

1           this issue has arisen from a single instance in  
2           testing in Cuyahoga County that has since not been  
3           able to be repeated by -- within a certified system  
4           by ES&S, the EAC, or the test labs, so there's  
5           lingering concern out there because of this single  
6           instance of an anomaly that has not been able to be  
7           repeated, but in all testing, up to that point and  
8           since that point, has not confirmed that skew has  
9           produced an issue with tabulating the vote. And so  
10          there's a, there's a concern, not a validated  
11          issue.

12                    COMMISSION MEMBER S. RIORDAN: Do you agree  
13                    with that?

14                    DR. R. SCHEELE: We think that a ballot  
15                    skew issue is a very important problem.

16                    MS. A. LOWERY: I would agree with that as  
17                    a clerk with one of the counties with the  
18                    machine.

19                    MR. T. McCLAMROCH: We do, too.

20                    DR. R. SCHEELE: In VVS standards, the  
21                    voting system standards, are explicit in saying  
22                    well, a voting system should record each vote  
23                    precisely as indicated by the voter and be able  
24                    to produce an accurate report of all votes cast.

25                    Now we've already been through with ES&S in a

1 very cooperative fashion with where that mark has  
2 to be under the Indiana code, okay, and we got that  
3 resolved through testing with Wyle, but that does  
4 not relieve the standard that we think a voting  
5 system has to have to accurately record the votes  
6 as cast by the voter, and the ballot skew problem  
7 is a problem that does not meet at this point that  
8 standard.

9 COMMISSION MEMBER S. RIORDAN: And when you  
10 say it is a problem --

11 CHAIRMAN D. DUMEZICH: And Toby would  
12 say -- you would argue that that's beyond their  
13 charge.

14 MR. T. McCLAMROCH: Exactly. Wyle Labs --  
15 you know, I'll let these two speak, but  
16 according to Wyle Laboratories, ballot skew  
17 standards have been met; is that accurate?

18 MR. S. PEARSON: Correct.

19 COMMISSION MEMBER S. RIORDAN: Do you agree  
20 with that?

21 CHAIRMAN D. DUMEZICH: According to Wyle  
22 Labs, not according to your testing, and then  
23 we're going to ask the clerks what they think  
24 about the ballot skew issue?

25 DR. R. SCHEELE: To our knowledge, Wyle

1 Labs has never completely tested this system,  
2 the entire system, running it through all the  
3 standards -- they have not done that. They've  
4 tested components of this system at different  
5 times; am I wrong?

6 MR. S. PEARSON: That is -- that's a  
7 correct statement, but there's a viable  
8 explanation for that.

9 CHAIRMAN D. DUMEZICH: Okay. But before we  
10 get to that explanation, you said you were going  
11 to show us an example of the skew issue?

12 MS. L. ROBBINS: Yes.

13 CHAIRMAN D. DUMEZICH: May we see that,  
14 please?

15 DR. R. SCHEELE: Sure.

16 COMMISSION MEMBER S. RIORDAN: So is it a  
17 problem -- I mean, are you convinced -- do they  
18 have to show the absence of that problem before  
19 you will give us the recommendation, or are you  
20 telling us that that -- or is it your  
21 responsibility to tell us that that problem  
22 actually exists with 3.2.1.0; do you see what I  
23 mean?

24 MR. R. SCHEELE: Right. The problem  
25 exists. ES&S is correct, it has not occurred in



1 an actual election in Cuyahoga County, but in  
2 tests, what we would call a public test in  
3 Indiana, it has occurred in Cuyahoga County.  
4 That's where they discovered several...

5 COMMISSION MEMBER S. RIORDAN: Okay. And  
6 so do -- I mean, has Wyle done the test and it's  
7 not approved?

8 DR. R. SCHEELE: Wyle has run our test in  
9 cooperation with ES&S on the mark and that  
10 conforms with the Indiana code.

11 COMMISSION MEMBER S. RIORDAN: Okay.

12 DR. R. SCHEELE: And that's a settlement  
13 issue, but the ballot skew issue is not settled  
14 yet; according to the EAC or VSTL reports that  
15 we've seen.

16 MR. J. BAGGA: If I may add to that, the  
17 EAC commented on July 28, 2011 about this issue,  
18 which is on the EAC's web site, and I'm quoting  
19 from it -- yes, it's right that the issue was  
20 covered in that test, with the 17-inch ballot,  
21 but then ES&S admits they've been doing several  
22 tests and reviewing all size ballots -- 12,  
23 14 inches, 17 inches, and 19 inches, and found  
24 various images of distortion, found image  
25 distortion. The 17-inch ballot being the

1 largest skew.

2 MR. T. McCLAMROCH: It's very important to  
3 note that the instance of skew is very different  
4 from the instance of a vote not being tabulated.  
5 As Steven described, skew happens in every  
6 ballot. So the presence -- what's sort of being  
7 indicated by the EAC is that the presence of  
8 skew in and of itself indicates a problem and  
9 that is the primary issue we have with the  
10 subject is that skew to everyone means a dropped  
11 vote, and that's simply not true, and that has  
12 not been validated by any test.

13 CHAIRMAN D. DUMEZICH: Do you have any skew  
14 stories?

15 MS. M. TAYLOR: Never used them.

16 CHAIRMAN D. DUMEZICH: Any skew stories?

17 MS. A. LOWERY: Never used the machine.

18 MR. T. McCLAMROCH: Mr. Chairman, may I  
19 just read from a document by the EAC, that  
20 notice of the initiation of this EAC review, and  
21 if I could just read, which I'm happy to submit  
22 to you -- none the issues identified are likely  
23 to have had an impact on the integrity or  
24 results of an election or to impact the  
25 integrity of future elections.

1           CHAIRMAN D. DUMEZICH: Are you done?

2           DR. R. SCHEELE: Well, without reading the  
3 entire document, I'll be happy to -- obviously,  
4 if votes aren't counted accurately, they could  
5 affect an election.

6           MR. T. McCLAMROCH: Can I maybe further  
7 clarify what the standards require regarding  
8 vote accuracy. Both the EAC 2002 federal voting  
9 system standard and the EAC 2005 voluntary  
10 voting system guideline requires a scanner to  
11 receive a -- to achieve a maximum error rate of  
12 one mark in 500,000 voting positions.

13           So what that's saying is it's okay to have one  
14 missing mark in 500,000 voting positions. The VVS  
15 further states, and this is in our technical  
16 bulletin which provides the rest -- additional  
17 information, I would say, to what -- the EAC  
18 advisory that they published, the VVSG states this  
19 rate is set as sufficiently stringent level that  
20 the likelihood of a voting system error affecting  
21 the outcome of an election is exceptionally remote,  
22 even in the closest of elections.

23           We take this very seriously, but in subsequent  
24 testing -- in the certification testing that led up  
25 to EAC's approval of the 3.2.1.0, in the ES&S -- we

1 ran internally -- we have documented reports  
2 showing accuracy and reliability tests of 3,779,880  
3 voting systems on the DS200, with this version with  
4 100 percent accuracy. Further testing by the VSTL,  
5 they ran the testing --

6 MR. S. PEARSON: The volume and stress.

7 MR. T. McCLAMROCH: This is their accuracy  
8 and volume and stress tests combined that are  
9 required under the standard for certification,  
10 they ran 17,484 ballots totaling 1,862,244  
11 voting positions with 100 percent accuracy,  
12 exceeding the 1.5 minimum with no errors so --  
13 and then in subsequent tests -- when this issue  
14 was discovered or reported, I should say, in  
15 Cuyahoga County, what happened was Cuyahoga  
16 County was performing an acceptance test on the  
17 Unity 3.2.1.0 version. 3.2.1.0 is certified in  
18 the State of Ohio.

19 They were warehousing testing with county  
20 staff and contract temporary help in the warehouse.  
21 They had just over a thousand units -- 5,061 units  
22 that they were acceptance testing on. They had  
23 test ballots that were run on each of the machines.  
24 At the end of the week the totals were all pulled  
25 together and there was one mark reported to be

1 missing in one election on one machine.

2 We were able to through the process of  
3 elimination determine exactly which machine it was  
4 and nobody could identify exactly which ballot it  
5 was. So at that point all of the information, the  
6 log information, the election data was all sent to  
7 our engineers in Omaha.

8 We had staff on site in Cuyahoga. The  
9 Cuyahoga County election director authorized their  
10 staff to repeat the test with 100 percent accuracy.  
11 Our on-site team repeated the test with 100 percent  
12 accuracy. Nobody was able to recreate it.

13 In Omaha, we -- our engineers were not able to  
14 recreate it and then we set up a special test with  
15 11, 14, 19 -- 17 and 19-inch ballots with marks on  
16 both sides of the ballots in the outer areas of the  
17 ballots trying to create it. We ran 4,000 ballots  
18 of each size trying to force the skew, force the  
19 missing marks -- we've never been able to recreate  
20 it.

21 So 3.2.1.0 is still certified. It meets all  
22 the standards, and also, in all subsequent testing  
23 nobody has been able to recreate it, but what the  
24 EAC has asked ES&S and Wyle to do is to run some  
25 additional tests -- they're going to repeat the

1 same tests that was run in the 3.2.1.0  
2 certification that led up to their approval and  
3 they're going to run an additional regression test  
4 just to try to isolate this issue, but at this  
5 point there's been one missing mark on one ballot.

6 CHAIRMAN D. DUMEZICH: And one test?

7 MR. T. McCLAMROCH: One test, and there's  
8 been over 5.6 million voting positions since  
9 that testing that has had 100 percent accuracy.

10 VICE CHAIR A. LONG: When is Wyle going to  
11 do this?

12 MR. T. McCLAMROCH: They're in the process  
13 of creating the test plan. My discussions with  
14 Wyle -- the schedule, it's real hard to tell  
15 because the...

16 CHAIRMAN D. DUMEZICH: And we can't get any  
17 guidance from Wyle when they think they're going  
18 to be done?

19 DR. R. SCHEELE: Correct. We haven't  
20 talked directly with Wyle on the timing, but the  
21 EAC can't give a good firm date either, but we  
22 think it's prudent to wait until that test is  
23 done and find out exactly what the results are.

24 CHAIRMAN D. DUMEZICH: Sure.

25 VICE CHAIR A. LONG: What is ES&S's

1 position on these contracts at issue?

2 MR. T. BURT: Well, I think -- we go ahead,  
3 Judd.

4 MR. J. RYAN: I was just going to say, you  
5 know, we've met with each of the counties. We  
6 know they're frustrated, and we share in that  
7 frustration, so we have made offers to each and  
8 every one of them that we will provide certified  
9 systems at our costs so that they can run their  
10 fall elections should we not obtain  
11 certification in time for those elections.

12 VICE CHAIR A. LONG: My understanding is  
13 you've gotten at least two that have said we  
14 want to cancel the contracts?

15 MR. J. RYAN: That's correct.

16 VICE CHAIR A. LONG: What's your position  
17 with regard to those.

18 MR. T. BURT: I'd like to address that. To  
19 a certain extent, what we have here is a  
20 circular situation, and we have -- the reason  
21 that they're saying they want to cancel the  
22 contract is because they have the 3.2.1.0 has  
23 not been certified yet and the 3.2.0.0 is  
24 subject to a motion of being decertified, and  
25 that's on the table.

1           The reason I can say that with certainty is  
2           because that's what the correspondence says that we  
3           have received. Although I haven't reviewed the  
4           correspondence from Newton County -- although they  
5           are here, they can speak for themselves, but the  
6           correspondence that we received essentially says  
7           we've been advised that there's a motion pending to  
8           decertify, and we've been advised not to use the  
9           3.2.0.0, even though it's currently certified.

10           I'm just making the point to a certain extent,  
11           what we have here is a circular situation and so  
12           what we've done is recreated by this motion on the  
13           table, so what we've done is gone to the counties  
14           and say we think we'll work this out very soon,  
15           we'll supply equipment, and hopefully, we can work  
16           through the issues.

17           We do not think that we are in default -- I  
18           know that's not your function to decide that -- I'm  
19           not offering that for a resolution, I'm just saying  
20           we do not think we're in default.

21           CHAIRMAN D. DUMEZICH: We understand your  
22           position.

23           MR. T. McCLAMROCH: We might add that  
24           3.2.0.0, it's still certified under the EAC and  
25           it's still in use in the states of Ohio and



1 Wisconsin, and virtually, the same version has  
2 been used in Florida and continues to be in  
3 use -- yeah, there are some known issues with  
4 it. There's work arounds. There's technical  
5 advisory bulletins that have been issued. So if  
6 there's ways to either avoid any...

7 CHAIRMAN D. DUMEZICH: So we can wait until  
8 we hear from Wyle, and then if it gets certified  
9 and everything is okay, then you have valid  
10 contracts, but it seems to me that if we would  
11 decertify the 3.2.0.0, then you would then be in  
12 default on your contracts; correct?

13 MR. S. PEARSON: I don't want to say  
14 correct.

15 VICE CHAIR A. LONG: That would be  
16 arguable.

17 MR. S. PEARSON: That would be a risk.

18 CHAIRMAN D. DUMEZICH: That would be a  
19 risk. Let's wait.

20 COMMISSION MEMBER S. RIORDAN: What's the  
21 basis for the pending motion to decertify the  
22 3.2.0.0 for the record?

23 VICE CHAIR A. LONG: I would make a motion  
24 based on the issue, that we had problems, I  
25 understood, with the 3.2.0.0, that these folks

1           were supposed to fix, and the issue that ES&S  
2           went out and sold -- sent out the 3.2.1.0 and  
3           contract addendums in selling the system -- I  
4           may use the wrong nomenclature, to fix the  
5           problem with 3.2.0.0 and the 3.2.1.0 wasn't  
6           certified, that's what I understand the  
7           situation is.

8                   CHAIRMAN D. DUMEZICH:  Yeah.

9                   MR. J. RYAN:  Well, we've actually kind of  
10           been at a standstill, in that we have not been  
11           marketing either system at Brad's direction.  We  
12           have not demonstrated to any customer any  
13           3.2.0.0 or 3.2.1.0 since that meeting, so we are  
14           not...

15                   CHAIRMAN D. DUMEZICH:  You're currently in  
16           compliance?

17                   MR. J. RYAN:  We're not pushing.

18                   VICE CHAIR A. LONG:  Before the meeting you  
19           all were marketing this 3.2.1.0 in Indiana.

20                   CHAIRMAN D. DUMEZICH:  Yeah, because have a  
21           contract --

22                   MR. J. RYAN:  We've never, we've never  
23           showed 3.2.1.0..

24                   VICE CHAIR A. LONG:  3.2.0.0.

25                   MR. J. RYAN:  3.2.0.0 when it was

1 certified.

2 VICE CHAIR A. LONG: My understanding is  
3 these folks are telling us that they've got  
4 addendums to their contracts for 3.2.1.0, now  
5 either -- you know, that's -- you're saying no  
6 and they're saying yes.

7 MR. T. McCLAMROCH: No, that, that is --  
8 that part is true, but Judd's point was it has  
9 never been demonstrated, that version of the  
10 firmware has never been demonstrated.

11 VICE CHAIR A. LONG: You had the -- the  
12 contracts that you have with these people, as I  
13 understand, relate to the provision of them, the  
14 3.2.1.0?

15 MR. T. BURT: Correct, but it's different.

16 VICE CHAIR A. LONG: And that's marketing,  
17 in my opinion, or at least it seems to be.

18 MR. T. BURT: We had to market it to sell  
19 it, sure.

20 VICE CHAIR A. LONG: Which you've marketed  
21 a system that's not certified.

22 MS. M. TAYLOR: Marlene Taylor from Newton  
23 County. This skew problem to me is a very big  
24 problem. We had a problem in our 2010 general  
25 election and it was a printing error and it

1           wasn't reading the ballots so people  
2           automatically thought, and this is a part of  
3           these hearings, that their vote wasn't being  
4           counted, their ballot wasn't being counted.

5           We had to take and have poll workers fill in  
6           this little spot and compromise the secrecy of  
7           somebody's ballot because they're looking at it,  
8           and the bottom line is our voter confidence in this  
9           county -- we have 10,000 registered voters and  
10          voter confidence is so low right now that we've got  
11          to do something to build it up, and everyone's  
12          pushing to just get rid of ES&S and start with  
13          something else.

14          It's very hard. We as county officials and  
15          election board, we're confused -- can you imagine  
16          how the people are feeling, and they have no  
17          confidence in us so we're in that position that  
18          we've got to do something before this next election  
19          comes up.

20                 CHAIRMAN D. DUMEZICH: The next election  
21                 being?

22                 MS. M. TAYLOR: In 2012, which is a big  
23                 election and we want to run it and run it right.

24                 CHAIRMAN D. DUMEZICH: Yep.

25                 MS. T. CASTLE: My name is Terri Castle.

1 I'm the member of or chairman of the election  
2 board in Newton County. I know he said 1  
3 percent, but being a small county and a lot of  
4 our elections are five votes. We've got recount  
5 after recount because they are so close -- 24  
6 votes, and when we sat in that precinct last  
7 year and had to redo a hundred ballots,  
8 everybody cried foul everybody -- everybody. It  
9 was just an enormous, enormous black eye on  
10 Newton County's Election Board.

11 CHAIRMAN D. DUMEZICH: Okay, yes. Identify  
12 yourself, please.

13 MS. A. LOWERY: I'm Amanda Lowery, Jackson  
14 County Clerk. I would say that I also have  
15 concern with voter confidence. You know, this  
16 is my fourth trip here to find out what's going  
17 to happen with these machines that we purchased  
18 in December of 2010.

19 Jackson County has had an expectation that  
20 machines were coming. They -- you know, I had to  
21 explain -- you know, obviously, my counsel and my  
22 commission and my attorney are wondering why we  
23 don't have these new machines in our possession?  
24 The press in Jackson County are at these meetings  
25 where these events are talked about. There is some

1 knowledge that there is a problem with these  
2 machines in Jackson County.

3 You know, I'm to the point -- when I left the  
4 June 27th meeting, I was at a point where I had  
5 to -- you know, where do I go from here? I have  
6 been planning this entire year to conduct elections  
7 with new equipment and that's not going to happen  
8 essentially this year.

9 I have to have absentee ballots ready to go  
10 out on September 23rd. We're getting to the point  
11 where that's unobtainable with this system because  
12 we're waiting and we're waiting and we're waiting  
13 and we're waiting and I think we're all tired of  
14 waiting. I would walk away today, if I had the  
15 opportunity.

16 MR. K. DOGAN: If I could comment one more  
17 time on behalf of Monroe County, we have been  
18 waiting, but Monroe County at least does not  
19 want to have the commission make a determination  
20 today with respect to certifying or taking off  
21 the motion to decertify the 3.2.0.0 equipment,  
22 that we feel like under our current agreement  
23 with ES&S, we have the right to terminate but  
24 we've not exercised that.

25 We feel like if you take action at this time,

1           that could affect our rights, and we want to make  
2           sure, you know, that equipment is fully tested and  
3           it meets all requirements and we feel like for you  
4           to act to certify any equipment today or to even  
5           remove the decertification motion that was tabled  
6           today would be sending the wrong message and could  
7           impair our flexibility with respect to our purchase  
8           of equipment and we would just urge you to take  
9           that into account.

10           CHAIRMAN D. DUMEZICH: Well, with that in  
11           mind, let's wait until we get something from  
12           Wyle or a report on September 29th, maybe it  
13           will all be resolved by then. No one plans on  
14           using it before November so...

15           MR. T. McCLAMROCH: Thank you for your  
16           time.

17           CHAIRMAN D. DUMEZICH: Lake County  
18           Redistricting Commission. At our last meeting I  
19           noted that the election commission has statutory  
20           authority regarding the redistricting of Lake  
21           County Commissioner and Lake County Council  
22           Districts in Lake County, which we have to  
23           finish by December 31st of this year.

24           Dale advised us of the law, so it provided  
25           four legislative advisory members -- I'd ask you to

1 keep your voices down -- excuse me, voices down,  
2 please -- please go out in the hallway to talk, but  
3 Dale advised us that the law provided for four  
4 legislative advisory members to be a part of the  
5 process, one from each caucus appointed by the  
6 speaker and pro tem of the senate.

7 Commissioner Myers at the time informed us  
8 that Mr. King had suggested that the commission  
9 contact these legislative leaders to ask if they've  
10 considered who their advisory members would be so  
11 the process can be started.

12 Several commission members asked the staff to  
13 provide more information about the process and  
14 Mr. Deckard agreed to do to. In your packets are  
15 copies of letters dated July 7th from both  
16 co-directors, to Senator Long and Speaker Bosma,  
17 explaining the statutes involved here, and  
18 respectfully, requesting they provide the names of  
19 their appointees and knowing at the next election  
20 commission meeting that was then scheduled for  
21 August 8th, that that committee meeting was  
22 rescheduled for today.

23 All commission members were copied on these  
24 letters as was the minority leader of each chamber.  
25 The House and Senate responded by providing us



1 copies of their appointments, Senator Landske,  
2 Senator Rogers, Representative Harris and  
3 Representative Richardson as advisory members.

4 Today, present is Senator Landske and  
5 Representative Harris. Thank you very much for  
6 your attendance and I'm sorry that you were pulled  
7 last on the agenda.

8 UNIDENTIFIED SPEAKER: That was very  
9 interesting.

10 CHAIRMAN D. DUMEZICH: Which part? After  
11 the August 8th meeting was rescheduled for  
12 today, Mr. King notified each of these members  
13 of the new date and the time for this meeting,  
14 and that the commission would take notice of  
15 their appointments and receive further  
16 information about the process.

17 I've also received a letter from Mr. John  
18 Dull, the attorney for the Lake County  
19 Commissioners, which requests information regarding  
20 a timetable for this redistricting and when it will  
21 be completed.

22 I'd like to take a few moments to make some  
23 suggestions about the time line for this process,  
24 that the commission and advisory members can  
25 consider, and then adopt or advise the next time we

1 meet.

2 We would set a commission meeting date about a  
3 month from now, or September 29th at 10:00 in the  
4 morning. Which legislative advisory members would  
5 be invited to attend? We would notify the Lake  
6 County Commissioners, the Lake County Council and  
7 Election Board, the three political party chairs,  
8 Democrat, Libertarian, Republicans, and the Lake  
9 County media that this meeting has been scheduled  
10 and that a timeline and procedure for this  
11 redistricting will be considered and be prepared at  
12 the September meeting to set a meeting date in  
13 November and December to complete the process by  
14 the December 31st deadline.

15 I would like to have the process completed  
16 early in December so I would anticipate that we  
17 will try to get this done no later than December  
18 10th. Do the commission members or the legislative  
19 advisory members have any comment, questions or  
20 comments at this time?

21 VICE CHAIR A. LONG: I have a question.

22 CHAIRMAN D. DUMEZICH: Sure.

23 VICE CHAIR A. LONG: The real question I  
24 have is why are we doing this -- not  
25 withstanding that...

1           CHAIRMAN D. DUMEZICH: Oh, I think we can  
2 all speculate.

3           VICE CHAIR A. LONG: I mean, I'm from the  
4 other end of the state and I'm sure glad we only  
5 got one county to do this in, but it seems to me  
6 that perhaps our staff ought to try to work with  
7 the local authority in Lake County, be it all  
8 the parties -- I don't know what electoral role  
9 or alignment role is there, but anybody that's  
10 part of a political process, Mr. Chairman,  
11 whatever election board members, elected  
12 officials, that we try to get as much local  
13 input as we can and utilize our technical  
14 staff -- I know on the council districts, that  
15 they're elected within the district, as I  
16 understand?

17           CHAIRMAN D. DUMEZICH: That's correct.

18           VICE CHAIR A. LONG: The procedure, so  
19 we've got a population, strict population  
20 standard, I think would have to be applied  
21 there. The census data people would have to be  
22 involved to see that we're accurate in that  
23 regard, and the commissioners, they can try to  
24 get -- at least in our county, we try to get a  
25 balanced population, if we can, but since they

1 run at large which is -- which I also understand  
2 is the case in Lake County, they all run at  
3 large, do they not?

4 CHAIRMAN D. DUMEZICH: No. They run by  
5 districts.

6 VICE CHAIR A. LONG: I'm sorry -- well,  
7 never mind on that issue, but I think there are  
8 oftentimes local issues that bear on roads and  
9 things of that nature that -- of local concerns  
10 that have a bearing on the districts that are  
11 drawn and that we should spend as much effort as  
12 we can receiving all the local input we could  
13 into that.

14 CHAIRMAN D. DUMEZICH: Absolutely. Also, I  
15 would ask, when we consider this, we look at  
16 communities of interest, you know. For too long  
17 we've seen the coffee cup pulled out during this  
18 and the circle around somebody's precinct and I  
19 would ask that we keep towns together to the  
20 extent we can, we keep townships together to the  
21 extent we can, and certainly precincts. There's  
22 got to be a way that we can get to this where  
23 precincts are not divided because just the  
24 administration of the election laws are just far  
25 too difficult when you've got split precincts

1 so...

2 VICE CHAIR A. LONG: I just want to make  
3 sure that I'm on record saying I want as much  
4 local input as I can get on that particular  
5 issue, communities of interest.

6 UNIDENTIFIED SPEAKER: Thank you, Mr.  
7 Chairman. In one of my communications, it was  
8 indicated that the county, or whatever that is,  
9 is objecting to some of the precinct boundaries  
10 that were set by the Census Bureau, and so I'm  
11 just wondering who locally will -- are the local  
12 folks working with the Census Bureau, are they  
13 working with you, or hopefully, they'll have  
14 that resolved in time.

15 CHAIRMAN D. DUMEZICH: Yeah. I would think  
16 that the precincts -- although, frankly, with  
17 this, I'm not going to wait until all the --  
18 with all the feuding that goes up with precinct  
19 cutting up there -- you know, to the extent  
20 that, to the extent that we can instruct them to  
21 end the foolishness early, that would be -- that  
22 would be something that I'd like to see go  
23 forward.

24 VICE CHAIR A. LONG: Why don't you go tell  
25 them to do that?

1           CHAIRMAN D. DUMEZICH: I'm sure they'll  
2 listen and then laugh.

3           VICE CHAIR A. LONG: I don't have a problem  
4 with your proposal other than I hope our staff  
5 before the 29th would start the dialogue with  
6 the political organizations, including the  
7 communities, and in broader terms, communities  
8 of interest -- if there are such things, we try  
9 to identify those for our utilization.

10          CHAIRMAN D. DUMEZICH: Sure.

11          VICE CHAIR A. LONG: I mean, I don't to ram  
12 something down Lake County's throat. I want  
13 Lake County to tell us what they want and  
14 hopefully get a majority of the folks up there  
15 active.

16          CHAIRMAN D. DUMEZICH: Yep, I would agree.  
17 I guess we're done with that. Update on the  
18 schedule?

19          MR. T. DECKARD: Well, I was just going to  
20 say, Mr. Chairman, just as a note, the new  
21 precinct, the process, the -- that has been a  
22 little different for this year. There are  
23 several counties -- 80, I believe is the correct  
24 number, have objected to precincts the Division  
25 has handed to them and are going through that

1 process and we have Michelle Brzycki and Lori  
2 Clark from staff and I'm sure they can answer,  
3 if there's any questions they might have. I  
4 think that's a process that's undergoing and  
5 probably will be a little more familiar to you  
6 as the year goes.

7 VICE CHAIR A. LONG: I assume we'd be done  
8 by the 29th of September.

9 MR. T. DECKARD: That's the plan, I  
10 believe.

11 MR. B. KING: Mr. Chairman, if I could just  
12 add to what Mr. Deckard has said, to clarify,  
13 these are maps that we have received from the  
14 Census Bureau, and so that's why some counties  
15 are checking and seeing differences in what  
16 they've seen on their own precinct.

17 VICE CHAIR A. LONG: And that's, you know,  
18 something I found in our own county. My son  
19 represents the Board of Commissioners in Morgan  
20 County and those commissioners had no idea. We  
21 were meeting with them on an economic  
22 development issue, I said have you all looked at  
23 your precinct -- yeah, are we supposed to --  
24 yeah, we are -- well, we didn't know anything  
25 about it, and I said -- you know, and they were

1           like two weeks into a 30-day review period  
2           before they -- and I'm not saying you guys --  
3           anybody with the census data and anybody up  
4           here, it went into the local administrator just  
5           right off the top, or he didn't circulate it, or  
6           if he did, it went over their heads and they  
7           didn't take a look at it, but for happenstance,  
8           it caused -- maybe my fault. I think they were  
9           just simply what's the goal? I don't know or  
10          not from you all, but the legislative process  
11          changed all that.

12                   CHAIRMAN D. DUMEZICH: Okay. I ask Mr.  
13          Deckard to give us a brief update on the  
14          schedule and the location of the next annual  
15          election administrators conference.

16                   COMMISSION MEMBER S. RIORDAN: I'm going to  
17          miss that important announcement, but I am due  
18          in court in 15 minutes and I've got to roll so  
19          may I be excused?

20                   CHAIRMAN D. DUMEZICH: Yes.

21                   COMMISSION MEMBER S. RIORDAN: Thank you.

22                   MR. T. DECKARD: Thank you, Mr. Chairman.  
23          Just to let folks know, December 12th through  
24          the 14th will be the Indiana Election  
25          Administrators Conference. I can roughly say on



1 the record that a sight has been secured, the  
2 Downtown Sheraton, here in Indianapolis.  
3 They've been very accommodating and it's free  
4 internet and it looks to be a great occasion.

5 CHAIRMAN D. DUMEZICH: Great. We all look  
6 forward to it.

7 MR. B. KING: And just to add the  
8 commission members are always welcomed to  
9 attend.

10 CHAIRMAN D. DUMEZICH: What was that date?

11 MR. B. KING: The 12th through the 14th, or  
12 13th and 14th, yeah, in December.

13 VICE CHAIR A. LONG: I will notify you all,  
14 long story short, I'm taking my wife to New York  
15 or to Washington on the 2nd of December to a  
16 concert and we're going to leave the 1st, so if  
17 you set a meeting, I won't be here, so that may  
18 be a reason to set it.

19 CHAIRMAN D. DUMEZICH: No way.

20 COMMISSION MEMBER B. BENNETT: I move that  
21 the meeting be adjourned.

22 VICE CHAIR A. LONG: That's our anniversary  
23 present.

24 CHAIRMAN D. DUMEZICH: Hearing a motion  
25 that the meeting be adjourned, do I hear a

1 second?

2 VICE CHAIR A. LONG: Second.

3 CHAIRMAN D. DUMEZICH: All in favor, say  
4 aye?

5 THE COMMISSION: Aye.

6 CHAIRMAN D. DUMEZICH: All opposed, nay?

7 (No response.)

8 CHAIRMAN D. DUMEZICH: We're adjourned.

9 (Time noted: 12:43 p.m.)

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1 STATE OF INDIANA )  
 ) SS:  
 2 COUNTY OF MARION )

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4 I, Rhonda J. Hobbs, RPR, and a Notary Public  
 5 and Stenographic Reporter within and for the County  
 6 of Hendricks, State of Indiana at large, do hereby  
 7 certify that on the 19th day of August, 2011, I  
 8 took down in stenograph notes the foregoing  
 9 proceedings;

10 That the transcript is a full, true and  
 11 correct transcript made from my stenograph notes.

12 IN WITNESS WHEREOF, I have hereunto set  
 13 my hand and affixed my notarial seal this \_\_\_\_\_  
 14 day of September, 2011.

15

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NOTARY PUBLIC

18

19 My Commission Expires:  
 August 24, 2017  
 20 County of Residence:  
 Hendricks County

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