

MEETING  
STATE OF CALIFORNIA  
SECRETARY OF STATE  
HAVA STATE PLAN ADVISORY UPDATE COMMITTEE

SECRETARY OF STATE  
1500 11th STREET  
2ND FLOOR BOARDROOM  
SACRAMENTO, CALIFORNIA

WEDNESDAY, JANUARY 27, 2010

10:00 A.M.

TIFFANY C. KRAFT, CSR, RPR  
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APPEARANCES

ADVISORY COMMITTEE MEMBERS

Ms. Ana Action (via teleconference)  
FREED ILC

Mr. Chris Carson, League of Women Voters of California

Ms. Kathay Feng  
Common Cause

Ms. Margaret Johnson  
Disability Rights California

Mr. Neal Kelley  
Orange County Registrar of Voters

Mr. Eugene Lee (via teleconference)  
Asian Pacific American Legal Center

Mr. Dean Logan  
Los Angeles County Registrar-Recorder/County Clerk

Ms. Rebecca Martinez  
Madera County

SECRETARY OF STATE STAFF

Mr. Chris Reynolds

Ms. Debbie O'Donoghue

Ms. Kay Kaufman

Ms. Jane Howell

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## PROCEEDINGS

1

2 MR. REYNOLDS: Hi. This is Chris Reynolds.

3 We're going to go ahead and get started here.

4 We don't necessarily have a quorum, but the  
5 Committee doesn't work that way. So we'll go ahead and  
6 get started.

7 Karin MacDonald has told me that she'll be able  
8 to call in in this afternoon, but her morning got suddenly  
9 very busy.

10 Ardis Bazyn had told me a couple days ago -- or  
11 maybe it was weeks ago -- that he also was making  
12 presentations this morning and would be calling in in the  
13 afternoon.

14 I got a call from Becky Martinez's staff and said  
15 she was running a little bit late.

16 Neal Kelley similarly indicated his flight might  
17 delay him a little bit.

18 We're expecting Becky Martinez, the Registrar of  
19 Voters from Madera County, and Neal Kelley, the Registrar  
20 from Orange County, to show up soon. And I'm going to let  
21 everybody in the room make their own introductions, except  
22 for Secretary of State staff.

23 I'm Chris Reynolds, the Deputy Secretary of State  
24 for HAVA activities.

25 We have Kaye Kaufman, who works closely with me

1 on HAVA activities.

2           We have Kathy Chainey, who also helps support the  
3 HAVA activities.

4           Debbie O'Donoghue, who does things related to  
5 HAVA and some things not so related to HAVA. Your title,  
6 Debbie?

7           MS. O'DONOGHUE: Deputy Secretary of State, Voter  
8 Education and Outreach Services, mouthful.

9           MS. FENG: Things related and not related to  
10 HAVA.

11           MR. REYNOLDS: So I'm going to ask then others  
12 around the table to make their introductions and then  
13 folks on the phone.

14           We do have a person who's taking a complete  
15 record of this meeting and so would ask people to, A,  
16 speak up; two, to try to enunciate clearly; three,  
17 particularly those folks on the phone, if you can identify  
18 yourself when you're talking or before you begin talking.

19           And with that, I'll just kind of leave things --  
20 I'm sorry I failed to mention that Jane Howell is here,  
21 who also helps with military overseas voting with all  
22 aspects of voting for the Elections Division.

23           So with that, Margaret.

24           MS. JOHNSON: I'm Margaret Johnson with  
25 Disability Rights California.

1 MS. CARSON: Chris Carson, League of Women  
2 Voters.

3 MS. FENG: Kathay Feng with California Common  
4 Cause.

5 And I need to borrow a pen.

6 MR. LOGAN: Dean Logan, Registrar-Recorder/County  
7 Clerk from Los Angeles.

8 MR. REYNOLDS: On the phone?

9 MS. ACTION: Ana Action with FREED Independent  
10 Living.

11 MR. REYNOLDS: And I know Eugene Lee was here on  
12 the phone as well.

13 MR. LEE: This is Eugene Lee of the Asian Pacific  
14 American Legal Center.

15 MR. REYNOLDS: And Neal Kelley, the Registrar of  
16 Voters for Orange County, just joined us here in  
17 Sacramento.

18 With that, I wanted to give a brief status report  
19 on where I think we are with this process and where we go  
20 from here.

21 I'm hoping that in large measure this can be the  
22 last meeting calling people together in Sacramento or some  
23 other location for a face-to-face meeting to discuss the  
24 plan, try to at least get very close to where we would  
25 consider to be a final product. There may be a need to

1 coordinate some additional additions, edits, language  
2 hereafter, but hopefully can do that by e-mail.

3           And from there, the plan gets finalized. It gets  
4 published and is available for at least 30 days for public  
5 comment.

6           The way we anticipate making sure the public is  
7 aware that it's available is, of course, to do the  
8 required notice and papers in major metropolitan areas,  
9 but also to have an interested parties list. We have been  
10 working off of old lists if you will and trying to call  
11 them down and make sure they're current and have an  
12 interested parties list.

13           Of course, this group would be notified. All the  
14 County Registrars of Voters would be notified.

15           We would make the plan available on our website.  
16 We have a mailbox set up to accept comments on the plan  
17 specifically. And from there, we are required then to  
18 accept those public comments and to respond to those  
19 public comments. And, thereafter, we can take the plan  
20 and submit it to the EAC for publication in the Federal  
21 Register I believe for 30 days as well. So that's where  
22 we would go from here starting today.

23           MS. JOHNSON: So, Chris, I missed that. What  
24 were the dates when all that was going to happen?

25           MR. REYNOLDS: I don't have specific dates. For

1 instance, supposing that there's a lot of input today that  
2 we receive and a lot of edits, I would anticipate that I  
3 would need to probably continue to work with the group and  
4 then at some point have a final product to give to the  
5 Secretary of State for consideration. The folks here have  
6 been looking at the plan. But they would need to have a  
7 final input and then we would go public with it.

8 I would probably try to get firmer dates for when  
9 certain things would happen. And I would let people know  
10 that, hey, it looks like we're going to publish this plan  
11 on this date, so you have some advance warning to be able  
12 to put it on your calendar if you wanted to.

13 MS. JOHNSON: Okay.

14 MR. REYNOLDS: There are just a couple of other  
15 things that aren't really on the agenda, but I need to  
16 mention them, because there'll be some changes to the plan  
17 or expected changes to the plan.

18 While we've been working on this, Congress  
19 adopted something called the MOVE Act, a Military Overseas  
20 Voter Empowerment Act. And from our analysis up to this  
21 point, California law either meets the requirements of  
22 MOVE or it exceeds the requirements. Principally, it's  
23 about maintaining some kind of electronic communication  
24 and delivery method for military and overseas voters. And  
25 fax transmissions qualifies as electronic transmission.



1 And the provisions under 3103.5 of the California  
2 Elections Code provides for that back and forth  
3 transmission of voter registration requests and ballot  
4 transmissions. So we expect pretty much to say that  
5 that's the case for California.

6           And we will also, however, put in the plan that  
7 should there be impacts from MOVE that are not currently  
8 provided for in California law, that we would accommodate  
9 the potential need for some funding to defray the impacts  
10 to the counties.

11           Now what we've been advised by the EAC is to the  
12 extent the State hasn't met the Title 3 requirements, and  
13 California has not because we don't yet have that voter  
14 registration system in place -- the VoteCal system that is  
15 now in the design phase -- we're not Title 3 compliant and  
16 those states in that position could use up to the minimum  
17 requirements payment ceiling for addressing MOVE Act  
18 impacts.

19           We've already allocated the minimum requirements  
20 payment to the counties, but because there's new funding,  
21 that raises the ceiling for the minimum requirements  
22 payment by about \$350,000. So we would put in the plan  
23 that according to our analysis, unless we hear differently  
24 very soon, that MOVE Act is covered under California law.  
25 We don't expect to use HAVA funds. But if some impact is

1 discovered, we'll use up to that \$350,000 ceiling to help  
2 counties defray the costs.

3           The one question outstanding on that seems to be  
4 whether the vote by mail tracking system that's already  
5 required under California law is also used for UOCAVA  
6 voters. They're vote by mail voters, but I don't know  
7 whether all the counties have provided for that vote by  
8 mail tracking system to provide information to a UOCAVA  
9 voter about when their ballot has been received.

10           MR. KELLEY: Chris, you're talking about up to  
11 the requirement on the MOVE Act. And if you come back  
12 with the analysis that fax is okay or acceptable, are you  
13 planning to allocate potentially some of those funds to  
14 counties that want to go above and beyond the fax  
15 capabilities?

16           MR. REYNOLDS: Yeah. There are other means of  
17 meeting these requirements. And that would have to be  
18 something that would be discussed in terms of how we could  
19 create an equitable program and who wants to do it, what  
20 are they planning on doing, and what is it going to cost  
21 and those kinds of things.

22           MR. KELLEY: It sounds like it's constrained. In  
23 other words, if you say it meet it on the fax side, then  
24 the 350 goes somewhere else; right?

25           MR. REYNOLDS: Yes. If you say essentially that

1 we're already complying with the MOVE Act, that would  
2 suggest that we don't need to do anything else and we  
3 wouldn't allocate funds.

4           However, the fact that you can go above and  
5 beyond, if you will, that again would be something to  
6 discuss with the counties.

7           And, unfortunately -- pardon the pun -- but this  
8 is a moving target, because when this happened and when  
9 the requirement exists for these things to be in place,  
10 it's for the general election of 2010, although there are  
11 some requirements that fall into 2011. So sorting all  
12 that stuff out, making sure we understand the impact of  
13 the counties, understanding whether they do, in fact,  
14 cannot have an impact as a result of MOVE or whether  
15 there's something we're missing, that process needs to  
16 continue to unfold.

17           That's why we would provide ourselves with  
18 disability pursuant to the EAC guidance that there's this  
19 minimum requirements payment allocation that's available  
20 to try to defray those costs.

21           The other item --

22           MR. LEE: Chris, this is Eugene Lee.

23           Could you go over again how MOVE Act relates to  
24 HAVA?

25           MR. REYNOLDS: It relates to HAVA, because the

1 MOVE Act itself says, A, states need to accommodate for  
2 implementation of the MOVE Act in State Plans. So they  
3 need to update all -- according to the Act, the plain  
4 reading of it at least, all States need to update their  
5 State Plans to explain to the world, if you will, how they  
6 will implement the MOVE Act. That's number one.

7           And number two, it says we're going to authorize  
8 the appropriation of funds necessary to defray the impact.  
9 However, in the mean time, states can use HAVA funds.

10           Now, the EAC has given guidance. I was on a  
11 conference call last week when they were describing other  
12 things, and they went into the MOVE Act. And they're  
13 going to talk more about National Association  
14 of Secretaries of State conference -- I'm not going to be  
15 able to attend, but I'm sure they'll have written  
16 materials. But the guidance they provided thus far is if  
17 you are a state that has not yet met Title 3 requirements,  
18 you can use up to the minimum requirement payment  
19 allotment to cover the cost of the MOVE Act.

20           Well, California has already allocated the \$11.6  
21 million minimum requirement payment to counties, but  
22 because there's more funding that comes, that raises the  
23 minimal requirements payment ceiling to the tune of about  
24 \$350,000. So that would be the amount of funding that  
25 could be tapped to help counties defray the costs of

1 implementing MOVE.

2           And of course as Neal was saying, well, there  
3 it's not just facsimile as a method to meet the  
4 requirements of MOVE for electronic transmission of voter  
5 registration affidavits or requests and absentee -- vote  
6 by mail applications. They're still called special  
7 absentee ballots under California law but for UOCAVA  
8 voters. So because fax meets that and California law  
9 already provides for that, then in theory we're meeting  
10 the requirements of the MOVE Act.

11           And if Neal is saying there's other things that  
12 can meet this requirement as well, what happens if  
13 counties want to go above and beyond, so that's another  
14 one of those issues that in addition to making sure that  
15 our analysis stands up, if you will, that -- and there's  
16 something a county doesn't bring up to us that we have  
17 overlooked, this other question of whether counties would  
18 be able to go above and beyond is something that needs to  
19 get sorted out.

20           But the plan would say essentially this  
21 analysis -- or it will either provide for specific  
22 information about how the MOVE Act provisions are met by  
23 California law or will simply say they are met under  
24 California law and this represents our implementation  
25 plan. We will meet the requirements, because it's already

1 covered under California law.

2 Does that answer the question?

3 MR. LEE: Yes. Thank you.

4 I had another question. Do you have any sort of  
5 deadline for when the State Plan update has to be  
6 published? I'm wondering if we're coming up against any  
7 deadlines that we need to be aware of.

8 MR. REYNOLDS: No, there's no deadline to publish  
9 the State Plan. And that's one of the reasons why this  
10 process has been somewhat lengthy. There have been a  
11 number of things that have unfolded that we have expected  
12 and some we haven't.

13 For instance, we were able to get through the  
14 bidding process for the VoteCal project. Principally what  
15 held up the process on the front end was the 2008  
16 election. And then there was the desire to know more  
17 about what the VoteCal project was going to cost and then  
18 there was also -- there are also these two things that  
19 have happened if you will. One was the adoption of the  
20 MOVE Act. And the other was the next item I'm going to  
21 mention, which is the allocation of additional funds.

22 But there's no deadline. That's the short  
23 answer.

24 MR. LEE: Okay. Thank you.

25 MR. REYNOLDS: But once we get to the point in

1 the process where we publish the State Plan, it does have  
2 to be available for at least 30 days for public comment  
3 and it needs to be published in the Federal Register for  
4 at least 30 days. So those are some hard numbers. But  
5 even on the 30-day comment period, you could go longer  
6 than that. And the amount of time between when you accept  
7 public comment and when you're able to finish the plan and  
8 respond to them is not described as a definitive amount of  
9 time.

10           So, anyway, the other item that I wanted to  
11 mention is that as California was preparing its State  
12 Planning, Congress appropriated some additional funds. In  
13 the budget section for HAVA, we have allowed or provided  
14 for the two allocations that we were aware of at the time,  
15 2008/2009 in the order of about \$24 million, plus interest  
16 that was earned in the neighborhood of \$35 million. And  
17 that was going to be the additional money that was  
18 provided for in the budget.

19           And the budget right now anticipates holding that  
20 funding in reserve if you will, and we can get into why  
21 that would be the approach that is being taken.

22           MS. JOHNSON: What's being held in reserve?

23           MR. REYNOLDS: At that point, it was about \$63  
24 million.

25           MS. JOHNSON: And what was that composed of?

1           MR. REYNOLDS: That's the interest earned and the  
2 new allocation of funds.

3           Primarily, the previous allocation of about  
4 \$264.2 million in Section 251 money, which is to be used  
5 for Title 3 requirements, is devoted to voting system  
6 upgrade contracts for counties, which is about an  
7 aggregate of \$195 million and about \$65.6 million for the  
8 projected cost of the statewide voter registration  
9 database.

10           Now, the bid that we got ultimately came in under  
11 that amount. But there is an expectation on the part of  
12 the Legislature that you're going to cover as much  
13 maintenance and operation costs as possible to keep the  
14 cost of the database, the maintenance and operation, away  
15 from the general fund as long as possible because of the  
16 \$20 billion deficit and because you're allowed to use the  
17 funds for that, so on, so forth.

18           So we have an expectation and we've told the  
19 Legislature in the annual report, yes, the bid came in  
20 lower. But because we projected the 65.6, that means we  
21 have some additional years to cover, four years. So the  
22 expectation is that the \$65.6 million will cover the  
23 design and deployment costs, plus some years of  
24 maintenance and operation.

25           So what we're dealing with primarily in this plan



1 is this new allocation of \$24 million, plus the interest  
2 that we earned, about 35, \$36 million. And in the mean  
3 time, Congress also appropriated some additional funds  
4 that are not included in what you've seen so far, \$7.9  
5 million. So if we were to include that funding in the  
6 description of what we were doing, that would bump the  
7 reserve to \$71 million. And that may sound like a lot of  
8 money, but this is also California. It's a large state.  
9 We have large voting jurisdictions.

10           So one of the reasons for considering a reserve  
11 approach, it was something that was done in the plan  
12 dating back to 2003/2004, but there's also a provision of  
13 HAVA that says -- and Becky Martinez, the Registrar of  
14 Voters from Madera County, has just joined us, and  
15 president of California Association of Election Officials  
16 and Clerks.

17           By the reason of thinking about a reserve is we  
18 don't know all the issues that might come up with respect  
19 to voting systems, which is a Title 3 requirement. We  
20 don't know all the issues that might come up with respect  
21 to VoteCal, although things look promising right now. And  
22 there's when a state does fully comply with Title 3, the  
23 money becomes more flexible. And I'm sure there are rules  
24 and restrictions that go along with the loosening of  
25 restrictions on HAVA funds.

1           But in theory, when we get to the point where  
2 VoteCal is fully implemented and if there are funds that  
3 have not been dedicated to a specific purpose, you could  
4 use those for improving the administration of elections,  
5 which is a broad term. So it would be easier to respond  
6 to individual county needs or to consider other types of  
7 programs, because it's not strictly about Title 3 mandate.

8           MS. JOHNSON: So the 63 million in the reserve --

9           MR. REYNOLDS: That you've seen in the budget so  
10 far, yes.

11          MS. JOHNSON: That's what you're holding in  
12 reserve?

13          MR. REYNOLDS: Correct.

14          MS. JOHNSON: And that will be used to deploy the  
15 database?

16          MR. REYNOLDS: No.

17          MS. JOHNSON: Okay.

18          MR. REYNOLDS: Let me back up.

19          What we started with --

20          MS. JOHNSON: I'm a lawyer. I don't do numbers,  
21 so break it down easier for me.

22          MR. REYNOLDS: What we started with was \$264.2  
23 million. There was a decision made working with the  
24 counties and working with the Legislature to devote \$195  
25 million of that 264 to voting system upgrades. Contracts

1 were executed to that effect and are still in place.

2 Counties do have some funds -- some counties do have some  
3 funds remaining.

4 MS. JOHNSON: So the 195 went to the counties?

5 MR. REYNOLDS: Correct. It was anticipated --

6 MR. LOGAN: Allocated to the counties.

7 MR. REYNOLDS: Correct. The counties don't have  
8 the cash in hand.

9 MS. JOHNSON: The money didn't actually go to  
10 you --

11 MR. REYNOLDS: Contractually allocated to the  
12 counties.

13 As a part of that contract, there was an  
14 anticipation there would be some voter education and pole  
15 worker training that could be done in a flexible manner  
16 that not only would you be able to do it at the front end  
17 when the mandates first became necessary to implement and  
18 you were first rolling out a voting system, but that you  
19 could learn lessons and that you could modify your program  
20 from there on and find out, well, what do we need to do  
21 with respect to pole worker training. We need to beef up  
22 hands on. We need to have longer classes.

23 With respect to voter education, it's really  
24 important for us to help voters understand the provisional  
25 voting rights or whatever it might be. But the EAC and

1 the Disability Rights California letters suggested a link  
2 to this information, which I'm sure we'll do in the final  
3 plan, but they opined that voter education of pole worker  
4 training expenses, the allowability of the use of these  
5 funds for that purpose, is very limited. So we now have  
6 the restrictions for the voter education of pole worker  
7 training. Counties have indicated that -- at least some  
8 counties have indicated that that's a need that they would  
9 like to meet, but we can't really get there until we get  
10 to the point where Title 3 requirements have been met and  
11 now we have more flexibility around the funding. So  
12 that's one point. But all that's by way of explaining  
13 \$264 million, \$195 million for contracts for voting system  
14 upgrades principally.

15           Some counties have expended all the money. Some  
16 counties have not. The next biggest chunk of money is for  
17 the statewide voter registration database projected  
18 initially through a feasibility study report to be \$65.6  
19 million.

20           MS. JOHNSON: Sixty five --

21           MR. REYNOLDS: .6 million dollars. So adding up  
22 to 195 and 65.6, you get \$264 million roughly.

23           MS. JOHNSON: You get --

24           MS. KAUFMAN: Original allocation.

25           MS. JOHNSON: One-ninety-five and 65 equal 264,

1 is that what you said?

2 MS. KAUFMAN: Ish. It's the all-important ish.

3 MR. REYNOLDS: If I'm not mistaken -- and I  
4 shouldn't do this without having a calculator in front of  
5 me, but --

6 MS. JOHNSON: Where's the reserve?

7 MR. REYNOLDS: The reserve in the original plan,  
8 in 2003/2004, they did have a reserve. But they also  
9 anticipated expending funds for purposes that we have  
10 subsequently discovered were not allowable if you were  
11 trying to use that pot of money. And we met those  
12 requirements principally through Title 1 funding.

13 So the reserve is simply an amount of money. And  
14 we received advice thus far from the EAC to simply say  
15 that those funds would be used in the future for the  
16 purposes of meeting Title 3 requirements and improving the  
17 administration of elections.

18 MS. JOHNSON: But when I'm doing the math, I'm  
19 not finding the reserve.

20 MR. REYNOLDS: Okay. That's because I've only  
21 talked about the \$264 million so far. That was our first  
22 allocation that we received in 2004 and 2005, I believe.

23 MS. FENG: You were earning interest on the 65  
24 million and on the money that you haven't given to  
25 counties so --

1           MR. REYNOLDS: Right. We were earning interest  
2 on the \$264 million, because the states get the money and  
3 they're to deposit it in an account and we deposit in an  
4 interest-bearing account. And the counties get allocated  
5 money on a reimbursement basis.

6           MS. JOHNSON: So they have to ask for it? You  
7 don't just ship it to them?

8           MR. REYNOLDS: Correct. And then the database  
9 was not built, and we weren't expending funds for  
10 designing and deploying and building things. And so that  
11 money was in the account, and so it was earning interest.  
12 So --

13           MS. JOHNSON: And the interest is --

14           MR. REYNOLDS: About 35 to \$36 million that's  
15 been earned so far.

16           MS. FENG: That's a lot of interest.

17           MR. REYNOLDS: Yeah. Well, the amount of money,  
18 \$264 million, is a lot of money, too.

19           So, in addition, now we're starting to deal with  
20 the new money that's in this plan.

21           MS. JOHNSON: You're starting to live off what  
22 now?

23           MR. REYNOLDS: The new money that's in this plan  
24 includes the 35 to \$36 million in interest. It also  
25 includes \$24 million that's been allocated by --

1 appropriated by Congress in 2008/2009. In order to  
2 actually get that money, we have to complete the State  
3 Planning process and certify that we're meeting all the  
4 federal laws that we've done a State Plan and so on and so  
5 forth.

6 MS. JOHNSON: We didn't get any additional money  
7 between '05 and '08?

8 MR. REYNOLDS: No. We have not received the \$24  
9 million that I just mentioned yet.

10 MS. FENG: When the VoteCal comes on line is when  
11 this 24 million gets --

12 MR. REYNOLDS: No. We'll receive it now.

13 MS. JOHNSON: It's linked to the State --

14 MS. CARSON: When we finish this.

15 MR. REYNOLDS: Right.

16 MS. JOHNSON: So the 24 is linked to the State  
17 Plan?

18 MR. REYNOLDS: Correct. So we won't be eligible  
19 to receive the money until we've done two things: In  
20 short, the State Plan and a certification. And if you're  
21 super-interested in this, you can read Section 254 through  
22 256 of HAVA and it describes what I'm talking about. But  
23 in short, State Plan and certification.

24 MS. JOHNSON: The certification of what?

25 MR. REYNOLDS: Certification that you are meeting

1 all applicable federal laws relating to elections, like  
2 Voter Rights Act, NVRA, UOCAVA, Uniform Overseas Voter --

3 MS. JOHNSON: At that point, we'll get the 24  
4 million?

5 MR. REYNOLDS: Right. Now, what I was about to  
6 mention or what I did mention was the fact that while this  
7 plan was --

8 MS. JOHNSON: Wait a minute. So the reserve is  
9 actually comprised of the interest, the database money,  
10 and --

11 MR. REYNOLDS: No. No. No.

12 MS. JOHNSON: No?

13 MR. REYNOLDS: The interest and the new money.  
14 The 36 and the 24 --

15 MS. JOHNSON: But you don't have the 24.

16 MR. REYNOLDS: That's correct. But we have to  
17 put it in the plan, because the plan is about what are you  
18 going to do.

19 MS. JOHNSON: All right. I get it now.

20 MS. FENG: And you have one other piece, which is  
21 7.9.

22 MR. REYNOLDS: Correct. And as Kathay just  
23 mentioned, what happened was as we were developing this  
24 plan, Congress did appropriate or had appropriated money  
25 in 2008/2009 let's say, and we were aware of those funds



1 and that this would be the money we would be eligible to  
2 receive. So that's the \$24 million.

3 But they have also subsequently while we were  
4 developing this plan appropriated \$7.9 million -- almost  
5 \$8 million. They appropriated more than that. That's  
6 California's share of what they appropriated, because the  
7 money is allocated to all the states on a per capita basis  
8 roughly.

9 MS. JOHNSON: And they did that for 09/10?

10 MR. REYNOLDS: Yeah, for 2010. They appropriated  
11 money for 2010.

12 So what I'm suggesting is that you will see maybe  
13 as a final go-round a plan that includes a budget section,  
14 which is Section 6, that includes also the \$7.9 million,  
15 not just the 24 million and the 36. Twenty-four being the  
16 2008/2009 appropriated money, the 35/36 being the interest  
17 earned. You'll see this additional 7.9.

18 MS. FENG: Can the 7.9 be spent on anything  
19 within the plan, or is there other specific --

20 MR. REYNOLDS: All this money needs to be spent  
21 to meet Title 3 requirements until you've met those Title  
22 3 requirements. And then once you've met those Title 3  
23 requirements, then the money can be used for improving the  
24 administration of elections.

25 MR. KELLEY: Chris, on the Title 3 requirements,

1 we know what the costs are going to be, right?

2 MR. REYNOLDS: Yeah. There are some unknowns,  
3 and I can mention those.

4 MR. KELLEY: My question is, is the EAC guidance  
5 that you must have accepted the statewide voter database  
6 in a complete form, even though you know the costs. So  
7 why would the funds still be restricted if you know what  
8 the costs are going forward to meet Title 3 requirements?

9 MR. REYNOLDS: I suppose it's something we could  
10 potentially explore, because what it sounds like you're  
11 driving at is you can say that you're Title 3 compliant  
12 now. However, we have not deployed the database. And  
13 we'd be saying that we are compliant insofar as we have a  
14 plan to become compliant or we know -- yeah, we have a  
15 plan to become compliant.

16 I think principally what it ties back to is the  
17 Memorandum of Agreement with the U.S. Department of  
18 Justice which said you put in place this interim solution,  
19 which we refer to as CalVoter, and you will forestall us,  
20 the U.S. Department of Justice, from taking enforcement  
21 action against the State, enforce compliance. But you  
22 must work toward implementing/deploying a fully compliant  
23 voter registration database as required by Section 303 of  
24 HAVA. That's what we were doing right now with VoteCal.  
25 So the question of whether you can assert Title 3

1 compliance when that is not yet in place is interesting.

2           MR. KELLEY: Here's my further going at this is  
3 we're going to have a lot of election activity between the  
4 end of the year. 2011 is going to be a fairly hopefully  
5 calm of year. And these funds are, for lack of a better  
6 word, frozen between now and the time that the statewide  
7 database goes online, which is in 2011; right?

8           MR. REYNOLDS: I wouldn't say they're frozen  
9 because --

10          MR. KELLEY: Maybe that's a --

11          MR. LOGAN: They're frozen for purposes that have  
12 been identified in the previous State Plans and county  
13 agreements. They're at risk of not being available for  
14 those purposes at a later date.

15          MR. REYNOLDS: They are available right now  
16 for -- we know for voting system upgrades. And to the  
17 extent a need emerged, something was discovered -- and  
18 like, for instance, the issue of audit logs and whether  
19 there is appropriate audit logs associated with the  
20 operation of the voting systems, there might be a need to  
21 address something relating to voting systems.

22          Now, that creates issues with respect to counties  
23 that have expended funds and counties that haven't  
24 expended all their funds and, you know, what is the need  
25 and how do you identify it and how do you create something

1 equitable. I'm just saying that there is a possibility  
2 that there might arise issues that are directly related to  
3 Title 3 requirements.

4           The database itself is also -- or the  
5 statewide -- let's call it VoteCal, because it's a voter  
6 registration system really, is in the design phase right  
7 now. Because of the approach that's being taken using  
8 what's referred to as a bottom-up system, we have the  
9 counties continuing to use the election management system  
10 that they have for purposes of voter registration and all  
11 kinds of other things.

12           The goal is to try to ensure that those systems  
13 continue to operate the way they do now to be -- to cause  
14 as little disruption as possible to the county business  
15 process. We don't know for sure what is going to be  
16 necessary to create that interface. So although we have  
17 an estimate of the cost and so on and so forth, there are  
18 still some unknowns. And if there is a business  
19 requirement that crops up that we aren't aware of, there  
20 is a need to try to address things like that. So it's  
21 just the uncertainty surrounding we know what needs to be  
22 done. We project how it's going to be paid for and how  
23 much it's going to cost, but there's some uncertainty  
24 associated with that.

25           MR. KELLEY: Please forgive me. I'm not being

1 argumentative.

2           To clarify this, is this the EAC's opinion or the  
3 Secretary of State's opinion based on we need to keep  
4 these funds in case we have something that goes down the  
5 line with respect to data exchange?

6           MR. REYNOLDS: Really, it's the Secretary of  
7 State's approach --

8           MR. KELLEY: Okay.

9           MR. REYNOLDS: -- with respect to the State Plan.  
10 Because the truth is the EAC, although they provide  
11 guidance that helps you shape your plan, they don't weigh  
12 in on your plan and they don't draft your State Plan for  
13 you. So it is up to the states to determine how they're  
14 going to approach things. And thus far, the discussions  
15 that I've had indicate that there is a desire to take this  
16 approach.

17           And there is a couple reasons for that, one of  
18 which being that there are some uncertainties. Two, what  
19 is it that -- it's a little unclear as to what the  
20 counties would desire to do should funding -- what kind of  
21 program would people want to create? What are the  
22 restrictions of the EAC on such a program? Is it a Title  
23 3 requirement?

24           The other unknown is, okay, if we do say devote  
25 this to a specific purpose, what is that purpose? And

1 what are the rules around how to craft a program for that?

2 MR. KELLEY: If you had that approach, we'd be  
3 glad to put it together.

4 MR. LOGAN: Isn't that, in essence, the purpose  
5 of the State Plan? I guess I don't want to get ahead of  
6 where you're going on the agenda, but I think that's some  
7 of the feedback I'd like to provide is that I think that  
8 the draft does a real good job of saying what has been  
9 done.

10 But as a planning document, I don't think it  
11 really sets forth -- much of the discussion we've just had  
12 here I think is sort of telling that if the Advisory  
13 Committee and the stakeholders aren't able to ascertain  
14 that State Plan, then certainly the public wouldn't be  
15 able to ascertain that either. So I guess it's that  
16 dynamic we've talked about before, is that a planning  
17 document or is it a report of what's been done? And it  
18 seems short on the planning side from my standpoint.

19 MR. REYNOLDS: And I guess the State Plan update,  
20 which is what we're doing right now, has to be first and  
21 foremost what has been done. We need to tell -- it's a  
22 part of -- and you can see this if you read the sections  
23 of HAVA. It says, what did you do to meet the  
24 requirements? And so you really do need to explain what  
25 has been done so far. So that kind of is a first

1 priority.

2           Secondly, the plan has to be about Title 3  
3 requirements, has to be about meeting Title 3 requirements  
4 until such time as you've met Title 3 requirements. So  
5 that's what this is focused on. And what we're saying in  
6 the plan is to meet the Title 3 requirements for voting  
7 systems under Section 301, \$195 million has been allocated  
8 to the county. And if someone were to say to me, well,  
9 what's going on? I would say the status is that the  
10 counties have met the voting system requirements. Every  
11 county has in place a system that is meeting HAVA  
12 requirements, but that doesn't mean that they're done yet  
13 necessarily.

14           Some counties are still working on a ultimate  
15 solution, although they have something of an interim  
16 solution, just as we do with the database. Our database  
17 is recognized, however, as an interim solution by the U.S  
18 Department of Justice and not compliant. And so we have  
19 to keep working towards compliance.

20           So what are you doing? \$195 million for  
21 contracts for the counties for voting systems, that's 301.

22           303 is about the statewide database, and we're in  
23 the design phase and so on, so forth.

24           302 is about provisional voting rights, which  
25 have already been provided for in California for long

1 before HAVA, and voter information at the polling place  
2 which similarly has been provided for in California for a  
3 long time.

4           But if you want to talk about a program or a plan  
5 to expend the \$71 million that would be held in reserve or  
6 described in a way that this money will be available for  
7 Title 3 requirements improving the administration of  
8 elections, which is the suggestion from the EAC, then we  
9 need to work within the parameters of Title 3 and what's  
10 required by Title 3 and what are we talking about.

11           MS. FENG: I guess we're not going to answer that  
12 question now. But I think that it sounds as if some of  
13 our county clerk friends are willing to kind of go to the  
14 drawing board and come up with some ideas.

15           It does seem a certain portion should be set  
16 aside as a reserve, because there's always things  
17 unexpected, whether it's the VoteCal implementation not  
18 happening as smoothly as necessary or more maintenance  
19 needed or whatever.

20           But I still think that within a \$70 million  
21 budget that leaves quite a bit of room for things like  
22 pole worker training or voter education or voting system  
23 things that are related to voting system implementation.  
24 And I think, you know, maybe what we should do is have  
25 some unspoken benchmarks for when we're trying to get all



1 this together so that we can work internally towards those  
2 deadlines.

3           MR. REYNOLDS: Here's what I would suggest about  
4 that is let's move this document along, recognizing that  
5 people have an interest in talking about that issue that  
6 was just raised. That doesn't preclude us from doing  
7 something in the future. Even though we have a State Plan  
8 done, even though the State Plan talks about meeting Title  
9 3 requirements or improving the administration of  
10 elections, even if there is a reserve, we're not -- and  
11 you can do this in a couple of different ways. You can  
12 either get assurance, if you will, from the EAC that what  
13 you plan to do does not represent a material change in the  
14 plan, in which case you don't need to update your plan.

15           Even if something that was a radical departure,  
16 let's say -- that's the right term -- but a departure from  
17 the characterization of Title 3 requirements of improving  
18 administration of election or something to that effect and  
19 it does represent a material change, you could still  
20 update your State Plan and make accommodations for that.  
21 That still delays everything, because you still have to go  
22 through that update. And then you have to get legislative  
23 approval for expenditure of funds.

24           And, see, that's another part of what makes this  
25 whole dynamic of planning difficult is because you have to

1 do your State Plan and you need to coincide with  
2 legislative priorities to some extent, so on, so forth.

3           Anyway, I guess what I'm saying is there's  
4 nothing that stops people from trying to develop  
5 something.

6           MS. FENG: Let me ask a question.

7           Go ahead.

8           MS. JOHNSON: Well, I guess I'm just feeling  
9 like -- I mean, it's like \$70 million that's in reserve  
10 and we already have the money set aside for voting systems  
11 and databases. I mean, granted, there may be some things  
12 that happen with the database that would pull down some of  
13 that 70 million. But it does seem like it makes some  
14 sense for us to at least put something in the plan that  
15 would allow for some planning to use the money so we don't  
16 have to go through the machinations you're discussing in  
17 terms of trying to update the plan.

18           MR. REYNOLDS: The guidance I've been given is to  
19 say not that the money is in a reserve, but to say the  
20 money would be used for Title 3 requirements and  
21 improvements of the administration of elections and that  
22 might obviate the need for a plan update every time.

23           MS. FENG: For instance, the top-to-bottom  
24 review, how much was spent on that?

25           MR. REYNOLDS: It's in the State Plan. I'd have

1 to go back and look at the figures. In terms of there was  
2 some Title 1 funding that the Legislature directed us -- I  
3 believe it was about half a million dollars that the  
4 Legislature directed be appropriated for the specific  
5 purpose of source code review.

6 MS. FENG: My question was -- okay, so whatever  
7 the amount is -- let's say between half a million and a  
8 million, that was -- when we wrote the first and second  
9 HAVA plans, we never anticipated there would be a  
10 top-to-bottom review. And certainly is it the case it was  
11 carried out without having to necessarily go to Congress  
12 or the EAC to ask for permission, because it fell within  
13 the scope of the State Plan and the implementation of  
14 Title 3.

15 MR. REYNOLDS: Actually --

16 MS. FENG: Or Title 1.

17 MR. REYNOLDS: -- it was Title 1 expenditure.  
18 We're dealing with different pots of money to do certain  
19 things.

20 What we're dealing with here in the State Plan is  
21 Section 251 money. And that money was authorized again  
22 under Section 251, and that money is called requirements  
23 payment money. Well, what are the requirements? The  
24 requirements are Title 3 requirements. And there's three:  
25 Section 301 -- broadly speaking -- Section 301, voting

1 systems; Section 302, which is a combination of voting  
2 education which means specifically information posted at  
3 the polling place and provisional voting; and then the  
4 third one is Section 303, which is the state-wide voter  
5 registration system, or VoteCal.

6           The money that was used for the top-to-bottom  
7 review was Title 1 money. And there is no requirement  
8 that a state provide for any planning for the use of Title  
9 1 money. There's a list of about seven or eight purposes  
10 for this Title 1 money, one of which is improving the  
11 administration of elections. This top-to-bottom  
12 review or/and meeting Title 3 requirements is another one  
13 of those seven items.

14           Looking at the issue of voting systems and when  
15 the voting systems are adequate to the purpose could be  
16 considered to dovetail with Title 3 requirements. But it  
17 certainly could be construed as an improvement to the  
18 administration of elections, ensuring that your voting  
19 systems are up to the task. So --

20           MS. JOHNSON: Yeah, but just have a question. I  
21 mean, if the top to bottom was really Title 1 money and we  
22 don't really have to talk about that in the State Plan,  
23 why do we spend so much time --

24           MR. REYNOLDS: We do have to talk about how do  
25 you use Title 1 funds to meet Title 3 mandates, if you did

1 so.

2 MS. JOHNSON: I see. Okay.

3 MR. REYNOLDS: What we do need to describe -- and  
4 it's a particular section of the State Plan. It does  
5 describe, okay, we did a top-to-bottom review. We  
6 provided for some voter education. We provided for some  
7 pole worker training oversight observations. We provided  
8 for certain things using Title 1 funds. And those are  
9 spelled out in the State Plan as it's currently drafted.

10 So you do have to mention those. But what the  
11 plan is supposed to be about is how are you going to --  
12 and then there's 13 specific sections. But principally  
13 what you're really talking about is how are you going to  
14 meet the Title 3 mandates? How are you going to -- and  
15 this is perfectly understandable when you're thinking  
16 about HAVA from its inception. It gets a little murkier  
17 as you go down the road. Because it becomes a lot about,  
18 as Dean mentioned or I kind of expounded upon, what did  
19 you do? And so I want to make it clear to everyone who  
20 looks at this from the EAC to the public to the groups you  
21 represent and here at the Secretary of State's office that  
22 we are meeting the Title 3 requirements.

23 It raises a great question about where are you in  
24 Title 303. And, again, I guess what I'm trying to say is,  
25 is there a deadline for getting this done? No, but I'm

1 kind of interested in getting it done, because it makes us  
2 eligible for funds. And we may be able to flesh things  
3 out and make determinations. And we may even be able to  
4 move ahead with things without having to amend the State  
5 Plan again if we were to do something like a planning  
6 effort in the future if even after this plan is done and  
7 the money has been allocated. And if it required a State  
8 Plan update, so be it.

9           MR. LOGAN: I guess where I'm struggling with  
10 that -- I mean, again I think the draft does a good job of  
11 what you've just described. I don't see where there is a  
12 prohibition of going to that next step. And I would argue  
13 I think there is a need and a value to putting those  
14 prospective things into the State Plan at least in terms  
15 of setting some guiding principles and some structure.

16           I can appreciate from perhaps the Secretary of  
17 State's office that it might be preferable just to leave  
18 it vague and say we're going to do stuff that continues  
19 that apply and then the Secretary has the flexibility to  
20 undertake some initiative.

21           But I think that the representative groups on  
22 this Advisory Committee, including local registrars who  
23 some of those planning mechanisms that have happened in  
24 the past have been impacted by the top-to-bottom review  
25 and impacted by interpretation of the advisories from the

1 EAC, has changed that playing field. And so I guess again  
2 as a planning document, I think there's value to taking it  
3 to the next level.

4 I don't have -- I may have some issues with  
5 what's in the draft. My bigger issues are what's not in  
6 the draft. I don't think -- you brought together this  
7 group of people that represents election practitioners and  
8 stakeholders, a very vast group of stakeholders  
9 representing voters in the state of California to advise  
10 you on a plan that really all we're doing is hearing the  
11 report of what's been done and not really helping to  
12 develop a vision for what's going to be done.

13 And I've looked at some other State Plans, some  
14 other State Plan updates, and I believe that was  
15 envisioned in the State Plan element of HAVA. So I just  
16 want that to be on the table.

17 MR. REYNOLDS: Right.

18 MR. LEE: This is Eugene Lee.

19 I would like to completely echo what Dean Logan  
20 has been saying about the State Plan update, doing a good  
21 job of saying what's been done, but not doing a great job  
22 of saying what our election should look like in the  
23 future.

24 And I wanted to support that coming at this from  
25 another angle. When I look at the section of HAVA that

1 requires states to adopt the plan, Section 254, I would  
2 read that to say there's actually some sort of obligation  
3 to say, well, we're going to do beyond Title 3. So the  
4 language in Section 254 talks about how the plan shall  
5 describe how the State will use the requirements payments  
6 to meet Title 3 requirements and, if applicable, to carry  
7 out other activities to improve the administration of  
8 elections.

9           So given that the state has a plan to become  
10 Title 3 compliant now that it's in the design phase for  
11 VoteCal, seems to me it has an obligation to think about  
12 what other activities we'll be doing to improve election  
13 administration and how we'll see the 251 payment to do  
14 that.

15           And to go back to what Margaret said, if we do  
16 have that obligation, then if we don't put that in the  
17 plan update now, we're going to have to come back and do  
18 another plan update, talk about the activities we're going  
19 to do to improve administration of elections. So it seems  
20 to me that it would be smart to put at least some more  
21 detailed notions of what we're going to do with the  
22 reserve money to improve the administration of elections.

23           MR. REYNOLDS: And, Eugene, I'm going to get real  
24 bureaucratic for just a minute, but then I'm going to come  
25 back to the issue that really is at the heart of this, I



1 think.

2           When the Section 254 refers to other things to  
3 improve the administration of elections, if applicable,  
4 that means are you going to use minimum requirements  
5 payment money? And what are you going to do with it? And  
6 so that's the if applicable. Because the State doesn't  
7 have to exercise the option of having a minimum  
8 requirements payment. And minimum requirements payment is  
9 used for improving the administration of elections.  
10 That's a bureaucratic answer to what you're saying.

11           The heart of the matter -- I think what Dean has  
12 said -- and this is Chris Reynolds talking right now.  
13 What Dean has suggested I think is a really good  
14 suggestion in terms of how to approach this. I think  
15 you're right, though, Dean. I'm going to admit there is a  
16 desire to have flexibility around what you're going to do.  
17 And if simply mentioning it will be used for Title 3 and  
18 improving the administration of elections and be done with  
19 it provides you with the flexibility, I think there is a  
20 desire not necessarily to go beyond what you have to,  
21 because that maximizes your flexibility.

22           However, what you said, Dean, was that -- I  
23 think -- was that perhaps there are some guiding  
24 principles and suggestions that could be included in the  
25 description of the fact that you're going to have some

1 funds which will be used for meeting Title 3 requirements  
2 and improving administration of elections. I think that's  
3 a great idea in terms of trying to bridge where some  
4 people might be. And, again, I don't know who I'm  
5 speaking for when I say "some people." May be myself  
6 included with wanting just to put it in there and maximize  
7 flexibility and be done with it and just do what people  
8 tell you you need to do versus having more in there. So  
9 I'm open to more in there. And it would be something that  
10 I would ask for people consider.

11 And, Kathay, just one second longer.

12 MS. FENG: I'm not sure I have anything to say.

13 MR. REYNOLDS: But as you're doing this, as  
14 you're thinking about these guiding principle and/or if  
15 you have concrete suggestions, think about where they fall  
16 in those two pretty big buckets. Well, maybe one is not  
17 so big.

18 Title 3 requirements, that's what we're focused  
19 on right now in this plan for expenditure tomorrow. If  
20 we're using it to meet Title 3 requirements and you can  
21 say it's covered in our plan, okay, as long as we get the  
22 Legislature to agree.

23 MR. LOGAN: Just a clarification. And, again, I  
24 don't know that we're necessarily on the same page here.

25 I think there is a difference between minimally

1 meeting Title 3 requirements and activities that enhance  
2 the compliance with Title 3. And again hopefully there  
3 will be an appropriate time to get into more detail later.

4           But even as you know, I differ in terms of the  
5 interpretation of some of the guidance we've gotten from  
6 the EAC. And the EAC, while they can give guidance, they  
7 can't legislate.

8           And looking at HAVA, you know, by the actions in  
9 California as an example of undertaking the top-to-bottom  
10 review and changing the approval of voting systems, we in  
11 effect I think can argue that counties that implemented  
12 that new voting system for the first time had to turn  
13 around and implement a new voting system again in order to  
14 stay compliant with HAVA. Therefore, the pole worker  
15 training and the outreach and the efforts involved in  
16 that --

17           MR. REYNOLDS: We have accepted that  
18 interpretation, as a matter of fact. When someone turns  
19 around and makes a change in the voting systems they  
20 deployed and they said to us, hey, we had to do pole  
21 worker training and voter education, we said, you need new  
22 voting system, you're right. I didn't disagree with that.

23           MR. LOGAN: Okay. I don't think that's  
24 clearly --

25           MS. FENG: I think we should probably figure out

1 a process by which if we're going to create a separate  
2 addition that we figure out what that process is. Because  
3 I think today we need to get through the draft that you've  
4 given us. That's important.

5 I do think that one possibility is if we look at  
6 the way the first HAVA plan was written, we identified  
7 continuing challenges that voters face to being able to  
8 cast their ballot and know that it's going to get through  
9 to that place where it's counted.

10 And if we identified target areas of improvement,  
11 that might be a way of saying these are the directions  
12 that we'd like to move in without being very specific  
13 about, oh, here's a solution.

14 So, for instance, you have a number in here about  
15 provisional voting now has reached -- a very large number  
16 of people have used provisional voting, but we also count  
17 82 percent of it. And we talked a little bit about one  
18 possibility of saying how do we narrow that gap of people  
19 who are casting a ballot and ultimately are counted.

20 And what the solution is, again we don't need to  
21 outline in this, but that's one way of tackling this  
22 problem, but putting more meat onto how we would spend the  
23 71 million that still falls within Title 3 or related.

24 MS. CARSON: Yeah. I agree with you, Dean.

25 But I would challenge, you know, you and everyone

1 else to say to put a date on when you could come back with  
2 a description of what it is you want in here. Because  
3 speaking for the League of Women Voters, there's this  
4 giant pot of taxpayers' money sitting there that's  
5 supposed to have been used for improving election systems.  
6 And it's going to sit there until this something gets  
7 filed with the EAC and approved.

8           And so I really think if we're going to go  
9 beyond, we ought to have a date whereby everybody who's  
10 got a suggestion gets it in and it's put together.  
11 Because I just don't think it's fair to the taxpayers  
12 sitting on top of this huge deficit with money in the  
13 bank.

14           MR. LOGAN: I would agree with it. But also I  
15 don't think it's fair to the taxpayers for that money to  
16 be released without there being any documented guidance on  
17 how it's being released.

18           Again, I mean, if our photos and our names and  
19 our titles are going to be published in this plan as an  
20 Advisory Committee, to be real blunt and meant with no  
21 disrespect, but right now I'm not sure what we've advised  
22 you on. We sat here and heard what you're reporting in  
23 the plan, but it doesn't necessarily represent the  
24 objectives that I, as the election official for L.A.  
25 County, am hoping to achieve with that money, nor does it

1 give me any comfort of knowing beyond what's currently  
2 allocated to L.A. County what might be available for us to  
3 more forward those initiatives. I think that's what's  
4 missing.

5 MR. REYNOLDS: Chris, I'm absolutely with you. I  
6 think we do need to define. And Kathay mentioned process.  
7 And we need to define what the time line is. We will get  
8 to that.

9 Margaret.

10 MS. JOHNSON: I guess I really like Dean's idea  
11 of principles, which to me suggests that we would  
12 establish some principles around how we would spend the  
13 money, rather than actually developing a plan or even  
14 identifying specific activities.

15 So it's more -- I think it's kind of more  
16 holistic in terms of these are the principles that would  
17 guide the Secretary of State or whatever --

18 MS. FENG: And we could also lay out a process  
19 that says we don't know how that's all going to happen,  
20 but we commit to following this process, to coming up with  
21 the details of how that will happen.

22 So there's some sense of what Dean is saying.  
23 You know, that ultimately when a decision is made, people  
24 feel like there is some buy-in and we are part of that.

25 MS. CARSON: I agree with everybody, but my

1 experience even within the League is that when we start  
2 talking about principles, unless you put a date on it,  
3 you're going to talk about principles forever. God knows,  
4 the League of Women Voters loves to talk about principles.  
5 So we need to put a date on when those principles are  
6 enunciated.

7 MR. REYNOLDS: And I was thinking something  
8 like --

9 MS. JOHNSON: Sounds like the League has lots of  
10 experience with principles.

11 MR. REYNOLDS: I was thinking like the end of  
12 next week as an approach to this. If people are focused  
13 and they kind of have an idea of conceptually of what  
14 they're interested in doing, then let's see what comes out  
15 of that and say, okay, you have until the end of next week  
16 to put something down on paper and get it.

17 Now I did want to get to something that Dean  
18 mentioned, which is minimally meeting Title 3  
19 requirements. That's a threshold. That's the problem is,  
20 okay, you've got to get to Title 3 requirement. And Neal  
21 raising the question, well, how close are you to that  
22 target then? I don't know if we can assert that we're  
23 meeting Title 3 requirements yet, because we don't have --  
24 but we are further along.

25 But going beyond Title 3, I don't disagree with

1 you, but I think it's the point at which was envisioned in  
2 HAVA that you would go to the place that you're describing  
3 after you've met your Title 3 requirements because that's  
4 when you can start to improve the administration of  
5 election.

6           Now what we're talking about in terms of the  
7 money that would be available is in that place for  
8 potentially that -- so I guess what I'm trying to say is I  
9 don't disagree with you, but I want to make sure that you  
10 understood that the State Plan, when you say minimally  
11 meeting Title 3 requirements or meeting Title 3  
12 requirements, that's where its primary focus should be  
13 according to what I understand HAVA telling you about your  
14 planning process.

15           And I think to some extent that is also -- I  
16 don't want to say minimally meeting Title 3 requirements,  
17 but that this administration is principally focused on  
18 what is the State Plan supposed to be and let's make it  
19 that thing that it's supposed to be, which is it's a plan  
20 about meeting Title 3 requirements, in which case you end  
21 up talking a lot about what's been done, because we are,  
22 depending on how you look at it, on the threshold or the  
23 cusp of meeting Title 3 requirements when VoteCal is in  
24 place.

25           However, I get back to the part where I agree



1 with you.

2           Again, this Chris Reynolds talking here.

3           Agree with you that because you're saying we're  
4 going to set aside this money, talking about what you do,  
5 what the principles are for allocation of those funds or  
6 for planning for those funds is appropriate.

7           MR. KELLEY: I still hear that there's no  
8 restrictions on the funds, even though you're not  
9 completely Title 3 compliant. So there would be nothing  
10 to prevent us from doing what everybody suggested to put  
11 this together. Right? Even if you felt like you were  
12 being locked in, you're not.

13           MR. REYNOLDS: And I'm not sure I'm following  
14 what you're saying.

15           I know from looking at the requirements payment  
16 money and what it's to be used for, you have to use it for  
17 meeting Title 3 requirements until then.

18           But Kathay mentioned provisional voting. If  
19 there was something specific with respect to provisional  
20 voting and you said that, well, this is a mandate of HAVA  
21 around provisional voting, in theory, it could fall in the  
22 Title 3 requirements bucket. But if it goes above and  
23 beyond what is required by HAVA, you start to fall into  
24 this improving administration of elections which comes  
25 after Title 3 --

1 MS. JOHNSON: But aren't we talking about that?  
2 I thought we were talking about developing principles for  
3 spending reserves after we have met. Is that --

4 MR. REYNOLDS: And that's where I'm agreeing.  
5 But I'm saying be aware -- be aware that if you're  
6 thinking about a concrete program that you'd like to see  
7 put in place tomorrow, you can't get there until after the  
8 Title 3 requirements are met.

9 MS. JOHNSON: But I thought we all understood  
10 that.

11 MR. KELLEY: Can I finish my point?

12 What I'm saying is, is that I don't think you're  
13 locked in in any way. EAC has not identified you're  
14 locked in in any way, because you've already gone through  
15 the contractual process of getting a statewide voter  
16 database in place. You know you're going to have a locked  
17 amount of funds you're going to use. So there's nothing  
18 to prevent you from saying here's our broad plans of  
19 saying we should be able to use these other funds for X,  
20 Y, and Z within Title 3; right?

21 MR. REYNOLDS: Yeah. And this is where we are  
22 having the disconnect, because what I hear you saying is  
23 that we should try to assert that we're Title 3 compliant  
24 now.

25 MR. KELLEY: I think probably you are, but you're

1 afraid the EAC is going to say your not.

2 MR. REYNOLDS: Or the U.S. DOJ would say you have  
3 in place an interim solution because what it says is you  
4 will continue to pursue a fully compliant Section 303  
5 section as a part of your MOA. So we have the enforcement  
6 authority for HAVA saying California is not compliant.  
7 That's --

8 MR. KELLEY: I feel like that's in some respect a  
9 crutch, because it allows you to lock up those funds and  
10 say until we're completely Title 3 compliant, we can't  
11 discuss this. We can't go further.

12 MR. REYNOLDS: I can understand where someone  
13 might say, well, that's an excuse or a crutch. But in my  
14 view, it really is, because you do have the enforcement  
15 saying you are not compliant. But we can have some  
16 discussions with some people, because the sooner that that  
17 crutch or that excuse goes away, the sooner there's more  
18 flexibility around the funding. And I think everybody is  
19 interested in that.

20 MR. KELLEY: Are you saying right now until  
21 that's completely on line and operational, then you feel  
22 that's flexibility?

23 MR. REYNOLDS: I feel that once we have that  
24 system in play, we can say we have a statewide database.  
25 The counties have the voting systems. Title 3 requires we

1 have provisional voting rights. The free access system is  
2 in place. The information is being posted at the polling  
3 place. We're compliant with every other federal election  
4 law, Voting Rights Act, NVRA, UOCAVA, et cetera, we're  
5 ready to go to get this flexibility. Now, EAC, tell me  
6 whether somehow you are kept in guidance that suggests  
7 that I may be aware of this or that with respect to use of  
8 those funds.

9 MR. KELLEY: That time line is already in place.  
10 You know when that's going to be essentially operational.

11 MR. REYNOLDS: Right. Well, and there's some  
12 uncertainty around schedule, too. I mean, the thought was  
13 that you would develop the system, test it, deploy it on a  
14 certain time line. But the counties that would pilot with  
15 you before you did full deployment, I don't know that's  
16 been locked down yet. I don't know it's been locked down  
17 what that specific date is, that it would be titled at  
18 which election or whether it would be something that  
19 wasn't an election. So some of that stuff, there's still  
20 some planning going on. There's still some design going  
21 on. And so I don't know everything that I want to know  
22 about VoteCal yet.

23 Again, this may sound like, well, you know, you  
24 have as much certainty as you can have at this point in  
25 time, because you've got the money locked down. You've

1 got a schedule. And this is a crutch or it's a reason not  
2 to go beyond where you are in this plan. But I do feel  
3 like it meets all the things that I'm mentioning where we  
4 don't know beyond where we are.

5           However, having said all that -- and I guess what  
6 I should say to this group is that, A, I'll bring the  
7 message back, number one.

8           And then number two, how we approach that issue.  
9 I will see what needs to be done thereafter based on the  
10 direction I get from the administration.

11           The second thing is that I do think if you were  
12 to create guiding principles and name specific areas that  
13 you wanted to target, those kinds of things could be put  
14 in here, and it could become more of a planning document.

15           MS. FENG: Why don't we work on that?

16           MS. CARSON: Yes.

17           MR. LOGAN: And just for clarification, I wanted  
18 to go to Chris's point, which I appreciate and I'm fine  
19 with deadlines because I would like the plan to be  
20 meaningful.

21           But as far as the issue of the money sitting  
22 there and not being expended based on what you've just  
23 described, it seems like we could adopt the plan today and  
24 that money is still going to sit there. So I don't think  
25 our desire to have the plan being more meaningful and more

1 representative of the stakeholders on this Advisory  
2 Committee is preventing taxpayers' money from being used.

3           MR. REYNOLDS: And, selfishly, I think there is  
4 some utility in showing to Congress that you are  
5 interested in getting this money. And if anyone were to  
6 ask me -- because as I understood it, one of the previous  
7 roadblocks to appropriation of additional HAVA funds --  
8 because there was about \$800 million that was not  
9 appropriated. And I think looking at the last  
10 re-appropriations were about 300 of the \$800 million that  
11 wasn't appropriated initially benchmarked. But up until  
12 Congress started appropriating money it was, yeah, the  
13 states have got this money and they're sitting on it and  
14 not spending it.

15           Well, there was a lot of uncertainty around  
16 voting systems and the State of New York, for instance,  
17 creating its own process for certification or approval of  
18 voting systems, so on, so forth and other people. And  
19 some people who went early feeling like they got burned.  
20 And so there was some trepidation around that.

21           And for California specifically what I would say  
22 to people is, well, we are where we are in terms of  
23 actually having the money spent because we're waiting for  
24 VoteCal to be deployed. And the Title 3 requirements have  
25 been met. Except for that, we're going to throw the

1 switch on VoteCal.

2 MR. LOGAN: But again I think there's utility to  
3 being able to respond to Congress by saying, you're right.  
4 We haven't expended this money, but we have a plan. And  
5 we have a vision for how it's going to be expended as soon  
6 as we meet that threshold that you've established,  
7 Congress. So we're not saying we don't need the money.  
8 Don't take it back. In fact, we have a plan for the day  
9 that we flip that switch.

10 MR. REYNOLDS: Right. And, again, you're saying  
11 exactly what I'm saying, is there is a utility in going  
12 and getting that money and having to explain if you will,  
13 well, okay. You got the money and why haven't you  
14 expended it? It's because of X, Y, and Z. And don't  
15 worry, there are plenty of uses for those funds.

16 MS. JOHNSON: So, Chris, I'm just thinking. I  
17 know we were talking about everybody go back and in a week  
18 provide some information on what the principles would be.  
19 I mean, it would be really helpful to me to maybe spend  
20 some time in a collective group throwing some of those out  
21 and then maybe we can go back and provide that in more  
22 detail to you. Because I would really like to hear what  
23 the counties have to say in terms of how they would want  
24 to spend the money.

25 I know that's railroading your agenda maybe, but

1 maybe we could take even 15, 20 minutes to do a little bit  
2 of brainstorming right here about what other people think  
3 about that.

4 MR. REYNOLDS: I have no objection.

5 MS. KAUFMAN: Speaking as a bureaucrat within the  
6 bureaucracy, I'm the one that works with Chris to come up  
7 with the budget control plan that we present to the  
8 Legislature to get the money appropriated to allow the  
9 HAVA money to be spent each year.

10 And if you can come up with ideas for the plan  
11 that are flexible enough and far ahead reaching enough, we  
12 won't have to go through this State Plan exercise for a  
13 two-year delay every time and then have a two-year delay  
14 on top of that in going to the Legislature for permission  
15 to do, irregardless of when they pull the switch on  
16 VoteCal. If you can put that into your thinking to build  
17 into your -- as you're speaking.

18 I completely agree with the idea of the  
19 guidelines and how you can build on meeting those  
20 guidelines, what is your plan for it. Are you going to  
21 say we're going to build a ladder to the moon and these  
22 are the people that are going to make the final plans for  
23 that when we have that flexibility. These are the  
24 stakeholders that need to be involved. Maybe that kind of  
25 flexibility guideline that will allow us to move forward



1 and get the 2010 funding and the 2011 funding and the 2012  
2 funding without having to bring everybody back to the  
3 table.

4 MS. FENG: Margaret, I like your idea and I'm  
5 wondering if we could do this instead over lunch for  
6 people who are around and willing to jot some ideas on a  
7 piece of paper. That maybe we can come up with a short  
8 list that would at least truncate the conversation a  
9 little bit or move us to a place where, okay, we've got at  
10 least that. And then right now just focus on getting  
11 through for an hour as many of the edits that we've got  
12 and see where we're at at noontime. Does that sound okay?  
13 Because I think over lunch actually we can have a more  
14 free-wheeling conversation about --

15 MS. JOHNSON: I guess all I'm trying to suggest  
16 is that I would benefit from hearing what others would say  
17 about the principles.

18 MS. FENG: I like the idea.

19 MS. JOHNSON: I don't want to go back to my cubby  
20 in my office and try to dream up principles. We don't  
21 even do it here. We could set up a separate time for us  
22 to do that.

23 MR. LOGAN: And there are some principles listed  
24 in the draft plan, and I think they're a little bit  
25 buried. They're not set out in the front of the plan.

1           But I want to re-emphasize what Kathay said. A  
2 preamble is nice. It makes me feel better. But I'm also  
3 interested in some direction of the plan in terms of a  
4 process.

5           And I think this goes to Kaye's comment. It's  
6 the other credibility piece that when the Secretary  
7 hopefully with all of us in tow goes to the Legislature to  
8 get the appropriation, then we have something to point to  
9 and say this isn't something we pulled out of our hat.  
10 It's something that was envisioned by the federal bill to  
11 bring stakeholders together and they set a set of  
12 priorities. So now we've got this money sitting there and  
13 we want you to appropriate it. And we have a process in  
14 place to do that.

15           The principles are in here. I think they could  
16 be tweaked a little bit. But I would say it's more of a  
17 structure of moving them to be more of a centerpoint in  
18 the beginning of the plan, rather than right now as I read  
19 it it's sort of like this is what was listed in the  
20 original plan, and we're still going to try to include  
21 bills. But I'd like to push that a little further.

22           MR. REYNOLDS: I was thinking frankly that it  
23 would be more -- forgive me if this is buried, and we'll  
24 talk about this I'm certain, figure this out. But put it  
25 in the budget section. I mean, if you're talking about

1 these are the guiding principles for the future use of  
2 these funds for meeting Title 3 requirements of improving  
3 administration of election that you lay them out there.

4 So --

5 MS. FENG: Okay. Cool.

6 MS. JOHNSON: I guess I'm less concerned about  
7 where they are at this point than trying to flush out what  
8 they are and agree that a process is important.

9 MR. REYNOLDS: I just created a document in case  
10 people are -- when we do this here after lunch, we can  
11 just see what you got. And then I guess I would print a  
12 copy and provide it to everybody so they can take it back  
13 and get the extra week.

14 And however people decide to do that -- one  
15 person wants to call other people, wants to call five  
16 people, want to call everybody, however that process  
17 unfolds.

18 MS. KAUFMAN: As far as time line goes, the  
19 sooner we get our hands on the money, the more interest we  
20 earn.

21 MS. JOHNSON: That's a good point.

22 MS. KAUFMAN: That's incentive.

23 MS. FENG: Should we start with the overview?

24 MR. REYNOLDS: Yep.

25 MS. FENG: You want to just do page one?

1           MR. LOGAN: I wonder how people are prepared, but  
2 there's the going through one section at a time, and then  
3 there may be people who have just prepared general  
4 comments globally about the plan.

5           MR. REYNOLDS: If there are general global  
6 comments about the plan, why don't we try to take those  
7 first? And I hope people can leave me something in  
8 writing, too. Okay.

9           MS. JOHNSON: Well, you got our written comments  
10 already; right?

11          MR. REYNOLDS: Right. And I'll go make sure I  
12 touch on some of what was raised.

13          MS. FENG: If you had a single extra copy at  
14 least for those of us who are here, we could just pass it  
15 around and mark it up for the things that are little and  
16 put our initial next to it or something. We wouldn't have  
17 to go through line by line and tell you I think something  
18 should be changed from and "and" to an "or," if you wanted  
19 to do it that way.

20          MR. REYNOLDS: I could -- oh, you do have a copy.  
21 Okay. There you go.

22          MS. FENG: Label it, mark it up. So if you put  
23 something, you initial it or something like that on the  
24 margin.

25          MR. REYNOLDS: Okay. But you guys got to make

1 sure you try to be legible and make sure you put your  
2 initials by it.

3 MS. JOHNSON: And you don't need to give it to  
4 me, because we already did that sort of thing.

5 MS. KAUFMAN: If you make a change within the  
6 body, put an X out to the margin if it's not clear.

7 MR. REYNOLDS: Would you mind going and printing  
8 a copy just to make sure?

9 MS. JOHNSON: What's wrong?

10 MS. O'DONOGHUE: We're not sure it's the right  
11 one.

12 MR. REYNOLDS: It says final review draft on it,  
13 but I want to make sure there's not something someone  
14 caught subsequent to that.

15 So while that's being done, if you'll excuse me  
16 for a minute. I'll be right back, and then we'll talk  
17 about the global or the general.

18 MS. FENG: You have to go?

19 MR. REYNOLDS: Just to the rest room.

20 (Thereupon a recess was taken.)

21 MR. REYNOLDS: Let's go ahead and start with  
22 global comments.

23 Does anybody on the phone want to start? Do they  
24 have anything they want to mention by way of global  
25 overarching approach or issue?

1           MR. LEE: This is Eugene Lee.

2           I'd be happy to offer a couple thoughts.

3           So the first is that I would echo the remarks  
4 that Registrar Logan made earlier about the plan not being  
5 really the plan but instead a report. I think that  
6 Registrar Logan talked about that very eloquently, so I'm  
7 not going to repeat what he said. I just wanted to say  
8 that I support that comment.

9           With regard to Section 8, performance measures, I  
10 thought that what was in there was a good start, but  
11 there's some additional things that should be drafted in  
12 there, examples of performance measures designed at  
13 looking at pole worker training, education, mental health,  
14 the state meeting Title 3. There should be some  
15 performance measures with regard to language  
16 accessibility.

17           I had suggested some back in October last year,  
18 so I could raise those when we get to Section 8. Just as  
19 a general matter, I think that Section 8 was a good start,  
20 but there's more that needs to be added there.

21           And, lastly, it seems to me that it would be  
22 helpful I think if the plan could talk a little bit more  
23 about the opportunities for various stakeholders to  
24 provide input on an ongoing basis to the Secretary.

25           So in the comments I provided last year, I talked

1 about the idea of having a standing Advisory Committees,  
2 particularly with regard to accessibility for voters with  
3 language needs and voters with disabilities, and kind of  
4 along the same lines some additional language here  
5 regarding language accessibility would be helpful.

6           So I kind of looked at my comments from last  
7 year. And as we go along, I can try to make it to where  
8 you asked for, but language regarding accessibility.

9           MR. REYNOLDS: And this is Chris Reynolds.

10           I'm not sure that the administration is  
11 interested in an implementation committee or  
12 subcommittees. We do have a VAC, and I think there's  
13 receptivity to a Language Accessibility Advisory Committee  
14 as well, and those are just general comments and whether  
15 they should be included in the plan. But I do know the  
16 VAC is mentioned in the plan.

17           At any rate, I just wanted to give you those  
18 initial comments about the ongoing opportunity to provide  
19 input. And, you know, people say, well, we're always  
20 available to hear from people who want to contact us. And  
21 I think that it's that balance between something very  
22 formal and something that's not formal at all. And so  
23 I'll take that under advisement and see what more feedback  
24 I can provide to people about that issue generally.

25           Is there anyone else here now in this room in

1 Sacramento who wants to talk about global or general  
2 comments?

3 MR. LOGAN: I have some.

4 This is Dean.

5 Just a couple of semantic ones.

6 I think there are several places -- and I think  
7 you're probably aware of this, Chris, where with reference  
8 to VoteCal it talks about future activities that have now  
9 taken place. So those are just some things that are  
10 semantic.

11 Same thing with -- and I think a lot of these  
12 were caught, but there are still a few places where  
13 there's reference to voting system verification versus  
14 approval. And I hand down take what you're passing  
15 around, but I will be happy to send those to you.

16 There's a couple of places where it reference a  
17 component of the previous plan in terms of training local  
18 election administrators. And it makes reference to the  
19 fact that the CACEO offers the CalPAC and basic --  
20 essentially says that while no HAVA money has been  
21 expended on this, we feel like that's been satisfied CACOE  
22 program.

23 I don't think -- I guess two things on that. I  
24 don't think the Cal EAC program necessarily meets the full  
25 scope of that objective and the Cal EAC program, just like



1 everything else, is hurting for funding and is at risk of  
2 not being continued. So I think that's a little bit over  
3 sold in the plan. So I think that probably should be  
4 looked at.

5 MS. FENG: So that could be a potential thing  
6 that went into a plan if you were to say support existing  
7 programs that could bring the program up to a place where  
8 it's actually covering the HAVA requirements.

9 MS. MARTINEZ: And in addition to that, we are  
10 going to do a formal request for some funding for the July  
11 Cal B classes, because it is in jeopardy.

12 MR. LOGAN: And this one, Chris, I apologize in  
13 advance, because I know that you're tired of hearing me  
14 talk about this.

15 But I disagree with the approach in the draft  
16 plan of referencing the EAC funding advisory memos. And I  
17 think simply the draft acquiesces or capitulates to the  
18 current interpretation of those memos.

19 And I still think that from L.A. County's  
20 standpoint, and I think other counties are on board with  
21 this, that there is some potential difference in  
22 interpretation of those funding memos and also the  
23 potential to get EAC to reconsider some of the elements of  
24 those funding memos with regard to things like pole worker  
25 training and things that were originally intended to be

1 paid for but have now been declined based on that  
2 interpretation. So I think by putting that into the plan,  
3 it limits our ability to try to work with the EAC and the  
4 Secretary to re-look at that.

5           So I would suggest that we not incorporate the  
6 EAC funding advisory memos and again that we rely more on  
7 the actual act and open the opportunity for us to appeal  
8 to the EAC to re-look at that or our opportunity to  
9 attempt to convince you of a different interpretation.

10           Not you, but the administration of a different  
11 interpretation of those memos. So I think the way it's  
12 written in the plan right now limits it, and I think that  
13 I don't see what the advantage of that is.

14           There was reference made earlier to the emphasis  
15 on the top-to-bottom review seems to be a little bit just  
16 disproportionate to the entirety of the plan and the  
17 overall compliance of the full range of HAVA mandates.  
18 Again not arguing the value and the accomplishments in the  
19 top-to-bottom review, but it seems to be very predominant  
20 in the plan disproportionately to the entirety of the  
21 plan.

22           And just a suggestion that I think this is  
23 somewhat illustrated by our earlier conversation that in  
24 the use of the plan as a report of past HAVA activity, I  
25 think some sort of a summary table that details the

1 distribution of funds, the remaining funds, much of what  
2 you described to us very nicely at the beginning of this  
3 meeting would be good to have that laid out in the plan  
4 somewhere where it's easy for somebody to read that and  
5 understand what the original appropriation was and how it  
6 was first allocated, that there's interest accrued and  
7 continuing new appropriations.

8           And again I just think that the fact that there  
9 are continuing new appropriations leads me to believe that  
10 the vision of the plan was to be a guiding document for  
11 how those plans are going to be used. So I'll provide you  
12 with my feedback on what I think.

13           MS. JOHNSON: Chris, I have some global things.

14           Just in terms of the EAC guidance, I know we  
15 recommended that you put a link in or summarize what the  
16 guidance was, and Dean's suggesting leaving it out all  
17 together.

18           When I looked at the actual guidance, I, too,  
19 wondered about the Secretary of State's interpretation of  
20 the guidance. And I'm not so convinced that there might  
21 not be another way to interpret that. So I would just  
22 echo what Dean just said about leaving it out or doing it  
23 in some way so it doesn't seem like we've bought into a  
24 particular interpretation of what the EAC guidance is.

25           MR. REYNOLDS: It's just there was such emphasis

1 in the prior plan the budget they created had taken from  
2 various places -- and assuming that I know what they  
3 meant, but it was pretty clear -- about \$70 million would  
4 have been for the voter education. That is not what  
5 happened. So I just wanted people to understand that's  
6 not what happened.

7           With respect to the CalPeek, yeah, I checked into  
8 and asked some people about CalPeek and looked at the  
9 curriculum and so on, so forth. And I think I even  
10 alluded to some people that I was going to characterize it  
11 this way. It's the CalPeek versus the election -- the  
12 prior administration had indicated they would spend \$25  
13 million developing as I understand that. And there's no  
14 documentation I have. There's no curriculum. There's no  
15 nothing.

16           I did get a call from UCLA actually, but so there  
17 was some vision, inkling, whatever, that you would create  
18 at the University of California system or CSU or some  
19 institution of higher learning an actual class that people  
20 would be attending.

21           So I mean, I just wanted to make sure that people  
22 understood that there wasn't -- that the issue of making  
23 sure the people understood HAVA was here and that required  
24 certain things was.

25           And I don't think that the CACEO ignored it at

1 all. When I got here in May of 2005, I was referred to  
2 the product that was produced by Forefront. I don't think  
3 they exist any longer. But a summary, a description of  
4 HAVA, and what it meant, and then there were classes that  
5 covered HAVA stuff specifically. And then the Secretary  
6 of State produced a HAVA compliance manual sometime after  
7 that. So there were efforts to make sure that people  
8 understood that there was HAVA and what HAVA required.  
9 And I just didn't want anybody to get the impression that  
10 people went blank.

11 MS. MARTINEZ: And we have Summer Institute that  
12 may or may not cover some of the HAVA required stuff. But  
13 that could be included also because there is benefit  
14 there. And we do hold those at standard.

15 MR. LOGAN: But you canceled it last year.

16 MS. MARTINEZ: We canceled it because money was  
17 an issue. And money continues to be an issue for us as an  
18 association. So --

19 MR. REYNOLDS: Okay.

20 MR. KELLEY: I'll add on the EAC portion, we've  
21 received guidance on other interpretations of EAC  
22 guidelines, inventory control, and other things. You and  
23 I talked about this, Chris. So there are other ways to  
24 interpret that and other ways to come to the same  
25 conclusions at times and certainly different ones.

1           So I want to make sure that if we do leave it in  
2 that there is at least discussion or language that says  
3 there's other guidelines or other ways you may arrive at  
4 this information. Perhaps each county may appeal to the  
5 EAC or do our own seeking of guidance from EAC, and we've  
6 done that in the past.

7           The performance measures Eugene mentioned, I'm  
8 all for it. A ballot scorecard or something we can use to  
9 set some standard across the state is important. I have  
10 some issues with some of those performance measures, and I  
11 don't know if you want to go through them individually or  
12 if we just do it global at this point, because we don't  
13 have some benchmarks set. I think that setting some  
14 performance measures of how much material you put if the  
15 pole sites probably needs to be flushed out. Because you  
16 put a lot in the pole site doesn't mean you're complying  
17 with something. So that I think is something we need to  
18 address. And then everyone else has said --

19           MS. FENG: Coming back to this question of about  
20 the HAVA, the EAC guidance on how HAVA funds can be spent,  
21 sometimes you talk about -- sometimes you actually have  
22 named Secretaries of States. Like every once in a while,  
23 for instance, SoS Jones will be mentioned. Does it make  
24 sense in where it's relevant to have something -- and I'm  
25 just looking at section one of page 10, which might be one

1 of the examples we talked about in the EAC guidance where  
2 you could say it's the SoS's interpretation or SoS Bowen's  
3 interpretation of the EAC guidance that HAVA funding shall  
4 be used for.

5 MR. REYNOLDS: Well --

6 MS. FENG: Or the SOS's interpretation.

7 MR. REYNOLDS: I could bring you a copy of the  
8 guidance. I don't think it's open to interpretation.  
9 They say if you want to spend money for pole worker  
10 training, you do it when you roll out a voting system.  
11 That's it.

12 They say if you want to use money for voter  
13 education, there is a specific reference to a voter  
14 education program for over voting that is allowed under  
15 Section 301. And if you're using a paper-based centrally  
16 tabulated system, you can have a voter education program  
17 to prevent over voting. That's allowable. For when you  
18 first roll out a voting system, then you can do voter  
19 education around your new voting system. So those are the  
20 circumstances that they've set.

21 Now, where there's some room for interpretation  
22 from our perspective is where Dean mentioned a county had  
23 the voting system. Something happened. In the case of  
24 most counties, it was a move away from all DRE to optical  
25 scan and one DRE per polling place or an additional one for

1 malfunction, so on, so forth. So that was considered a  
2 change in voting system. And if somebody, a county, came  
3 to us and said we needed to do some voter education/pole  
4 worker training around that, we agreed with that.

5 Humboldt County switched from one system to  
6 another because of the audit log issue they found with  
7 whatever they were previously using. Premier, I think it  
8 was.

9 MS. FENG: I guess what I'm saying is just that a  
10 lot of this is written from the voice of what the SoS is  
11 doing or the SoS has done in response to things, whatever.  
12 So it wouldn't seem odd and might satisfy kind of the  
13 concerns of this room if you simply on certain things just  
14 added that it has been the Secretary of State's  
15 interpretation that -- and then essentially the same  
16 thing. Or, you know, based on the Secretary of State's  
17 understanding, the EAC guidance does this, this, and this,  
18 or requires this, this, and this.

19 MS. JOHNSON: I think that's a good way to phrase  
20 it.

21 MS. FENG: And it allows that -- I mean, it  
22 doesn't look odd, because the SoS is on every other page.  
23 You talk about the SoS did this and that. So it wouldn't  
24 jump out at you. But it would also satisfy what I think  
25 people are articulating without having to go through this



1 thing about footnotes and alternative interpretations and  
2 whatnot. It's just acknowledging --

3 MR. REYNOLDS: And --

4 MS. JOHNSON: I'm happy to write up something  
5 more detailed about what -- we don't necessarily agree  
6 with the absolute interpretation that you're giving.

7 MR. REYNOLDS: Absolutely be interested in that,  
8 because I can't find any wiggle room. And, frankly, I  
9 gave the EAC reams of information about why it's very  
10 important to have trained pole workers and why it's very  
11 important to have voter education and why under my reading  
12 of HAVA these things are allowed under Title 3, not  
13 improving administration election. And they didn't issue  
14 guidance based on that.

15 MS. JOHNSON: And I don't really have that  
16 background. I'm just looking at the plain face of the  
17 guidance and comparing it to the parts of HAVA that  
18 they're referencing when they're talking about it. So  
19 that's my frame of reference. But happy to go through  
20 more of that.

21 I don't disagree on a basic level. But I think  
22 the absoluteness of the SOS's position on it, on what it  
23 means, may be more relevant to the background that you've  
24 done with the EAC. So even including more of that  
25 information that we've tried to have alternate

1 understandings of the guidance, but these are steps we  
2 took and it didn't work out. I like Kathay's suggestion  
3 of saying it's the SOS's understanding of this is what the  
4 EAC's guidance is.

5 MR. REYNOLDS: I'm just a little hesitant,  
6 because it's not -- I don't know that it's the Secretary  
7 of State's interpretation of what's critical here. It's  
8 what the guidance says.

9 MR. LOGAN: I think it's two things. I guess  
10 from -- and that's why I would say you want to leave that  
11 language more vague. You can reference EAC guidance, but  
12 I don't know if you want to codify the actual guidance,  
13 especially EAC has shown themselves to reverse their  
14 guidance.

15 But, for me, there's really two issues there.  
16 One is with the EAC, and we are pursuing that in terms of  
17 direct appeal to the EAC. But I do think there is an  
18 issue of the application -- maybe that's a better word  
19 than interpretation -- the application of the guidance.  
20 By the Secretary of State as opposed to. In other words,  
21 I think there's room actually take this guidance and  
22 approve funding for things that have been denied based on  
23 how you apply it. And I understand that's just the  
24 difference in opinion.

25 MS. JOHNSON: Right. And sounds like we may be

1 on the same page.

2 MS. JOHNSON: Did you already talk about planning  
3 performance measures?

4 MR. REYNOLDS: Some people have raised  
5 performance measures in the discussions we're having right  
6 now.

7 MS. JOHNSON: Well, I think I included a  
8 suggestion that there be a performance measure that more  
9 directly looked at voters with disabilities experience in  
10 voting. And I just kind of threw together following kind  
11 of what you had done. And I don't know if we're morphing  
12 that or tweaking how the planning elements are going to  
13 look. I'm happy to try to work with that.

14 MR. REYNOLDS: I was just wondering on that one  
15 in particular whether a survey of all the voters who use  
16 successful voting at polling places would be practical.

17 MS. JOHNSON: I think you were doing a survey on  
18 something else. So I just modeled it after another one  
19 that you already had.

20 MS. FENG: I was thinking about that, whether  
21 it's better to have a survey. Or another context you  
22 actually have people who are specifically hired to go and  
23 monitor. Like they select a certain number of sites that  
24 would be representative. They kind of go to that and then  
25 they create a report that gives you a good sample of an

1 appropriate jurisdiction. And it comes out with a report.  
2 And that might be a slightly more scientific way of doing  
3 it.

4 But I was thinking about something on the order  
5 of audits. You know, we talk about -- but we don't have  
6 a -- there is no statewide system where any single entity  
7 goes to every pole site and is looking for a particular  
8 thing. Like is the language access provided? Is there an  
9 accessible wheelchair ramp?

10 So most of how it gets reported is always to a  
11 hotline or for the small sub-set of pole sites where there  
12 are monitors deployed, somehow that gets reported.

13 And so it does seem like, you know, if you were  
14 thinking about trying to do some evaluation of pole site  
15 and voter services --

16 MS. JOHNSON: I think since this really doesn't  
17 apply to polling places, it's applying to voting systems.  
18 I think what we were trying to look at is, is there a way  
19 to capture information from voters who use it about  
20 whether it's usable.

21 MS. FENG: Is there a way to do it that is not  
22 the pole workers doing a little -- I guess it's my opinion  
23 when you ask pole workers to do one more thing --

24 MS. JOHNSON: I think we're asking the voters to  
25 do it.

1 MS. FENG: Are they going to hand a survey to  
2 you, and how that survey happens. Whereas, if you said --  
3 another way to do it is say we're going to deploy a team  
4 of 100 pole monitors who will go to these sites and  
5 observe for a two-hour period what the use is and then  
6 compile all of that and extrapolate --

7 MS. JOHNSON: But I think what you're missing  
8 there is the experience of the voter. A voter may go and  
9 use the system and somebody may be watching them, but  
10 they're not privy to necessarily -- unless it's really  
11 obvious the person had a hard time reaching it or they  
12 kept going to the pole worker to get the audio morphed or  
13 something or if they notice people are going by peering at  
14 how they're voting.

15 MS. FENG: I'm trying to figure out how to remove  
16 the variable of the pole worker. That's all.

17 MS. JOHNSON: And, yeah, and I don't mean to be  
18 obstructionist about coming up with a different strategy.  
19 I didn't spend a lot of time thinking about how to do  
20 this. I just noticed that in your performance measures  
21 the only places I saw where you might conceivably capture  
22 whether people with disabilities were having trouble with  
23 the voting systems was through your looking at incident  
24 reports. And I don't really think that was an effective  
25 way of finding out whether people with disabilities are

1 finding the voting systems that are used a good way to  
2 vote. That's all. So that's what I'm trying to look at.

3 MR. KELLEY: How would you identify those voters  
4 with disability?

5 MS. JOHNSON: You wouldn't. Anybody that used  
6 the accessible voting system, you would have them do a  
7 survey.

8 MR. KELLEY: Even if they were put there because  
9 they want to use the electronic --

10 MS. JOHNSON: And on your survey you could put  
11 whether they were willing to disclose whether they had a  
12 disability and if they wanted to tell you what it was.

13 MR. REYNOLDS: The only thing I'm thinking is  
14 just logistically, as Kathay mentioned, who's going to  
15 collect the information? Who's going to ask them to fill  
16 it out? Seems like it would be the pole worker.

17 MS. JOHNSON: And maybe Kathay's idea of limiting  
18 it to a few jurisdictions or something might make some  
19 sense.

20 MS. FENG: I'm talking off the top of my head. I  
21 just know that --

22 MS. JOHNSON: I'm not whetted to something. I  
23 just didn't think that that got at what my interest would  
24 be in seeing how people with disabilities view these  
25 systems and whether they're actually meeting the people's

1 needs. We're spending a lot of time trying to do these  
2 systems.

3 MR. REYNOLDS: It would be great to be able to  
4 gather qualitative information.

5 MR. KELLEY: I like Kathay's approach, but the  
6 only danger I see is when you get the anecdotal stories  
7 and that doesn't always tell the clear picture. When you  
8 get that whole universe of people that were using it, that  
9 would be ideal.

10 MS. FENG: I don't disagree. If you knew that  
11 was going to happen, I guess. So --

12 MS. JOHNSON: And maybe it's limiting it like a  
13 certain number of areas. Maybe just certain number of  
14 pole sites you could more educate those pole workers or  
15 something on it. May want sites where more people use the  
16 accessible voting sites.

17 MR. REYNOLDS: Chris and I have to run, but we  
18 will be back. When are we reconvening?

19 MR. REYNOLDS: Let's reconvene at 1:30. We're  
20 going to take lunch from 12:30 to 1:30. If people would  
21 like to do a longer lunch --

22 MS. FENG: We misjudged lunch. We thought it was  
23 going to happen at 12:00.

24 I just wanted to quickly throw out one thing that  
25 I think is not controversial. I hope I'm getting this

1 right. Eugene, you can correct me if I'm wrong.

2           In the overview, it talks about how California  
3 has 53 seats in the House of Representatives based on our  
4 voting age population. And I think that those seats are  
5 allocated based on our total population. And so while it  
6 is interesting to note our voting population, you wouldn't  
7 want to connect it in that sense.

8           MR. REYNOLDS: Okay. Who's up to continuing for  
9 another 20 minutes? No one is?

10          MS. JOHNSON: That's fine.

11          MR. LOGAN: I'm okay.

12          MR. REYNOLDS: How about people on the phone?

13          Eugene, Anna, are you okay with going for a while  
14 longer?

15          MS. ACTION: That's fine.

16          MR. REYNOLDS: Have we gotten through the global  
17 stuff? Okay.

18          MS. JOHNSON: I just want to add another global.  
19 I just want to say that I felt like you really took to  
20 heart our comments about including disability more in the  
21 plan. I really wanted you to hear that I really  
22 appreciate that you did make a better effort to include  
23 more about disability. So thank you very much.

24          MR. REYNOLDS: Thank you. Well, you know, it's  
25 always -- when you hear a comment from somebody and then



1 you try to capture that comment, it's always a question of  
2 whether you did it right. So thank you. I appreciate  
3 that feedback.

4 I can real quickly go through -- well, not real  
5 quickly you, but I can go through the Disability Rights  
6 California letter and just let people know -- did everyone  
7 get a copy of this?

8 MS. JOHNSON: I don't know. I forget what I did.

9 MR. REYNOLDS: What I was going to do was going  
10 to go quickly --

11 MS. JOHNSON: Did you guys get it?

12 MR. LOGAN: No.

13 MS. JOHNSON: I just sent it to the back.

14 MR. REYNOLDS: I keep saying quickly, but I'm  
15 going to go through the points that were raised where  
16 they're to be found and just tell you what -- again, this  
17 is Chris Reynolds talking here. But just give you a sense  
18 of what I think would be the outcome of that.

19 As Margaret mentioned, the comment letter from  
20 the Disability Rights of California mentioned that the  
21 overview generally did a better job of the increased  
22 attention for accessibility but they suggested placing a  
23 link to the EAC guidance on the pole worker training and  
24 voter education.

25 Now as we've discussed, that may be something

1 that needs to be finessed in some other way. So that  
2 we'll take under advisement, because I was more than happy  
3 to provide a link to that.

4 On the introduction, there's a reference to  
5 election materials, and there should be added there a  
6 reference to election materials -- information that is  
7 accessible to voters with disabilities. I think that's  
8 okay. It would be on page 6 of the introduction.

9 On page 5 of section one, there's a mention of  
10 previous administrations that had partnered with  
11 independent living centers. And there was a thought that  
12 would be good to describe what independent living centers  
13 are.

14 So, Ana, I was going to go to the Independent  
15 Living Center website and steal some language what  
16 independent living centers are and put that in the plan.

17 MS. ACTION: That would be fine. It would be  
18 best to go to [csilp.org](http://csilp.org). There's good information there.

19 MS. JOHNSON: I think later in the plan you do  
20 give a description of what living centers are.

21 MS. ACTION: It is a little more --

22 MS. JOHNSON: There was a little more later on.  
23 That was the first one I got, too.

24 MR. REYNOLDS: There was a reference to section  
25 two and providing a summary in the EAC guidance on voter

1 education and pole worker training. That is to be  
2 finessed, but maybe not this way. I guess it falls within  
3 what you provided here.

4           And then on page 3 there is the use of the word  
5 "franchise," and we should describe what we mean. And  
6 Evan Goldberg, the Chief Deputy Secretary of State, is  
7 always interested in doing as much plain language as  
8 possible. That's a good catch. We'll try to fix that  
9 one.

10           In section four, there was a lot of disagreeing  
11 with Secretary of State Bowens' requirement that counties  
12 have one and only one direct recording electronic system  
13 accessible that is accessible available per precinct or  
14 polling site.

15           A couple of things have changed with respect to  
16 this. One, I wanted to make sure people were aware that  
17 to address the possibility that a unit might malfunction,  
18 there is the ability to have more than one unit at a  
19 polling place. And for the purposes of burning a card, I  
20 believe that there are some systems where you can burn a  
21 card using a voting unit. So for that purpose as well, a  
22 unit can be there.

23           Also, the five person rule as it was called, the  
24 desire to encourage five people to cast a ballot on the  
25 accessible voting unit. If one person cast a ballot,

1 created a lot of awkwardness for a lot of different  
2 people. And there has been a change in the language used  
3 to describe what was trying to be achieved there after  
4 much discussion with county election officials.

5           And so now it says simply that the county  
6 election official will do what is necessary or what they  
7 can or something to that effect to ensure that the privacy  
8 of the voter is secrecy of the ballot, one of those two  
9 terms is maintained. And that was the heart of the matter  
10 was that if there was only one voter who showed up,  
11 regardless of whether they were a voter with disabilities  
12 who wanted to use the voting unit to make sure they could  
13 vote independently and privately or whether it was a  
14 person who just wanted to use it, if only one person voted  
15 on that unit, then you would be able to determine that  
16 this ballot was cast by that person. It would violate the  
17 privacy of their ballot. So it's really -- if election  
18 officials have ways to address this, then that's up to  
19 them now according to my understanding of what's been  
20 changed about the use procedures.

21           MS. JOHNSON: Has that gone out?

22           MR. REYNOLDS: Yes. That change has been made to  
23 the use procedures.

24           MS. JOHNSON: Can I get a link?

25           MS. ACTION: Yeah. Where can we find that?

1           MR. REYNOLDS: I will try to get -- well, get it  
2 for the whole group.

3           MS. JOHNSON: I know we talked about it at length  
4 at the back and gave you some feedback on that. But I  
5 hadn't actually heard officially it had been changed.

6           MR. REYNOLDS: And Margaret discussed the poling  
7 of users of accessible voting equipment as a potential  
8 performance measure. And made sense the logistics of it  
9 are possibly difficult.

10           Section nine, there was a reference to the  
11 complaint procedure, which is not easy to find on the  
12 website. Maybe it should be made accessible from the home  
13 page. And that's not HAVA specifically, but I have talked  
14 to people about this on a couple of occasion and we are  
15 going through a process of determining how our website  
16 should be displayed and so on and so forth. And although  
17 this isn't necessarily going to find its way into the HAVA  
18 State Plan, be aware that there are people who are paying  
19 attention.

20           But you can always get in contact with us in the  
21 future if you don't see it there, too.

22           Section 10, there was a desire for more  
23 information about what programs had been conducted here.  
24 So I'll go back and take a look at that. That's more of a  
25 general comment and something I need to focus more on

1 voter education and pole worker training.

2           The difficulty that we have is that we reimburse  
3 counties for these activities, and we asked them for the  
4 supporting documentation that's necessary to approve a  
5 claim. And we had previously asked them for plans about  
6 what they were going to do if they were going to educate  
7 voters and train pole workers. But we made it clear to  
8 them it wasn't a hard and fast plan. It wasn't something  
9 they had to follow to the T and they could deviate from  
10 it. But we wanted to make sure they were thinking about  
11 it and came up with as many ideas early on as they had the  
12 possibility of using it.

13           So there might be in some respects a disconnect  
14 between a plan that was provided to us and what the county  
15 ultimately did to some extent. And then it's difficult,  
16 too, to say with great specificity, well, this many people  
17 were reached at these venues by this county, and this many  
18 pole workers were trained by this county using this  
19 technique. So that kind of specificity may be very  
20 difficult to achieve. And I just want people to be aware  
21 that we have tried to give some basic information about X  
22 number of counties did these kinds of activities. But to  
23 try to fit it down really specifically, we could probably  
24 if we had the information provide pages and pages of what  
25 counties did. But I don't know that would be fruitful

1 from a State Plan perspective. So we're going to do the  
2 best we can to balance the need to provide information  
3 against the availability of information and the purpose of  
4 the State Plan.

5           So just the lack of data makes it difficult to  
6 determine the effectiveness of the funded programs. I  
7 don't disagree with that either, but there were no  
8 performance measures that went into that. There is to  
9 some extent frankly a presumption that we're talking about  
10 county elections officials, which are being described as  
11 practitioners. These are people who conduct elections and  
12 have for many years that are professionals and they need  
13 what they need to do in their county and there is an  
14 expectation that they're going to do programs.

15           On the other hand, there was a pole worker  
16 observation program -- pole worker training observation  
17 program as well as a pole election day observation  
18 program, and we did provide feedback to the counties. And  
19 while you tend to focus on, well, there was a need for  
20 more signage because it wasn't readily apparent from the  
21 street where the poling place was that this was a poling  
22 place, or maybe the flag could be put up, some of those  
23 related to the circumstance of the poling site that the  
24 election official had to choose. And it talks about the  
25 99 other things they did right.

1           And so there is a balance there that we're trying  
2 to achieve. And not the least of which, frankly, I should  
3 mention, there is a limitation on the resources that we  
4 have to be able to provide some kind of oversight --  
5 that's not the right word -- partnership in terms of  
6 getting feedback about the effectiveness of programs.

7           And then section 11 from the Disability Rights  
8 California letter talked about meaningful steps to  
9 increase communication concerning the implementation of  
10 HAVA. Again, this ties back to a number of organizations  
11 that provided us with similar comments.

12           And Eugene mentioned it as well, standing  
13 committees or subcommittees to look at implementation and  
14 a process. I'm not sure exactly that the administration  
15 favors having a formal structure with weekly meetings or  
16 monthly meeting. We do have a VAC, and there's a  
17 structure around that. Maybe there's interest in a  
18 Language Accessibility Advisory Committee and some  
19 structure around that.

20           But there is a challenge to make sure that the  
21 lines of communication remain open and we hear from  
22 people. And so whether something specific gets in the  
23 State Plan around something structured there, I'm not  
24 sure.

25           So did anyone else want to do something specific



1 or would we like to break now, come back at 1:30 because  
2 people are going to brainstorm a little bit over guiding  
3 principles over lunchtime?

4 MS. JOHNSON: Where are we going to do the  
5 brainstorming?

6 MS. KAUFMAN: You could do it here.

7 MR. LOGAN: I think the person who suggested that  
8 left.

9 MS. JOHNSON: The person that suggested that  
10 left. I'm not sure when she's coming back.

11 MR. REYNOLDS: Well, how about now brainstorm but  
12 give it some thought over lunch. And then we'll try to  
13 tackle that subject.

14 I'll ask the group's indulgence or preference at  
15 the outset of the meeting -- re-start of the meeting at  
16 1:30 whether they want to go to that issue right then or  
17 whether they want to save it for a little bit later and  
18 continue on the very specific step by step. Because they  
19 all -- someone also suggested -- I think it was the same  
20 person who left the room -- that perhaps we pass around a  
21 hard copy of the plan and they make some notations on here  
22 so they don't have to worry about raising some of the  
23 smaller grammatical or nuance language suggestions that  
24 they have. So we're going to do that here and pass around  
25 a draft copy and allow that opportunity.

1           And I know the people on the phone don't have  
2 that opportunity, so I apologize for that. But we'll try  
3 to go ahead and make use of that.

4           And as always, still if you have -- we'll put the  
5 same time frame in place. But the end of next week if you  
6 want to get us something specific, something jumps out at  
7 you the way something is worded in the plan, wordsmithing,  
8 you know, any changes that you want to see, make sure or  
9 shoot me a copy of something and it will be considered.

10           So with that, we can break until 1:30.

11           MS. ACTION: Sounds good.

12           MR. REYNOLDS: Thank you very much. We'll be  
13 back at 1:30.

14           (Thereupon the Panel recessed for lunch at  
15 12:18 p.m.)

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## AFTERNOON SESSION

1

2

1:39 p.m.

3

MR. REYNOLDS: We'll get started again.

4

MS. FENG: I'll start with the ones that I have.

5

So on the first page, it's a small thing, but the

6

very last sentence finally, "reinforced and expanded

7

practices regarding provisional voting." And I thought

8

maybe we could change "and" to "or." "Reinforced or

9

expanded," because you're describing not just California

10

but sort of generally. And so in some places it's

11

reinforcing, like in California. And in some places, it

12

really is expanding.

13

MR. REYNOLDS: Okay.

14

MS. FENG: So page 2, the second full paragraph

15

where you talk about AVVPAT, there's a sentence that says,

16

"Voting systems already in use will be required to be

17

retrofitted." I think it's the DRE voting systems that

18

were already in use were required to be retrofitted, not

19

all of them. So add "DRE."

20

And I should just say, by the way, although we're

21

giving you a lot of critique, Chris, I did want to

22

appreciate you for incorporating a lot of -- I would say

23

most of the comments that we gave. And we need to have

24

this larger conversation about what next. But I thought

25

that you really did a yeoman's job of trying to

1 incorporate where we were going in terms of increasing  
2 kinds of coverage of recognition of access issues and the  
3 reason why HAVA was originally implemented.

4 MR. REYNOLDS: Okay.

5 MS. FENG: I realize -- somehow I lost where I  
6 am.

7 Again, page 4, the last paragraph following the  
8 2000 --

9 MR. LEE: Are we doing page by page, or are we  
10 just going through the section one by one?

11 MR. REYNOLDS: We're going --

12 MS. FENG: We didn't have a system --

13 MR. LEE: Can I jump in? I had something on  
14 page 2. The first full paragraph at the end where it  
15 says, "to strengthen the electoral process DRE systems,"  
16 blah, blah, blah, "called for an accessible voter verified  
17 audit trail," is that completely accurate? Just wanting  
18 the AVVPAT accessibility really at the forefront or were  
19 they just wanting the AVVPAT --

20 MR. REYNOLDS: What happened, as I recall -- I  
21 was part of the Shelley administration for a little while.  
22 There was a task force that was formed on the issue of  
23 VVPAT by the Shelley administration. And Shawn Casey  
24 O'Brien, who was a member of that task force in  
25 particular, became aware of the State Plan update and

1 mentioned to me that they were really interested in  
2 accessible voter-verified paper audit trail. They  
3 appreciated the security issues. And the state law  
4 actually reads accessible voter-verified paper audit  
5 trail.

6           So maybe it's inaccurate to say that the critics  
7 of the DRE voting systems -- because you're right. It may  
8 not have been their issue. But through this task force,  
9 they came to the agreement that they would reference an  
10 accessible voter-verified paper audit trail and that's  
11 what was put in the state law that was being discussed in  
12 2005 or took effect in 2005. So that's why there's a  
13 mention of accessible VVPAT when there is a reference to  
14 VVPAT. So perhaps that needs to be looked at.

15           MR. LEE: Yeah. My suggestion there would be  
16 when you're talking about what the critics wanted, just  
17 say VVPAT. And then in the next paragraph when we're  
18 talking about what the Legislature again, and then we say  
19 Legislature adopted a VV path requirement and added a need  
20 to be accessible.

21           MR. REYNOLDS: Okay. Got it.

22           (Thereupon there was an interruption in  
23 the proceeding.)

24           MR. REYNOLDS: Sorry. That was a staff member  
25 from Secretary of State looking for Becky Martinez for a

1 moment.

2           So a second page. Got it. We're going to go to  
3 page 4.

4           Was there something on 3 that you wanted to  
5 mention, Eugene?

6           MR. LEE: I think Kathay was going to go to  
7 page 4. On page 3 you said? I'm sorry?

8           MR. REYNOLDS: Yeah.

9           MR. LEE: I don't have anything on page 3.

10          MR. REYNOLDS: Okay. Got it. So now we're on  
11 page 4.

12          MS. FENG: Bottom paragraph, "Following the 2006  
13 election cycle, HAVA implementation has continued to  
14 evolve. California undertook the most comprehensive  
15 review of" -- was it all voting systems or just DREs?

16          MR. REYNOLDS: The whole voting system, as I  
17 understand it, was subjected to the top to bottom. But  
18 the source code review was for the DREs.

19                 So let me try to see if I need some  
20 clarification. I did have some people look at this from  
21 OVTS, the Office of Voting Technology Assessment. And  
22 they did make some clarifications with respect to how many  
23 systems went through the first go-round of the  
24 top-to-bottom review and the fact that all systems  
25 thereafter were subjected to it. But let me look at this

1 last paragraph.

2 MS. FENG: I mean, this could be a finesse thing.  
3 I just wanted to make sure it's right. You don't have to  
4 get into that level of detail. I was not sure because I  
5 remember that not all systems -- for instance, Los Angeles  
6 InkaVote was not subjected to all levels of testing.

7 MR. REYNOLDS: Not during that initial go-round.

8 MS. FENG: Yeah.

9 MR. REYNOLDS: Okay.

10 MS. JOHNSON: But InkaVote wouldn't have a source  
11 code, would it?

12 MR. REYNOLDS: There's always inevitably some  
13 kind of code that's used for the purposes of tallying --  
14 capturing and tallying.

15 MS. JOHNSON: I thought the InkaVote was just a  
16 marking thing and didn't record anything. No? I'm not  
17 from L.A.

18 MR. REYNOLDS: The precinct-based reader, the  
19 PBR --

20 MS. JOHNSON: The thing that reads the ballots?

21 MR. REYNOLDS: Right.

22 MS. FENG: I'm ready to go on to page 5.

23 So 5 was just the thing that I was saying before  
24 about population and clarifying that in this sentence we  
25 should be talking about California's total population



1 gives us 53 seats.

2 MR. REYNOLDS: I have to get to that.

3 MS. FENG: But you may want to note what the  
4 voting age population is.

5 MR. REYNOLDS: Okay. That's the second to last  
6 paragraph.

7 MS. FENG: I'm ready to go to 6.

8 MR. REYNOLDS: Got it.

9 MS. FENG: So this was just minor, but the bullet  
10 point headers, for most of them, they are -- well, I'll  
11 just point out ballot complexity is the only one that  
12 seems to kind of have an adjective that is describing the  
13 problem. So --

14 MR. REYNOLDS: We're on page 6, right?

15 MS. FENG: Six, yeah.

16 So you could go one of two ways. Either you  
17 could change all the other titles so that you could -- the  
18 first one is talking about the shear number, the large  
19 number of precincts, the volume of election materials, or  
20 you could say you could just change that third bullet to  
21 ballot.

22 MR. REYNOLDS: Right. Okay.

23 MS. JOHNSON: Although isn't the one under  
24 thousands of different ballots?

25 MS. FENG: Okay. I guess I was saying sometimes

1 you do that and sometimes you don't, so --

2 MR. REYNOLDS: Okay.

3 MS. CARSON: Does it matter?

4 MS. FENG: Well, I actually was leaning  
5 originally towards it's more work, but making each one  
6 more like that ballot complexity title, which is, if your  
7 point is we've got so many precincts, then just say that,  
8 numerosity of predicts or whatever the right word is.  
9 Because it points you in the direction of what you're  
10 trying to say.

11 I don't know. Not terribly important.

12 MS. CARSON: That was my question.

13 MS. FENG: I labeled it as not important.

14 MS. JOHNSON: On the priority list, it's a three,  
15 huh?

16 MS. FENG: Definitely low.

17 MR. REYNOLDS: Okay. Got it.

18 MS. FENG: My next edit is on page 9, so I'll  
19 pause and see if anybody else has anything.

20 MR. REYNOLDS: Anybody else on the overview and  
21 introduction?

22 MR. LEE: Page 8.

23 This you Eugene Lee.

24 On the language diversity, just to make it read a  
25 little bit more correctly, add a sentence there.

1 MR. REYNOLDS: Yes.

2 MR. LEE: "Twenty-six of California's 58 counties  
3 are required to provide additional voting assistance." I  
4 would just strike the word "additional." "Are required to  
5 provide by voting assistance in at least one language  
6 other than English."

7 MR. REYNOLDS: Strike "additional." The word  
8 "additional" in added sentence.

9 MR. LEE: "In at least one language" -- strike  
10 "other." "One language other than English."

11 MR. REYNOLDS: Okay. Yeah. Got that.

12 MS. FENG: We've gotten to page 9 -- or page 8 of  
13 the overview. And we were going through edits that are  
14 sort of substantive and not just grammatical.

15 MR. LOGAN: Page what?

16 MS. FENG: I guess we could pause and see if  
17 there were any big ones that jumped out at you guys. One  
18 through eight.

19 MR. LOGAN: Of section?

20 MS. FENG: Of the overview.

21 MR. LOGAN: Oh. We were brainstorming.

22 MS. JOHNSON: I'd actually like to stop doing  
23 this and move to brainstorming before I lose energy.

24 MR. REYNOLDS: Okay.

25 MR. LEE: Chris --

1 MS. JOHNSON: Maybe we could get through this  
2 one.

3 MR. LEE: Back on the language diversity bullet  
4 point, the third line there, "pursuant to federal law" --

5 MR. REYNOLDS: Hold on.

6 MR. LEE: Suggest entering "state law" there.  
7 "Pursuant to federal and state law."

8 MR. REYNOLDS: Okay. Got that one.

9 MR. LEE: Thank you.

10 MR. REYNOLDS: So do we want to try to finish the  
11 overview and then jump to the brainstorming or just stop  
12 right there?

13 MS. FENG: We can finish.

14 MS. JOHNSON: I think we should finish the  
15 overview.

16 MS. FENG: Were there any other edits that you  
17 guys had?

18 MR. REYNOLDS: To page 8?

19 MR. LOGAN: On page 9, in the paragraph that  
20 starts, "In 2007," towards the end it makes reference to  
21 the adoption of new security procedures, use of procedures  
22 in post-election audit protocol. This isn't as big of a  
23 deal. I think it's referenced later, but post-election  
24 audit protocols are currently obsolete.

25 MR. REYNOLDS: And you're right. I tried to

1 catch that, particularly in the performance section by  
2 striking the reference. And I missed this one. So it's  
3 page 9, second to last paragraph references PENT not  
4 currently in use.

5 MR. LOGAN: That's actually on page 6 of section  
6 one, too. It goes into a little more specificity, the  
7 last sentence of the second to last paragraph.

8 MR. REYNOLDS: That was also in section one?

9 MR. LOGAN: Yeah

10 MR. REYNOLDS: What page?

11 MR. LOGAN: Page 6 of section one, last sentence  
12 of the second to last paragraph.

13 MR. REYNOLDS: Okay. We're on page 9 of the  
14 overview and introduction.

15 MS. FENG: So I don't know if my numbers match up  
16 to yours. Are we up to those bullets? Yes.

17 So this little list of bullets are the examples  
18 of things that were in place by the time HAVA first came  
19 to California.

20 MR. REYNOLDS: Right.

21 MS. FENG: So I wasn't sure -- the second to last  
22 bullet says the statewide complaint procedure 1-800  
23 number.

24 MR. REYNOLDS: Okay.

25 MS. FENG: Did we have that in place?

1 MR. REYNOLDS: Yes.

2 MS. FENG: That wasn't created -- I thought  
3 Shelley created that in order to comply with HAVA.

4 MR. REYNOLDS: No, that was already there. And  
5 maybe it wasn't as widely known to people and the language  
6 accessibility of the hotline -- let's call it the --  
7 toll-free number was improved using Title 1 funds. And  
8 there's a specific enumeration of being able to do that.

9 MS. FENG: I wasn't sure. I was under the  
10 impression we didn't have it until -- okay.

11 MS. JOHNSON: You know, the last bullet there you  
12 have it in the present tense and you have everything else  
13 in the past.

14 MR. REYNOLDS: Okay.

15 MS. JOHNSON: The extensive efforts. I may  
16 quibble with extensive.

17 MS. FENG: Maybe just efforts.

18 MR. REYNOLDS: Okay. Page 9, last bullet.

19 MS. FENG: Well, in part because if you've done  
20 all this, what did you need like 200 million for? You  
21 have to improve from something.

22 So similarly, fourth bullet point about CalVoter.  
23 I don't think we do this for anything else. So you talk  
24 about CalVoter, and there is a second sentence that says,  
25 "This system was significantly upgraded as part of the

1 State's efforts to achieve interim compliance."

2           So, again, if this is just a list of the things  
3 that were in existence at the time of HAVA's  
4 implementation, we should strike this sentence and you say  
5 it later on.

6           MR. REYNOLDS: Okay. Is that page 9?

7           MS. FENG: Page 9.

8           MS. JOHNSON: Yeah.

9           MR. REYNOLDS: Page 9, bullet four, CalVoter,  
10 strike second sentence.

11           MS. FENG: I don't know if this is -- on my  
12 draft, it's the top of page 10. It's part of the sentence  
13 that says -- the paragraph starts, "As part of its  
14 top-to-bottom review," you say something about election  
15 day voting. And I just wanted to point out -- oh, it's in  
16 the middle of the paragraph on page 10 --

17           MR. REYNOLDS: Okay.

18           MS. FENG: -- that you should go through and  
19 standardize how you refer to "election day."

20           MR. REYNOLDS: Yeah.

21           MS. FENG: Sometimes you capitalize "election  
22 day", and here you put a hyphen in between, or someone  
23 did.

24           MR. REYNOLDS: It's on page 10.

25           MS. FENG: Page 10, start of the paragraph it

1 starts, "As a part of its top-to-bottom review," kind of  
2 midway down.

3 MR. REYNOLDS: Okay. Oh, I see. Election day  
4 voting, okay. Top of page 10, election day

5 MS. FENG: Oh, right. That's interesting. That  
6 alignment is like mine, and the one that somebody printed  
7 out is different. Debbie printed out.

8 MR. REYNOLDS: Yeah. For some reason, the spell  
9 check prefers to capitalize "election day." And since  
10 this is modifying the word "voting," maybe that's why it  
11 was hyphenated.

12 MS. FENG: Well, however you decide or your  
13 system of how "election day" is.

14 MR. REYNOLDS: Okay.

15 MS. FENG: On the last page for me, this last  
16 paragraph I just found to be -- I thought that it was very  
17 awkward, because it kind of repeated again and again how  
18 things are being pursued and continue to be pursued. So I  
19 will suggest changes, but --

20 MR. LOGAN: This is the section I was going to  
21 suggest going back to page 10 where you start, "In  
22 California's initial 2003 State Plan and the 2004 update."  
23 I would recommend that we pull that out and put that  
24 almost like a preamble at the beginning of the plan and  
25 use this as a section to flush out the guiding principles.



1           I mean, if it's sort of the basis of the plan and  
2 these are the high-minded goals and priorities of  
3 California, then every section of the plan should somehow  
4 relate back to them, one way or the other. So I think  
5 that would --

6           MS. FENG: It does fit. If you were to take  
7 starting from, "California's initial 2003 State Plan," is  
8 that what you're saying?

9           MR. LOGAN: Right. Take that and move it to the  
10 beginning of the whole --

11          MS. FENG: Because you know now HAVA is six years  
12 old. So there's some flow to that.

13          MR. REYNOLDS: Okay.

14          MS. JOHNSON: And these are actually good  
15 principles.

16          MR. LOGAN: Yeah. I think these hit a lot of  
17 the --

18          MS. FENG: Barbara, who came up with these?

19          MS. JOHNSON: We did. Don't you remember?

20          MS. FENG: I remember. It was excruciating.

21          MS. JOHNSON: But we used to get together and  
22 have those meetings. They were good. How come we don't  
23 do that anymore? Everybody has different jobs.

24          MS. FENG: And everybody is tired.

25          MR. REYNOLDS: Now, if we take this piece, let's

1 call it, the start, "In California's initial State Plan,"  
2 going all the way to that last paragraph, the last  
3 paragraph then is a suggestion to take it out or --

4 MR. LOGAN: Well, that's where I think by moving  
5 this to the front it ties it to the original plan. I  
6 think then in the hole that's left there, I think that's  
7 where you want sort of an update on now after more than  
8 seven years in evaluating it, here's what we believe are  
9 the -- so a little more than just we'll continue to work  
10 on those. But now based on what we've seen and where  
11 we're at, here are the priorities.

12 MR. REYNOLDS: So leave them in as something --  
13 strike out that paragraph and bend the transition --

14 MS. KAUFMAN: To what we have done and then move  
15 on to the lofty goals.

16 MR. REYNOLDS: Okay.

17 MS. KAUFMAN: Is that what you're saying, Dean?

18 MR. LOGAN: Yeah. In other words, I'm guessing  
19 none of these are things -- I think they all continue to  
20 be goals. I think we just might want to articulate a  
21 prioritization or some areas of focus based on where we're  
22 at today.

23 MS. FENG: Some of them we're not too far off.  
24 When I read this, I thought voter registration available  
25 online, cool. We're almost there.

1 MS. JOHNSON: Voting machines easy to use and  
2 flawlessly capture reporting.

3 MS. FENG: How do we justify asking for that much  
4 more money if we didn't have some more problems to point  
5 out?

6 MR. REYNOLDS: So considering that and figuring  
7 out, okay, so you want to set the whole plan up with this  
8 starting paragraph. We know at least we go through the  
9 bullets, and then we say as California moves forward, we  
10 may want to make reference back to some of these. But now  
11 I guess is the appropriate time to talk about the  
12 brainstorming.

13 MR. LEE: This is Eugene.

14 Can I add one more comment on page ten?

15 MR. REYNOLDS: Okay.

16 MR. LEE: So in the new language describing the  
17 top-to-bottom review, the fourth or fifth line talk about  
18 the primary focus being to identify whether voting systems  
19 were sufficiently successful for voters with disability  
20 and to assess alternative language accessibility. Might  
21 be helpful to describe the latter in more detail exactly  
22 what it meant to assess alternative language  
23 accessibility. Who did the testing and the systems?

24 MS. JOHNSON: Just give more information about  
25 who did the disability access testing, but not so much

1 about the language.

2 MR. REYNOLDS: Okay. So now with that then,  
3 discussion about the guidelines and principles for  
4 future -- I have the word funding in here, but future HAVA  
5 activities?

6 MS. FENG: Registrars.

7 MS. JOHNSON: Registrars, you guys did a bunch of  
8 brainstorming. Let's hear it.

9 MR. LOGAN: We brainstormed on a lot of things.

10 MS. JOHNSON: Let's hear the brainstorming.

11 MR. LOGAN: And I'll feed you stuff after the  
12 meeting too, Chris.

13 But for me, just speaking for myself from L.A.  
14 County, I think for us what we would want to focus on is  
15 things about making the process more transparent and  
16 accountable through voter education and outreach.

17 MR. REYNOLDS: Hold on.

18 MR. LOGAN: I'm happy to send this to you by  
19 Friday next week.

20 MR. REYNOLDS: Okay.

21 MR. LOGAN: Civic engagement activities, online  
22 presence. I guess the best way for me to characterize it  
23 would be identifying methods for approaching the loftier  
24 goals.

25 MS. JOHNSON: The loftier goals being the one

1 here on page 9 and 10?

2 MR. LOGAN: The ones we moved to the front.

3 MR. REYNOLDS: Let's see if I get this right.

4 MR. LOGAN: Chris, on this I could be wrong, but  
5 I would think the Secretary would have some thoughts on  
6 these things, too. I mean, certainly if things like where  
7 to put the PENT and the voter registration proposal that's  
8 in draft form, I think those things fit here, too.

9 So I mean, I would think that internally there  
10 may be some brainstorming that's already been done here  
11 with the administration that would be fitting.

12 MR. REYNOLDS: So is where this first one -- let  
13 me do this, too. So now we see these. So afford the  
14 opportunity to vote privately, securely, and independently  
15 at the poles.

16 So then if we're talking tactically how you  
17 achieve these goals, then you would have more of a  
18 description around how those voting systems would be  
19 approved or how they would be deployed and what that might  
20 mean. Okay.

21 So the first one that you mentioned, Dean, is  
22 kind of a -- it's somewhat tactical, but kind of an  
23 overarching goal as well.

24 MR. LOGAN: Right. I can make that more  
25 tactical. I'm not sure I can do it right now.

1           MR. REYNOLDS: Because expand the online presence  
2 is certainly a tactic; right?

3           MR. LOGAN: Right.

4           MR. REYNOLDS: Anything else that -- and this is  
5 just a note to myself about describe the specific tactics  
6 to reach lofty goals.

7           Anything else people want to play off of in terms  
8 of the goals that are already articulated or that --

9           MR. LOGAN: The discussion of the advisory  
10 committee for language assistance I think would fit here  
11 somewhere.

12          MR. REYNOLDS: Okay.

13          MS. JOHNSON: That's a tactic?

14          MR. REYNOLDS: Yeah, in terms of trying to  
15 improve.

16          MR. KELLEY: I have a couple here.

17          One of the big things is going to be very  
18 critical for us and I think a lot of jurisdictions  
19 nationwide is the ongoing maintenance of our voting  
20 systems. They are aging, and the lifespan of them I think  
21 was underestimated. And that's a huge concern when you  
22 talk about in our case we have \$50 million invested in  
23 this equipment. We're one of only a few counties that  
24 still use DREs in full deployment. But these are aging  
25 systems.

1 MS. KAUFMAN: You said underestimated. Did you  
2 mean overestimated? The useful life was overestimated?

3 MR. KELLEY: Well, I think it depends on what it  
4 is, I guess. I think it was perhaps underestimated if we  
5 were in the paper environment. It was overestimated in  
6 the DRE environment.

7 MR. REYNOLDS: Okay.

8 MR. KELLEY: I think continued expansion of the  
9 capacity of vote by mail. I don't know if that goes in  
10 line with voter education and outreach, if that is down in  
11 the mechanics of producing and vote by mail and sending  
12 those out. We were able to use HAVA funds in that regard.  
13 It was a huge benefit to us, because those trends keep  
14 going up on usage.

15 MS. JOHNSON: Of course, I would add that we're  
16 concerned about the accessibility of vote by mail. So we  
17 want to make sure that if you're going to expand that you  
18 pay attention to those issues.

19 MS. FENG: Could we put or maybe come back to  
20 this and put a couple different things like vote by mail  
21 and basically say continue the expansion of options for  
22 voters.

23 MR. LOGAN: Voter options.

24 MS. FENG: And which include, and that would sort  
25 of address some groups which have concerns about vote by

1 mail. But clearly if people want that as an option,  
2 that's fine, and we can come back to what those options  
3 are.

4 MR. LOGAN: And put in parentheses (i.e., vote by  
5 mail early voting).

6 MS. FENG: Exactly.

7 MS. JOHNSON: And along those lines, too, with  
8 the having the language accessibility committee, you might  
9 want to change that to just advisory committees or  
10 something. Like look into advisory committees and then  
11 maybe give an example of the language committee and  
12 continuing the disability access. And I don't know if  
13 there would be other things there, but I don't know that  
14 we want to limit advisory committees to just one.

15 MR. KELLEY: Also -- I'll let you finish typing.

16 Looking at ways to modernize pole site  
17 operations. I think that long term electronic polling  
18 place operations voting or whenever we go down that path.

19 This goes back to the original which I think is a  
20 great goal and we achieved overseas and military voters.  
21 But I'm not sure MOVE is going to solve all that, Chris.  
22 That's why I was talking this morning about ways we can go  
23 even further above and beyond.

24 And I think the federal voting systems program is  
25 really -- the new director has taken a strong stance on



1 how we're going to deliver ballots to military personnel  
2 and doing some pilot programs on online voting.

3 MR. REYNOLDS: Okay.

4 MR. KELLEY: And then finally improving our  
5 outreach on provisional education. And that may be in  
6 line -- I like this goal of making sure anybody, eligible  
7 citizen, has the option to vote at a polling site using a  
8 provisional ballot. Especially counties that have a lot  
9 of higher education institutions, we see these trends of  
10 overuse of provisionals. So continued education.

11 MR. REYNOLDS: Sorry. Say that again.

12 MR. KELLEY: On the provisional outreach, finding  
13 ways that we can continue with this goal making sure every  
14 eligible citizen is not denied a ballot. But can we  
15 expand the education so not as many people clog the system  
16 on election day that takes away from people that are an  
17 eligible vote in that jurisdiction. Does that make sense?

18 MS. JOHNSON: Educate people better so they're  
19 not voting provisionally?

20 MR. KELLEY: Or they understand if they don't  
21 live in the state and they aren't registered in the  
22 state --

23 MR. LOGAN: Education about what it costs to  
24 process.

25 MR. KELLEY: Right.

1 MS. JOHNSON: Along those lines, I think continue  
2 just voter education activities targeting communities that  
3 are traditionally disenfranchised with voters with  
4 disabilities or voters in certain language groups. I'm  
5 not sure --

6 MS. KAUFMAN: Voters that don't normally turn  
7 out.

8 MS. JOHNSON: Exactly.

9 MR. KELLEY: Can I ask you, Chris, on the  
10 maintenance of voting systems, I think we've had the  
11 discussion before regarding HAVA funds and where that can  
12 be used for that ongoing support. I'm not talking about  
13 replacing consumables, for example. I'm talking about  
14 keeping that system going.

15 MR. REYNOLDS: That's allowable. We've made sure  
16 that, you know, Sacramento County in particular asks about  
17 that specifically. And we've continued to allow people to  
18 the extent they provide us with a claim and they have the  
19 scoring documentation for it. Some people try to put  
20 other things in this sometimes, but --

21 MR. KELLEY: Like in our case where we've  
22 expended all of our funds, you know, that's where I would  
23 be looking at these new funds that are coming out. Would  
24 that allocation be the same as it was, that same formula  
25 before?

1           MR. REYNOLDS: Yeah, that's the thing. I mean,  
2 one of the difficulties with creating a new program around  
3 something that exists now is that people are in various  
4 states of deployment and development and so on, so forth.  
5 And you want to make sure that you create an equitable  
6 program. You want to make sure it targets the need. And  
7 so it would be best, you know, from my perspective if we  
8 had a pot of money and could say to every county what do  
9 you really need.

10           Now, in theory, you can get to there when you get  
11 to the place where the HAVA money becomes more flexible  
12 and you can use it for improving administration of  
13 elections. And then in theory you talk with groups like  
14 that are represented here and the registrars and you say,  
15 okay, what are your needs in your county? And then you  
16 create a contract mechanism that really is pretty  
17 expansive and covers a lot of things and allows counties  
18 to pick and choose and they don't have to decide, well, I  
19 can only use my money for this.

20           But for right now again, I'm hung up on Title 3  
21 compliance, because that's my impression that's what this  
22 plan needs to focus on, what California needs to focus on,  
23 even though some parts of Title 3 are done and others are  
24 not.

25           MR. KELLEY: But arguably, Title 3 compliance

1 would be keeping that system in operation.

2 MR. REYNOLDS: Right. And so -- right. And the  
3 question that you raised is one that I guess we need to  
4 start entertaining now, too.

5 And the Secretary of State, the reason I put the  
6 future of voting systems hearing, was I know the Secretary  
7 of State has been planning -- I think it's been set for  
8 February 8th is going to have a public hearing on the  
9 future of voting systems. And I think they're going to  
10 have panelists and so on, so forth. But undoubtedly this  
11 seems like that would be one of the questions. And I  
12 think the life cycle is a part of what's going to be  
13 discussed.

14 MR. KELLEY: I don't want to take too much, but  
15 at the EC levels -- and it's not even on the table.  
16 There's all this discussion about how do we certify  
17 systems. How do we get new systems in R&D. But there's  
18 no discussion of sustainability on the other end and all  
19 this money they invest with.

20 And just to give you an example, we're spending  
21 about 100,000 a year right now just on keeping the system  
22 going. That doesn't include maintenance, an ongoing  
23 contract. That's just RMAs. That's fixing on site.  
24 That's taking care --

25 MS. KAUFMAN: Is that your personnel cost?

1 MR. KELLEY: That's hard cost.

2 MS. KAUFMAN: Consumables.

3 MS. JOHNSON: What's an RMA?

4 MR. KELLEY: Return authorization. Where we  
5 can't fix it on site, so we return it back to the vendor  
6 so it has to be fixed. We're learning a lot on site and  
7 actually doing a lot.

8 MS. JOHNSON: That's just on site. When you say  
9 ongoing maintenance, what would that mean?

10 MR. KELLEY: We have an ongoing contract for  
11 ongoing support maintenance, and that's really more of a  
12 licensed contract, the use of the system. But we have DV  
13 pad printers, if the motor inside burns out and we have to  
14 replace that, that's a part we have to put in and it's  
15 outside of that normal maintenance cost.

16 MS. MARTINEZ: Changing the batteries.

17 MR. KELLEY: Yeah.

18 MS. JOHNSON: So do you have a sense of how many  
19 you would need for that?

20 MR. KELLEY: Right now, it's in the neighborhood  
21 of 100,000 a year. And I see that going up. We're  
22 tracking it really closely, you know. It's like keeping  
23 an airplane going for 20, 30 years. We need to take care  
24 of this stuff.

25 And I think that when the AC uses that

1 ten-year -- has to last for ten years when you do a  
2 certification under, you know, circumstances where you  
3 have two elections every two years -- well, in Orange  
4 County, we have four or five a year. And that equipment  
5 just gets beat up. So it's ongoing care.

6 MS. KAUFMAN: I don't think Orange County is  
7 alone in that either.

8 MR. KELLEY: No, you're right. We're not.

9 MS. KAUFMAN: I think every county has water  
10 districts and the --

11 MR. REYNOLDS: Did you say that benchmark is two  
12 elections every two years?

13 MR. KELLEY: It was either that or two -- do you  
14 remember? Or two elections every other year. I think it  
15 was --

16 MR. LOGAN: I think it's every other year.

17 MR. KELLEY: For federal elections, correct.

18 But it needs to start being discussed. It needs  
19 to get out there.

20 MS. JOHNSON: Another outreach group might be  
21 youth, because I know we have a goal to try to get youth  
22 more involved.

23 MR. KELLEY: That's a good idea.

24 MR. LOGAN: I think that's a piece when I used  
25 the term civic engagement strategies which is a real broad

1 term, but I could flush that a little bit. I think that's  
2 one of the things we're trying to focus on our voting  
3 systems assessment project is to not be driven by the  
4 markets as much as actually having focus groups and  
5 working with communities, including future electorates to  
6 drive the process rather than responding to the  
7 limitations of the current environment.

8 MS. FENG: I've got two things I'd like to add.  
9 And before you type it, maybe I can articulate it and then  
10 you can see if we can re-figure.

11 So I'm thinking specifically about the Secretary  
12 of State's efforts talking to the registrars and some of  
13 our groups about addressing the voter registration process  
14 and seeing if there are ways that you can improve access  
15 at the beginning so that you can save money and also take  
16 some of the people who might have gone provisional off the  
17 provisional.

18 And so the easy way of describing it would be to  
19 improve voter registration. But I'm wondering if you need  
20 to wrap it in provisional voting, because that's the thing  
21 that's actually under Title 3. And it is true that part  
22 of it is that to the extent that a large number of people  
23 end up voting provisionally because they're not sure what  
24 happened with their voter registration. It's tied to  
25 that. And so --

1           MR. LOGAN: I think we can tie it to provisional,  
2 but I think you can also tie it to the VoteCal project and  
3 the lofty objective of online registration that the  
4 modernization and automation of the voter registration  
5 process on the front end is something that we want to  
6 facilitate.

7           MS. FENG: Right.

8           MS. KAUFMAN: And that is one of the goals of  
9 VoteCal is to allow people to check their registration  
10 online and make sure that it's been received and validated  
11 and all that.

12          MR. LOGAN: Right.

13          MS. FENG: So the second thing that I had -- and  
14 I have no idea if you're allowed to use the money for  
15 this. But it seems to me that this particular task force  
16 maybe with an expanded form is actually -- this is  
17 probably the thing that is most valuable in the long run.  
18 And it seems like if we could build in something that  
19 would promote increased communication or in a retreat  
20 thinking session where that's what we're focused on is  
21 thinking forward and doing some planning, so planning  
22 sessions with this group of people, I think we could work  
23 out a lot of issues in terms of how we move forward  
24 because you've got folks on the ground who are dealing  
25 with particular populations, different kinds of counties.



1 We have the Secretary of State.

2           So I'd love to see something built in where we  
3 don't just come together every time we have to scramble  
4 and get a plan together and then wonder, oh, well, what  
5 happened to that plan.

6           I heard something -- and this may be too  
7 specific, but I heard that CalPeek is not funded, but it  
8 is a good centralized way of training our top pole  
9 workers --

10           MR. LOGAN: Registrars.

11           MS. FENG: Registrars. And so if we could do  
12 something where we build on that, take what's already been  
13 created. We don't need to re-invent the wheel. But take  
14 something that's already created and invested in, that  
15 would be -- I would add that to the list. And I guessing  
16 that goes towards registrar training.

17           MR. KELLEY: There's a very good national program  
18 through Auburn University, which is a really good program.

19           MS. KAUFMAN: On your CalPeek sessions and your  
20 classes, there's some institutes that you have through  
21 CACAO. Do you guys ever record those and make some kind  
22 of a library that's available for self-training reference  
23 for election officials who aren't registrars but maybe  
24 deputies or assistants to --

25           MR. KELLEY: For Summer Institute, they've done

1 that, yes.

2 I don't -- Becky, do you know on CalPeek if they  
3 record or if they've recorded those sessions?

4 MS. MARTINEZ: They hadn't. There was something  
5 in the back of my mind where I think they did this last  
6 time. I'm not sure. I'm not sure if it was -- I was  
7 thinking --

8 MS. KAUFMAN: I don't know, but I was thinking it  
9 might be something productive to look at not just funding  
10 some of the sessions as you suggested, but funding  
11 building a library of those sessions in some fashion,  
12 whether it's a hard copy recording or a DVD or video or  
13 whatever that could be used for, say, there was an  
14 emergency replacement of an election official for some  
15 reason. Then they could actually do some self-education  
16 without having to wait for the next session to go around  
17 and so forth, or assistant deputies or people you're  
18 bringing up for succession planning, that type of thing.  
19 Could be nice to have a library like that.

20 MR. KELLEY: Could be on webinars that could be  
21 recorded.

22 MS. MARTINEZ: Some kind of an online session  
23 where they get credit for it, because they graduate at the  
24 end of the courses. And, you know, with these hard  
25 economic times, it's not a bad idea.

1 MS. KAUFMAN: I just like to think of statewide  
2 things that we share; best practices, educate. That was  
3 what I was reaching at the pole worker training thing. I  
4 know you guys have a great one, but look at some of these  
5 smaller counties that, you know, don't even have a video  
6 recording device, you know, that could possibly use  
7 something like that.

8 MR. KELLEY: You know, EAC is putting out some  
9 good guidelines for election officials. Have you guys  
10 seen those libraries?

11 MS. FENG: Yeah.

12 MR. LOGAN: The quick reference guides.

13 MR. KELLEY: The quick reference guides.

14 MR. LEE: This is Eugene Lee.

15 If folks could speak not a little bit more  
16 softly, it would be helpful for people on the phone.

17 MS. FENG: Speak up.

18 MS. JOHNSON: Speak up, is that what you're  
19 saying?

20 MR. LEE: Yes.

21 MR. LOGAN: It's because you're typing, Eugene,  
22 and we can hear you typing.

23 MR. LEE: I'm not typing.

24 MS. JOHNSON: We hear you typing.

25 MS. FENG: Somebody is typing.

1 MS. JOHNSON: Doing your e-mail, aren't you?

2 (Laughter)

3 MR. REYNOLDS: So --

4 MS. FENG: There is not any kind of continuing  
5 education requirements of clerks or registrars, is there?

6 MR. REYNOLDS: You guys speak to this --

7 MR. LOGAN: I think that's locally determined.

8 But I think for the most part, no, there's not. Some  
9 people do that professionally and are participants. Like  
10 Neal mentioned the national program, and that does require  
11 ongoing participation in order to stay certified. But  
12 otherwise I think it would be more a condition of a job  
13 description or employment contract.

14 MS. FENG: Yeah.

15 MR. KELLEY: And there are many that do that.  
16 They're self motivated to do that. I'm going through the  
17 Auburn program right now and it's an extensive program.  
18 It takes you several years to complete it.

19 MS. FENG: But Orange County is paying for you to  
20 go up; right?

21 MR. KELLEY: That's correct.

22 MS. FENG: So just thinking out loud, I think the  
23 idea behind -- there was both kind of a registrar and  
24 clerks academy, and then we have this idea of a pole  
25 worker academy back when we were first forming HAVA. And

1 the idea was something where the SoS built on something  
2 that had already been created. So you're not creating it  
3 entirely from scratch, but a process of encouraging people  
4 to engage in continuing education. And I don't know if  
5 it's credits or I mean -- you don't want to make it overly  
6 harsh or you provide scholarships for people to attend.  
7 But essentially you're getting people to a place where  
8 they are -- it's more uniform.

9 MR. KELLEY: If I can just add to that. You have  
10 to have a real estate license and you can practice real  
11 estate in northern California or southern California.  
12 Selling a piece of property is the same.

13 Elections are so different. And so how would  
14 you -- you know, it becomes difficult I think to  
15 standardize something like that because how is someone --

16 MS. FENG: What does CalPeek teach?

17 MR. KELLEY: CalPeek has a lot of broad courses.

18 MS. MARTINEZ: It's broad.

19 MS. JOHNSON: What kind of courses?

20 MS. MARTINEZ: Some of them will revolve around a  
21 candidacy period, a filing of nomination documents and  
22 declaration of intention, signatures in lieu --

23 MS. JOHNSON: Things that have broader --

24 MS. MARTINEZ: Right. Where we all have to do it  
25 and have to do it within a certain period and we don't

1 have discretion.

2 MS. JOHNSON: But where you have that discretion,  
3 that seems like it really widely varies.

4 MR. KELLEY: That is, and plus the language  
5 requirements varies from county to county.

6 MR. LOGAN: Voting systems.

7 MS. MARTINEZ: Voting systems, that is a big one.

8 MR. KELLEY: But I like the idea and concepts.

9 MS. JOHNSON: How about disability things like  
10 making pole sites more accessible and --

11 MR. LOGAN: I think there is a course on that.

12 MS. MARTINEZ: We do do a course on it and  
13 accessibility committee that -- outside of that --

14 MS. FENG: Come to think of it, with the census  
15 around the corner, California language requirements are  
16 going to be once again changed and updated in response to  
17 whatever the new language groups are.

18 So you could imagine that this academy would have  
19 things where, okay, boom, census has come out and now  
20 there are a lot of counties that do have to comply. You  
21 can try to re-invent the wheel or create something where  
22 some counties that have started doing it create some  
23 curriculum for sharing information and maybe you can ease  
24 the learning curve. And maybe it seems like that could be  
25 something that we could facilitate that is helping

1 counties come up to speed with federal requirements. So  
2 it's somewhat in the purview of HAVA. So section 203  
3 language requirements will likely expand to new counties,  
4 and some counties will have more languages than they did.

5 MR. KELLEY: Why didn't that ever -- six years  
6 ago, why didn't that take off, the idea of an academy?

7 MR. REYNOLDS: The way it was described in the  
8 plan, from what I heard people talk about, they were  
9 talking about having some kind of a university and there  
10 would be a curriculum and there would be this and that.

11 Well, first of all, it was tagged at about \$25  
12 million the way I understood it in the previous State  
13 Plan. The total sum of Title 1 funds was \$27.3 million  
14 or \$27.3 million. There was an expectation that you would  
15 be able to use 251 funds.

16 But if there's any question about the fact that  
17 you can't -- I mean, where they talk about election  
18 official training is specifically under those seven items  
19 I mentioned under Title 1. So I think there would be  
20 immediate punt by people to -- especially at that stage of  
21 the game. You're talking about Title 3 requirements that  
22 you haven't met yet and you want to do something that  
23 we've targeted for Title 1 funding and you want to use  
24 Section 251 for Title 3 requirements funding. Plus, it's  
25 a pretty significant undertaking. I don't know -- Auburn.

1 MR. KELLEY: Auburn.

2 MR. REYNOLDS: I don't know what they did to go  
3 through that program to create what they did at Auburn. I  
4 don't know who put it together. I know it was the  
5 election center.

6 It just seems to me like you've got several  
7 different pieces, too. You've got the facilities, the  
8 infrastructure to actually host it. Then how do you teach  
9 people something. And then you have the subject matter  
10 piece and election officials or is there some expert  
11 somewhere. And so there's all those pieces that need to  
12 be brought together and you need to create a program  
13 that's got the curriculum and it's got the when and where  
14 and how and who. I don't know what are they charging for  
15 Auburn.

16 MR. KELLEY: For each class, it's about 400 to  
17 \$500.

18 MR. LOGAN: And then your travel.

19 MR. KELLEY: If you're a member of the Election  
20 Committee. The whole program costs you after your travel  
21 12 to 15,000, the whole program.

22 MR. REYNOLDS: That's to go from the beginning to  
23 the end.

24 MS. FENG: That's actually like a real full-on  
25 academic program.



1           MR. LOGAN: To become professionally certified.  
2 And then to maintain your certification, you have to in  
3 the course of two years -- I can't remember -- you have to  
4 document that you attended a national conference. You  
5 have to take what they call a graduate level course. They  
6 offer -- after their basic curriculum they offer graduate  
7 level --

8           MS. FENG: Who is that certification recognized  
9 by?

10          MR. LOGAN: The Election Center and Auburn  
11 University Graduate School.

12          MS. JOHNSON: How long does the program take?

13          MR. LOGAN: It's self-pace. You can cram it all  
14 in in a year-and-a-half if you have the time. But  
15 realistically, it's a three-year program.

16          MR. REYNOLDS: So I think -- and I don't want to  
17 try to explain what was going on with the prior  
18 administration. But I think toward the tail they were  
19 busy with a lot of things.

20                 But so I think all these things considered, I  
21 don't know that they -- with all the planning and the lead  
22 time and all the considerations need to go into it, plus  
23 getting the funding and getting legislative approval to  
24 expend for that, it just didn't happen.

25          MR. KELLEY: I view the profession as a practice.

1 I view the profession as a practice, like a doctor.

2 MS. FENG: It's like the bar, you take continuing  
3 education. You wouldn't want to create something so  
4 onerous, because it's clear in this community you'd have  
5 to get at it step by step.

6 But if people are already members of CACEO and  
7 already taking certain classes just because they need to  
8 catch up to what's common practice, seems like that's  
9 something that's in existence and could be built on.

10 MR. LOGAN: I think there's different models for  
11 that, but I think the idea here is to lay it out in  
12 general focus and then that becomes what I was envisioning  
13 earlier where at some point whether the Secretary or a  
14 county or CACEO wants to pursue a proposal or actual  
15 program and develop it, then there's at least reference in  
16 here.

17 I know that Washington and I think Florida also  
18 have -- they're very different but have codified in their  
19 state election code a certification process that's  
20 actually run -- it's different from the ones through  
21 Auburn and actually run by a unit at the Secretary of  
22 State's Office where they do a certain level training.  
23 There's an open book course that you pass on the election  
24 code. And in Washington, two people from every county are  
25 required --

1 MS. FENG: It's an interesting concept.

2 MR. LOGAN: But that goes beyond the list --

3 MS. FENG: You know, in other professions, you  
4 have training about professional ethics. And I think  
5 clearly election officials abide by something, but whether  
6 it's ever been written down and thought through -- and in  
7 certain situations, you do have clerks that get into  
8 trouble. And so you can imagine like a whole realm of  
9 things that -- some things are specific to your county,  
10 but some things are really generally statewide, you know,  
11 here are some things that everybody should be following as  
12 standard.

13 MS. JOHNSON: Maybe that's part of the first step  
14 is identifying those things.

15 MR. REYNOLDS: So it's a very, very interesting  
16 and maybe necessary or at least beneficial thing, but --

17 MS. FENG: Not sure it would be covered.

18 MR. LOGAN: Also the kind of thing that requires  
19 ongoing funding.

20 MR. REYNOLDS: In terms of being practical, in  
21 terms of somehow meeting a Title 3 requirement, it's just  
22 a very long reach kind of hope for.

23 And then on top of that, we would probably end up  
24 charging people \$15,000 and making them travel.

25 And it in some respects, what I'd like in terms

1 of HAVA -- because when it becomes an academic course,  
2 then you begin to talk about theory. I don't know. I'm  
3 not a lawyer. But I can image lawyers who want to  
4 specialize in election law or something like that taking a  
5 course or many courses on just the Voting Rights Act and  
6 all the case law associated with.

7           So if it becomes academic like that, I'm more  
8 focused on, okay, how do I get a person to understand what  
9 they need to convey to their pole workers so that when  
10 democracy gets delivered at the polling place --

11           MS. FENG: I was thinking very much not academic.  
12 Because I thought the academy went from something that  
13 was -- it just grew into these proportions nobody knew how  
14 it got to that place.

15           And I keep coming back to CalPeek, because it  
16 feels a lot to me like the equivalent of what the State  
17 Bar does where lots of entities are certified to provide  
18 continuing education classes and you've got certain  
19 standards for what's got to be included.

20           You know, and you can imagine that a group like  
21 CACEO, since there's a professional organization that  
22 exists, could set what the standards would be. And then  
23 it could be that either you do it at a CACEO convening or  
24 Orange County says I want to host a continuing education  
25 class on how to service Vietnamese voters. We figured it

1 out. We have a glossary, blah, blah, blah. And you bring  
2 in some guest speakers from L.A. And other counties that  
3 are coming on line that have new languages, they come to  
4 that.

5           And like it's a process of sort of making it  
6 semi-official and supporting it. And in order to keep it  
7 in accord with HAVA, it could be that the SoS says, okay,  
8 here's the kinds of the areas of the curriculum that we  
9 would support. And CalPeek can go and do other areas, but  
10 we would give whatever it is, you know, scholarship  
11 funding or whatever to people who want to provide these  
12 types of classes or these types of sessions.

13           And I don't think it would be as extensive as  
14 Auburn. I'm really thinking these are like half-day  
15 weekend type things where or like CACEO convening where in  
16 a single weekend you're banging out a couple of workshops.

17           MR. REYNOLDS: And the convention --

18           MS. MARTINEZ: The annual conference and we have a  
19 Summer Institute in odd years.

20           MR. REYNOLDS: That's typically when I understand  
21 they've had the classes.

22           And I agree with you. I think what CalPeek has  
23 created is the kind of thing to do and that's why I'm very  
24 interested in talking about how do we --

25           MS. MARTINEZ: And you know, lots of registrars

1 are elected. They're county clerk-recorders, and they  
2 have the responsibility of election. But there's no  
3 guarantee at any time that the person who's elected has  
4 any election experience, because there isn't a  
5 requirement. And there is no certification that they need  
6 to carry.

7 MS. FENG: Even if they're not elected.

8 MS. MARTINEZ: It's true.

9 MS. JOHNSON: Even if they're not elected, there  
10 isn't a job description?

11 MS. MARTINEZ: Well, there is a job description.  
12 But --

13 MS. FENG: Whether they are a person who has run  
14 an election -- Los Angeles city just hired someone who  
15 doesn't particularly have elections experience.

16 MS. MARTINEZ: And they can just say it's  
17 familiar with the policies and procedures of elections.

18 MR. REYNOLDS: There was an interesting little --  
19 I don't know if people pay attention to this stuff. But I  
20 read Rough and Tumble regularly, or try to. And there was  
21 a situation I think it was Ventura County where a member  
22 of the Assembly wanted to run for a local position. And  
23 somebody said, you know, we should have some  
24 qualifications for this position. And they hadn't before.  
25 And then that person who wanted to run for that didn't

1 have the kind of qualifications they were talking about.  
2 Was some kind of a financial officer. And so they created  
3 them, and he was an assessor or something like that. They  
4 created those requirements and then prevented him from  
5 running.

6 MS. JOHNSON: Get tied up in politics apparently.

7 MR. KELLEY: You have qualifications for  
8 treasurer and assessor and district attorney obviously.

9 MS. MARTINEZ: D.A., uh-huh.

10 MR. REYNOLDS: That's the thing. In this  
11 particular case, for this particular county, it didn't.  
12 But people were saying, look, everybody else has these  
13 kinds of qualification. District attorney, you need to be  
14 a lawyer. You need to have -- so this is a threshold to  
15 get to be qualifying to be eligible to run for this  
16 office.

17 MS. MARTINEZ: County clerk does not: 18 and a  
18 registered voter.

19 MS. JOHNSON: That's it.

20 MS. CARSON: A lot of cities have no  
21 qualifications at all.

22 MS. JOHNSON: That's scary.

23 MS. MARTINEZ: Yeah, anybody can run against me.

24 MR. REYNOLDS: But for these other kinds of  
25 positions, an assessor or a financial treasurer or

1 something like that, you say, okay, I need a person who  
2 has numbers experience or budgeting experience or  
3 whatever. But those kinds of courses are offered. But  
4 there's nothing offered academically. There's not a  
5 program.

6           So what do you do when there's not that kind of  
7 infrastructure that exists for that a field that's related  
8 to an academic field that's related to the vocation?

9           MR. KELLEY: There's a lot of counties that are  
10 now including the Auburn program is desired.

11           MS. JOHNSON: It's still not a requirement.

12           MS. MARTINEZ: I think it's headed in a positive  
13 direction.

14           MR. REYNOLDS: It's been my impression that the  
15 people who are crazy enough to try to become a registrar  
16 of voters, believe it or not, are those that have  
17 experience doing it. So they're the number two person or  
18 number three person at this county and then they go to  
19 this county. Or the number one person at this county and  
20 they decide to go to another county.

21           So what I've got so far -- and this is going to  
22 go out to people. So I'm just talking more specifically  
23 to the folks on the phone, if I can get this darn laptop  
24 to do what I want it to.

25           What I got written down -- and these are just



1 notes -- is a process more transparent and accountable  
2 with voter education. And this should probably say via  
3 voter education and outreach programs.

4           Civic engagement activities; so these are the  
5 kinds of either goal oriented or tactical things that  
6 might be included in a new set of goals or tactics that  
7 describe what the advisory committee and the Secretary of  
8 State jointly agree should be the direction. Okay.

9           Expand online presence; and then again this was  
10 just a note to myself to describe specific tactics to  
11 reach lofty goals articulated.

12           SoS may want to describe post-election manual  
13 tallies. That's post-election audit mechanism.

14           Describe creation of advisory committees.  
15 Example, language accessibility advisory committee and the  
16 continuation of the voting accessibility advisory  
17 committee.

18           Maintenance of voting systems would be a very  
19 specific kind of issue. Doesn't necessarily have a  
20 tactic, but I can see where it would fit in with one of  
21 those things that the Secretary of State needs to think  
22 about and we all need to think about as we move HAVA into  
23 the future.

24           Continued expansion of vote by mail or is it a  
25 voter education description concern about the

1 accessibility of the vote-by-mail needs to be considered  
2 here. Perhaps it's just a reference to continuing to  
3 expand the options for voters and that includes vote by  
4 mail and early voting.

5           Again, these are very rough notes. So forgive  
6 me. I'm just typing away.

7           Modernizing polling place operations. Possible  
8 example, electronic poll books.

9           Overseas voters, how to go further than strict  
10 compliance with Military and Overseas Voter Empowerment  
11 Act, which I abbreviated as MOVE. So I hope people  
12 understand what I mean by MOVE Act.

13           Improving outreach on provisional voting or voter  
14 education.

15           Continue every eligible citizen gets a ballot,  
16 but make sure this right does not overwhelm the system.  
17 Try to address the root cause of provisional voting with  
18 voter education so people know I can avoid having to do  
19 provisional voting if I register in time. But also we  
20 have to make sure that people are clear that you are  
21 entitled to a provisional ballot.

22           Continue voter education targeting traditionally  
23 under represented community. Example, young voters soon  
24 to be voters, those with language needs.

25           Education and outreach about voter registration.

1 Again, tying it back to HAVA Title 3 requirements to  
2 address the root causes of provisional voting.

3           And because it may be necessary as we roll out  
4 the new statewide voter registration system VoteCal  
5 planning sessions and retreats on an ongoing basis to  
6 address issues coming up or lessons learned.

7           This may just be a continuation on the same  
8 thought for the next two, but build on existing support  
9 infrastructure for training, reference the CalPeek  
10 program.

11           Also the thoughts about memorializing some of  
12 this, create webinars that can be available, videotape  
13 training sessions, provide DVDs, have web-based materials  
14 available. There was a reference to EAC library reference  
15 guide. Creation of a library that may go on the best  
16 practices website.

17           Encourage election officials to achieve  
18 continuing education and try to achieve uniformity of  
19 training/knowledge base, maybe with some sort of  
20 certification at the end.

21           Focus on language requirements, accessibility,  
22 other kinds of issues that are addressed in HAVA and other  
23 federal election reform laws.

24           That's what I've got captured so far. So anybody  
25 want to pick up the thread, or are we interested in going

1 back to the section by section stuff?

2 MS. JOHNSON: Well, I'd suggest you send this  
3 around and that folks -- we've got to start, that maybe  
4 people can look at and either add to it or expand on it or  
5 something and get that back to you -- would you say in a  
6 week?

7 MR. REYNOLDS: Yeah.

8 MR. KELLEY: A quick question on the last one.  
9 Are 251 ones completely expended?

10 MR. REYNOLDS: No, 251 funds are actually what  
11 we're talking about today.

12 MR. KELLEY: Let me just clarify that.  
13 Specifically to upgrade pole sites to meet accessible  
14 needs; ramps.

15 MR. REYNOLDS: Oh, 261. No, as a matter of fact,  
16 I think -- I don't want to get too far out in front of  
17 this, but I think we're talking about another competitive  
18 grant round. And we would say anybody who won in one and  
19 two would not be eligible for three, because we want to  
20 try to make sure that we get as much money spread as  
21 possible.

22 We're also thinking about -- and this one is  
23 really just between us for now, please -- about trying to  
24 create some mechanism to provide funds to counties so they  
25 can send people to the regional trainings we're trying to

1 do. Because with the 261 program from the state side,  
2 we've given counties funds for the broad categories under  
3 261, generally to improve the accessibility of poling  
4 places. We've done the competitive grant thing.

5 For our side, we've updated the guidelines for  
6 creating a survey tool and checklist, but the next step in  
7 that continuum is the training sessions. And we know  
8 money is tight. Personnel are tight. So we're looking at  
9 trying to create a mechanism. First of all, the courses  
10 previously, the training sessions, there was a fee  
11 required to attend. And whatever happens, there will not  
12 be a fee for these regional training sessions for the  
13 counties. But we're also hoping to try to find a  
14 mechanism to give money to a county to send someone and  
15 then to use that knowledge in the county.

16 Let me describe that just a little bit and then  
17 what the pre-conditions are to be eligible, because we're  
18 going to get a little tough on that one. So what we're  
19 thinking is provide for the salary and benefits and the  
20 travel expenses to somebody to go to the training. Then  
21 we want them to use that knowledge and to give it to  
22 others in the county. So then pay for that person's  
23 salary and benefits to train others, okay. So if you have  
24 two days of training, you would pay for a couple of days  
25 of that. And then to pay for people going out actually

1 after the training sessions, doing survey of poling  
2 places. And then on top of that, allow for them to buy  
3 survey kits, which you need for the training sessions.  
4 You have to do the survey work. And then if there's any  
5 left over, to buy mitigation supplies.

6           Now, we don't have a ton of money. And so we're  
7 looking at something in the neighborhood of \$5,000. Now,  
8 for some counties -- oh, and only be able to send two  
9 people to the training sessions to make sure the ratio of  
10 State trainer, which will be the Department of  
11 Rehabilitation, and the students if you will is not out of  
12 whack. So we'd only allow counties to send up to two  
13 people.

14           So that would be what you would be allowed to do  
15 with the funds and that's how we hope to maximize the  
16 benefit of the training program.

17           Then, in order to qualify though, you'd have to  
18 tell us in general non-binding terms what are you going to  
19 do with any money that you have now. There are some  
20 contracts with some counties, and the funds must be  
21 expended by May 31st of 2010. The reason for that  
22 deadline is because there is a five-year use it or lose it  
23 provision that the Department of Health and Human Services  
24 came up with in the middle of everything. If you read  
25 their stuff, they're not allowed to do that. But I'm not

1 going to challenge them. I'm going to abide by their  
2 rules.

3           So we want the counties to expend the money. So  
4 tell me how you're going to get that done by May 31st,  
5 2010, in a general non-binding way. Then tell me who  
6 you're going to send to the training. Again, non-binding.  
7 Just give me the name of a person. If it changes, so be  
8 it. But think of who's going to go.

9           And then, how are you going to expend these  
10 \$5,000 in funds that we hope to provide you. Are you just  
11 going to -- the people are going to go and their expenses  
12 and salaries are going to add up to this, and we're going  
13 to have this much left over and then spend on this. And  
14 we have this much left over, so we're going to spend it on  
15 mitigation.

16           MR. KELLEY: You said within this room, but we're  
17 hosting one of those trainings March 24th. So one of the  
18 first ones. Are you talking about that type of funding  
19 within that --

20           MS. KAUFMAN: Which means I have to go.

21           MR. REYNOLDS: So what we're trying to do is  
22 trying to get a decision on this, trying to get it done  
23 because we have to deal with the administrative hurdles  
24 and then allow for the ability because the counties need  
25 to take this to the boards potentially and explain why and

1 all that stuff. So we need to get through that. And so  
2 there may be a retroactive nature to reimburse them.

3 In other words, my training session is March 2nd  
4 and I send my people there, but I can't get my board to  
5 approve this until April. You would still be able to go  
6 back and pay for the costs you incurred.

7 MR. KELLEY: I got you.

8 MR. REYNOLDS: Okay. Sorry. We got off on an  
9 accessibility issue.

10 But that's one of those areas where there has  
11 been -- Congress has been appropriating those funds, too,  
12 so we hope to continue to be able to provide.

13 MS. JOHNSON: Just another side note of that.  
14 The State of State's VAC Committee has been involved in  
15 looking at the survey tool and the guidelines that go  
16 along with the survey fool. We haven't looked at the  
17 training curriculum at all.

18 MS. KAUFMAN: Heavily involved.

19 MS. JOHNSON: We've been heavily involved in  
20 those two aspects.

21 MR. KELLEY: I know because I think we just  
22 recently sent in our comments on pole site checklist.  
23 Does that go back to the VAC?

24 MS. JOHNSON: I don't know. I forgot the  
25 process. I don't think we set it up that way. I think we



1 set it up if there was something really controversial  
2 based on what the VAC wanted, they would want to see it  
3 back. But if it was just nuance things, rely on Chris and  
4 other staff to let us know.

5 MR. REYNOLDS: It becomes difficult to coordinate  
6 the communications with the VAC, which does have some  
7 county representation, and then coordinate communication  
8 with the counties which have to implement.

9 So, I mean, we're trying to do that and  
10 communicate with Department of Rehabilitation about what  
11 needs to be done. We can create an endless loop of here's  
12 what we have now, comment on this. And this group; we  
13 want to make sure that this group sees this group. So  
14 what we did was we got to the point where we said, okay,  
15 everybody is commenting, so we're going to collect all  
16 those comments and try to be done with them in a fell  
17 swoop.

18 So do we want to try to get back in the time that  
19 we have remaining to us -- I have this document such as it  
20 is. It will be sent to everyone. It will have at the  
21 beginning the notes that I've taken from the  
22 brainstorming, if you will, that the groups had about  
23 future guidelines and principles for future HAVA  
24 activities. And at the end of that, you will see goals  
25 already stated in draft State Plan. So be aware that all

1 I'm doing is replicating those for your quick reference  
2 purposes, because those are already in there. Whether  
3 they're in the right place or not I've already heard  
4 comment about.

5           And these would actually be something that would  
6 stand. So if you have comments about wordsmithing those,  
7 do let me know about that.

8           But, again, what would happen is this would be  
9 potentially the very first comment would be that in the  
10 State Plan in 2003, the Secretary of State talked about  
11 these goals. And then the transitional paragraph would be  
12 about now having had experience with HAVA implementation,  
13 this is where we're headed next. And that's where the  
14 brainstorming stuff comes in. Okay.

15           So we're all clear?

16           MR. LOGAN: Chris, what I'm going to recommend --  
17 and I'll put it together and send it to you -- is that at  
18 the conclusion of that brainstorming thing that it  
19 referenced the fact that I think it would be under section  
20 ten will be the description of a grant program where there  
21 would be some allocation of the ongoing funding that would  
22 be set aside for a local grant program for activities --  
23 competitive grant program for activities related to these  
24 types of activities.

25           MR. REYNOLDS: Right.

1           MR. LOGAN: And I'll provide some language. I  
2 just offer that. I think that probably would fall under  
3 the second page. It would be part of the funding.

4           MS. KAUFMAN: Rather than necessarily  
5 characterizing it as a competitive grant, maybe a grant by  
6 application or something? I mean, it could be  
7 competitive. But I think you want to make it vague enough  
8 that we can go any direction we need to go with it.

9           MR. LOGAN: Okay.

10          MR. REYNOLDS: And as I described before, I mean,  
11 potentially when we get to the part -- and maybe we're  
12 there now, as Neal said. I've got to explore that some  
13 more.

14          The notion that, well, with the planning that's  
15 been done, with the things that are in place now, Title 3  
16 compliance is assured, and we should recognize that and so  
17 we should have more flexibility now.

18          Setting that aside, when you do get to the point  
19 where there's flexibility, as I said, if you were to pull  
20 together groups of people and say, okay, there's more  
21 flexibility now, including the administration of  
22 elections. In your view, what is the need? And so what  
23 does that represent? What do we need to do to improve the  
24 administration of elections? And then you could do  
25 competitive grants. There's advantages to that. Try to

1 get people to think innovatively and do something  
2 different.

3           Or you do a per capita. We have a certain amount  
4 of money. You distribute it per capita based on voting  
5 age population. And you say these are the broad  
6 categories. And you take all the input about what needs  
7 to be done and you've said to counties, you have to do it  
8 within these broad categories. More like a 261 approach.  
9 And that would give each county the flexibility without us  
10 having to worry about this or that or conducting a  
11 competitive grant programs. There's winners and losers  
12 with competitive grants. And we don't like to see losers.  
13 And everybody feels badly about it. But there's rules  
14 with respect to the way you have to conduct competitive  
15 grant programs. So that gets in the way sometimes.

16           MS. KAUFMAN: And there's pluses and minuses with  
17 the allocation and population, because you get little  
18 Alpine County with 900 voters and they have to buy an  
19 \$80,000 voting machine.

20           MR. REYNOLDS: Central tabulator.

21           MS. KAUFMAN: On \$8,000 worth of allocation.

22           MR. REYNOLDS: Yeah. And so that's right.  
23 There's pluses and minuses to per capita and competitive  
24 no matter what you look at. And you can address some of  
25 them with things like we're going to create a floor.

1 But --

2 MR. LOGAN: Also somewhat dependant on the pool  
3 of dollars you're looking at in terms of these pros and  
4 cons that are impacted by that.

5 MS. KAUFMAN: I think it's better if you don't  
6 characterize what type of grant program it would be, other  
7 than just by application by need to be determined. That  
8 kind of thing might be better.

9 MR. REYNOLDS: Okay. It's ten after 3:00 now.  
10 It seems unlikely that we would be able to get through the  
11 plan going section by section. However, I want to bow to  
12 the will of the Committee. Continue to push ahead on  
13 section by section, or do we break now and you understand  
14 and I understand that I'm going to be getting things of a  
15 specific nature that we discussed with respect to the  
16 overview and introduction section, and I'll deal with  
17 that, and there's also still to come this goals.

18 Now, if we decide to break now, what I would  
19 suggest -- again, the will of the Committee -- that you  
20 have until the end of next week to give me your  
21 brainstorming on the future of HAVA. Let's call it that.  
22 That's the goals and principles issue. And that you would  
23 have until the end of the week after that to give me your  
24 specific edits as we described for overview and  
25 introduction section.

1 MS. KAUFMAN: Maybe for the whole thing.

2 MR. LOGAN: Or any other sections we didn't get  
3 to today.

4 MR. REYNOLDS: I would prefer that people -- I  
5 want to make sure that I have a hard fast deadline about  
6 the future stuff, because I think that one -- again,  
7 you're talking to Chris Reynolds of the Secretary of  
8 State's Office. You're not talking to the Secretary of  
9 State. And there's some thinking and there's some  
10 considerations that I'm not the only person involved in  
11 the internal process of making determinations about what  
12 the State Plan should say.

13 So that direction about this is the future of  
14 HAVA. That, to me, seems to be one of those issues where  
15 there would be the most kind of discussion at the  
16 Secretary of State's office. So I'd like to see that  
17 first. I'd like to see that by not this Friday but the  
18 following Friday, which is February 5th. And when I send  
19 out this document, the notes I took, I would specify  
20 that's the deadline.

21 And then if it's the 5th, it would be the 12th  
22 for giving me any other edits that you have for on a  
23 section by section basis.

24 And try to be as specific as possible and give me  
25 specific language if possible around those issues that

1 would be due on February 12th.

2 MS. FENG: And, Chris, you would probably be able  
3 to e-mail to us the thing that you're typing out by the  
4 end of today?

5 MR. REYNOLDS: No problem. If we break now, I'll  
6 get it out to you by 3:30.

7 MS. FENG: I'm just wondering since we have some  
8 groups that are here already if we want to pick a day  
9 where we get on a conference call amongst ourselves and  
10 flush this out. And if there's anybody who wants to take  
11 a first stab at taking that list and formatting it in such  
12 a way where it gets closer to the language that would fit  
13 with and easily be insertable, we could do that.

14 But that would then at least get us all to a  
15 place where we're doing a little bit of homework and we  
16 get something to you by Friday.

17 So I'm looking at the registrars. And out of  
18 respect for your busy schedules, what's doable between now  
19 and next Friday?

20 MR. KELLEY: I have an election on Tuesday.

21 MS. FENG: So you're cool with drafting the  
22 language?

23 (Laughter)

24 MS. FENG: Tuesday is usually not that busy,  
25 right?

1           MR. KELLEY: Not that bad unless there is an  
2 election.

3           But that being said, I would be glad to  
4 participate towards the ends of the week.

5           MS. CARSON: The end of --

6           MR. KELLEY: After the second. So --

7           MR. LOGAN: So I think your window of opportunity  
8 is the third and fourth.

9           I'm assuming you'll take individual as well as  
10 collaborative feedback.

11          MR. REYNOLDS: Whatever comes in to me by  
12 February 5th is what I will be --

13          MR. LOGAN: I guess I'd like to -- no. I'd just  
14 like to reiterate I hope -- and I know you've had this  
15 conversation internally, but I would hope that there would  
16 be some suggestions coming back internally from the  
17 administration, too, that would fit the future standpoint.  
18 I know the Secretary has some visions of future elections,  
19 and it would be helpful for all of us to be aware of.

20          And I will commit -- I was just looking at the  
21 list of members who aren't on the phone or here today. I  
22 will commit to touching base with Rosalind Gold and  
23 Michael Alvarez to try to encourage them participate as  
24 well.

25          MR. REYNOLDS: Thank you.



1 MS. FENG: So is the third or fourth --

2 MS. CARSON: Fourth is better for me.

3 MS. FENG: How long do we think? Like two hours?

4 One hour? If we have a draft --

5 MR. KELLEY: You're talking about specific edits  
6 within the sections; right?

7 MS. FENG: I'm actually talking about the  
8 brainstorming. Specific edits are just --

9 MR. KELLEY: An hour?

10 MS. CARSON: An hour, yes.

11 MR. LOGAN: An hour preferably with sending  
12 out --

13 MS. FENG: How about something like 9:30 to  
14 10:30?

15 MS. JOHNSON: Can I interrupt for a minute? What  
16 are we doing?

17 MS. FENG: 9:30 to 10:30 on February 4th is the  
18 date we're looking at to try to pull together a conference  
19 call to talk about the forward-looking ideas so that we  
20 can take what Chris has drafted, come up with a cleaner  
21 version, share it with the whole group, and then on  
22 February 4th talk about it. Hopefully we're tweaking  
23 it --

24 MS. JOHNSON: What time?

25 MS. FENG: You name it, because it's really --

1 MS. JOHNSON: My entire day is screwed that day.

2 MS. FENG: Screwed that day. Okay.

3 MS. JOHNSON: Unless you want to do it from 8:00  
4 to 9:00 or something, which doesn't thrill me  
5 particularly. If we can pick a different day, I'd rather.

6 MR. REYNOLDS: So try to recognize that people  
7 are -- they probably have done more work on specific  
8 edits, because they've seen that. This concept of the  
9 future of HAVA is new.

10 I'll flip around the deadlines if that helps and  
11 say you have to get me your specific edits by February 5th  
12 and you have to give me your brainstorming/future of HAVA  
13 stuff by the 12th. Does that help at all?

14 MS. FENG: That certainly does.

15 MS. JOHNSON: It helps me, because I have  
16 availability the 8th and 9th and 11th for us to do a  
17 conference call.

18 MS. FENG: You are available 8, 9, and 11?

19 MS. JOHNSON: Uh-huh.

20 MS. FENG: What about February 8th?

21 MR. LOGAN: February 8th in the morning several  
22 have us will be here for a public hearing.

23 MR. REYNOLDS: That's right. That would be the  
24 future of voting systems.

25 MS. FENG: February 9th.

1 MR. LOGAN: I can do.

2 MR. KELLEY: The 9th is okay.

3 MS. FENG: Not a good day for you, Dean?

4 What about February 5th?

5 MS. JOHNSON: 4th and 5th are both out.

6 MR. LOGAN: 10th is good.

7 MS. JOHNSON: 10th is not so good for me. We  
8 have the VAC meeting.

9 MS. FENG: Morning? Your thing is in --

10 MS. JOHNSON: I could cancel what I'm doing in  
11 the morning on the 10th, if that works for everyone else?

12 MS. FENG: 10th, should we say -- like we could  
13 make it a little bit earlier just so it doesn't intrude  
14 into your day too much.

15 MR. KELLEY: 9:00 to 10:00.

16 MS. JOHNSON: 9:00 to 10:00.

17 MR. REYNOLDS: Sorry, Eugene?

18 MR. LEE: How about the 11th?

19 MS. FENG: I think the problem is that we're  
20 trying to get something to Chris by the 12th. And so, I  
21 mean, we could do it on the 11th. I'm just trying not to  
22 have it where we have a situation where people have great  
23 ideas but, you know, we're not pulling it together more  
24 than a day beforehand, which maybe that's all that we were  
25 going to spend anyways.

1 MS. JOHNSON: I like the 10th, 9:00 to 10:00. I

2 think that seems fine.

3 Eugene, that doesn't work for you?

4 MR. LEE: Not ideal. But if it works for

5 everyone else, that's fine.

6 MS. CARSON: Well, Kathay is leaving.

7 MS. JOHNSON: How about anybody else on the

8 phone? Ana?

9 MR. REYNOLDS: I think we lost -- somebody  
10 departed.

11 MS. FENG: So the 10th, February 10th at -- is  
12 earlier any better for you, Eugene? 8:30? No.

13 MS. JOHNSON: Is later better?

14 MR. LEE: I might have to get off early.

15 MS. JOHNSON: Is later better?

16 MR. LEE: No. The issue is it's a packed day.

17 MS. FENG: Okay. Well, how about if we do this.

18 Since we're looking around the room and this may  
19 be the only window, even though it's not the best for  
20 everybody, at least we know we get a lot of folks on. And  
21 I will schedule the call.

22 And then, Dean, is it possible for you and me to  
23 work on a draft?

24 MR. LOGAN: Sure.

25 MS. FENG: You haven't got a special election

1 around the corner?

2 MR. LOGAN: No, not this week.

3 MS. JOHNSON: I'd be interested in helping with a  
4 draft, too, just on the disability issues.

5 MS. FENG: Yeah. I'm fine with anybody. That  
6 would be fantastic.

7 MR. LOGAN: So you'll send out an e-mail on that?

8 MS. FENG: Yeah, I will.

9 MR. LOGAN: Is that something, Chris, where we  
10 could use your conference call line?

11 MR. REYNOLDS: Well, no.

12 MR. LOGAN: Okay.

13 MR. KELLEY: Not until the Title 3 compliance.

14 (Laughter)

15 MR. KELLEY: Sorry, Chris.

16 MS. CARSON: How many people have Skype?

17 MR. LOGAN: I have Skpye. I don't know how to  
18 use it, but I have it.

19 MS. FENG: Okay.

20 MR. LOGAN: So you'll handle the logistics?

21 MR. REYNOLDS: All right. So then --

22 MS. JOHNSON: The three of us will connect at  
23 some point on the draft.

24 MS. FENG: If I can borrow somebody's pen,  
25 because this one ran out of ink.

1           MR. LOGAN: Again, I think Chris has also agreed  
2 to take individual input, too. So obviously whatever  
3 comes to them, they're going to have to synthesize and run  
4 it through their chain and all that. Anybody who can't  
5 participate in that should still --

6           MR. REYNOLDS: Right.

7           MR. LOGAN: -- put their thoughts together.

8           MR. REYNOLDS: So here is roughly speaking.

9           This afternoon, I will send out the notes in a  
10 very rough, but I think I've described them a couple times  
11 that were put together as we discussed this. And those  
12 will go out to the members of the Advisory Committee. And  
13 they will have until February 12th to give me thoughts on  
14 the future of HAVA, the brainstorming piece. And I will  
15 ask in that same note that people give me their specific  
16 edits to section by section, again as specific as you can  
17 get, with proposed language if you can for the rest of the  
18 document. And I will ask for that by February 5th.

19           Thank you all very much. Appreciate it.

20           (Thereupon the Hava State Plan Advisory Update  
21 Committee meeting adjourned at 3:21 p.m.)

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CERTIFICATE OF REPORTER

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of February, 2010.

TIFFANY C. KRAFT, CSR, RPR  
Certified Shorthand Reporter  
License No. 12277