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Ms. Debbie O'Donoghue

Ms. Kay Kaufman

Ms. Jane Howell
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MR. REYNOLDS: Hi. This is Chris Reynolds.

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

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

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

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

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

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

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

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

We have Kaye Kaufman, who works closely with me
on HAVA activities.

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

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

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

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

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

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

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

So with that, Margaret.

MS. JOHNSON: I'm Margaret Johnson with
Disability Rights California.
MS. CARSON: Chris Carson, League of Women Voters.

MS. FENG: Kathay Feng with California Common Cause.

And I need to borrow a pen.

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

MR. REYNOLDS: On the phone?

MS. ACTION: Ana Action with FREED Independent Living.

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

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

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

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

I'm hoping that in large measure this can be the last meeting calling people together in Sacramento or some other location for a face-to-face meeting to discuss the plan, try to at least get very close to where we would consider to be a final product. There may be a need to
coordinate some additional additions, edits, language hereafter, but hopefully can do that by e-mail. And from there, the plan gets finalized. It gets published and is available for at least 30 days for public comment.

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

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

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

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

MR. REYNOLDS: I don't have specific dates. For
instance, supposing that there's a lot of input today that
we receive and a lot of edits, I would anticipate that I
would need to probably continue to work with the group and
then at some point have a final product to give to the
Secretary of State for consideration. The folks here have
been looking at the plan. But they would need to have a
final input and then we would go public with it.

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

MS. JOHNSON: Okay.

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

While we've been working on this, Congress
adopted something called the MOVE Act, a Military Overseas
Voter Empowerment Act. And from our analysis up to this
point, California law either meets the requirements of
MOVE or it exceeds the requirements. Principally, it's
about maintaining some kind of electronic communication
and delivery method for military and overseas voters. And
fax transmissions qualifies as electronic transmission.
And the provisions under 3103.5 of the California Elections Code provides for that back and forth transmission of voter registration requests and ballot transmissions. So we expect pretty much to say that that's the case for California.

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

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

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

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

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

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

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

MR. REYNOLDS: Yes. If you say essentially that
we're already complying with the MOVE Act, that would suggest that we don't need to do anything else and we wouldn't allocate funds.

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

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

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

The other item --

MR. LEE: Chris, this is Eugene Lee.

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

MR. REYNOLDS: It relates to HAVA, because the
MOVE Act itself says, A, states need to accommodate for implementation of the MOVE Act in State Plans. So they need to update all -- according to the Act, the plain reading of it at least, all States need to update their State Plans to explain to the world, if you will, how they will implement the MOVE Act. That's number one.

And number two, it says we're going to authorize the appropriation of funds necessary to defray the impact. However, in the mean time, states can use HAVA funds. Now, the EAC has given guidance. I was on a conference call last week when they were describing other things, and they went into the MOVE Act. And they're going to talk more about National Association of Secretaries of State conference -- I'm not going to be able to attend, but I'm sure they'll have written materials. But the guidance they provided thus far is if you are a state that has not yet met Title 3 requirements, you can use up to the minimum requirement payment allotment to cover the cost of the MOVE Act.

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

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

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

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

Does that answer the question?

MR. LEE: Yes. Thank you.

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

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

For instance, we were able to get through the bidding process for the VoteCal project. Principally what held up the process on the front end was the 2008 election. And then there was the desire to know more about what the VoteCal project was going to cost and then there was also -- there are also these two things that have happened if you will. One was the adoption of the MOVE Act. And the other was the next item I'm going to mention, which is the allocation of additional funds. But there's no deadline. That's the short answer.

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

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

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

MS. JOHNSON: What's being held in reserve?
MR. REYNOLDS: At that point, it was about $63
million.

MS. JOHNSON: And what was that composed of?
MR. REYNOLDS: That's the interest earned and the new allocation of funds.

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

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

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

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

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

By the reason of thinking about a reserve is we
don't know all the issues that might come up with respect
to voting systems, which is a Title 3 requirement. We
don't know all the issues that might come up with respect
to VoteCal, although things look promising right now. And
there's when a state does fully comply with Title 3, the
money becomes more flexible. And I'm sure there are rules
and restrictions that go along with the loosening of
restrictions on HAVA funds.
But in theory, when we get to the point where VoteCal is fully implemented and if there are funds that have not been dedicated to a specific purpose, you could use those for improving the administration of elections, which is a broad term. So it would be easier to respond to individual county needs or to consider other types of programs, because it's not strictly about Title 3 mandate.

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

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

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

MR. REYNOLDS: Correct.

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

MR. REYNOLDS: No.

MS. JOHNSON: Okay.

MR. REYNOLDS: Let me back up. What we started with --

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

MR. REYNOLDS: What we started with was $264.2 million. There was a decision made working with the counties and working with the Legislature to devote $195 million of that 264 to voting system upgrades. Contracts
were executed to that effect and are still in place.

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

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

MR. REYNOLDS: Correct. It was anticipated --

MR. LOGAN: Allocated to the counties.

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

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

MR. REYNOLDS: Contractually allocated to the counties.

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

With respect to voter education, it's really important for us to help voters understand the provisional voting rights or whatever it might be. But the EAC and
the Disability Rights California letters suggested a link
to this information, which I'm sure we'll do in the final
plan, but they opined that voter education of pole worker
training expenses, the allowability of the use of these
funds for that purpose, is very limited. So we now have
the restrictions for the voter education of pole worker
training. Counties have indicated that -- at least some
counties have indicated that that's a need that they would
like to meet, but we can't really get there until we get
to the point where Title 3 requirements have been met and
now we have more flexibility around the funding. So
that's one point. But all that's by way of explaining
$264 million, $195 million for contracts for voting system
upgrades principally.

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

MS. JOHNSON: Sixty five --

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

MS. JOHNSON: You get --

MS. KAUFMAN: Original allocation.

MS. JOHNSON: One-ninety-five and 65 equal 264,
is that what you said?

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

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

MS. JOHNSON: Where's the reserve?

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

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

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

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

MS. FENG: You were earning interest on the 65 million and on the money that you haven't given to counties so --
MR. REYNOLDS: Right. We were earning interest on the $264 million, because the states get the money and they're to deposit it in an account and we deposit in an interest-bearing account. And the counties get allocated money on a reimbursement basis.

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

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

MS. JOHNSON: And the interest is --

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

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

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

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

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

MR. REYNOLDS: The new money that's in this plan includes the 35 to $36 million in interest. It also includes $24 million that's been allocated by --
appropriated by Congress in 2008/2009. In order to actually get that money, we have to complete the State Planning process and certify that we're meeting all the federal laws that we've done a State Plan and so on and so forth.

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

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

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

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

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

MS. CARSON: When we finish this.

MR. REYNOLDS: Right.

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

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

MS. JOHNSON: The certification of what?

MR. REYNOLDS: Certification that you are meeting
all applicable federal laws relating to elections, like
Voter Rights Act, NVRA, UOCAVA, Uniform Overseas Voter --

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

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

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

MR. REYNOLDS: No. No. No.

MS. JOHNSON: No?

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

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

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

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

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

MR. REYNOLDS: Correct. And as Kathay just
mentioned, what happened was as we were developing this
plan, Congress did appropriate or had appropriated money
in 2008/2009 let's say, and we were aware of those funds
and that this would be the money we would be eligible to receive. So that's the $24 million. But they have also subsequently while we were developing this plan appropriated $7.9 million -- almost $8 million. They appropriated more than that. That's California's share of what they appropriated, because the money is allocated to all the states on a per capita basis roughly.

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

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

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

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

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

MR. KELLEY: Chris, on the Title 3 requirements,
we know what the costs are going to be, right?

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

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

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

I think principally what it ties back to is the Memorandum of Agreement with the U.S. Department of Justice which said you put in place this interim solution, which we refer to as CalVoter, and you will forestall us, the U.S. Department of Justice, from taking enforcement action against the State, enforce compliance. But you must work toward implementing/deploying a fully compliant voter registration database as required by Section 303 of HAVA. That's what we were doing right now with VoteCal. So the question of whether you can assert Title 3
compliance when that is not yet in place is interesting.

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

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

MR. KELLEY: Maybe that's a --

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

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

Now, that creates issues with respect to counties that have expended funds and counties that haven't expended all their funds and, you know, what is the need and how do you identify it and how do you create something
equitable. I'm just saying that there is a possibility
that there might arise issues that are directly related to
Title 3 requirements.

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

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

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

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

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

MR. KELLEY: Okay.

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

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

The other unknown is, okay, if we do say devote this to a specific purpose, what is that purpose? And
what are the rules around how to craft a program for that?

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

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

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

MR. REYNOLDS: And I guess the State Plan update, which is what we're doing right now, has to be first and foremost what has been done. We need to tell -- it's a part of -- and you can see this if you read the sections of HAVA. It says, what did you do to meet the requirements? And so you really do need to explain what has been done so far. So that kind of is a first
Secondly, the plan has to be about Title 3 requirements, has to be about meeting Title 3 requirements until such time as you've met Title 3 requirements. So that's what this is focused on. And what we're saying in the plan is to meet the Title 3 requirements for voting systems under Section 301, $195 million has been allocated to the county. And if someone were to say to me, well, what's going on? I would say the status is that the counties have met the voting system requirements. Every county has in place a system that is meeting HAVA requirements, but that doesn't mean that they're done yet necessarily. Some counties are still working on a ultimate solution, although they have something of an interim solution, just as we do with the database. Our database is recognized, however, as an interim solution by the U.S Department of Justice and not compliant. And so we have to keep working towards compliance. So what are you doing? $195 million for contracts for the counties for voting systems, that's 301. 303 is about the statewide database, and we're in the design phase and so on, so forth. 302 is about provisional voting rights, which have already been provided for in California for long
before HAVA, and voter information at the poling place which similarly has been provided for in California for a long time.

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

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

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

But I still think that within a $70 million budget that leaves quite a bit of room for things like pole worker training or voter education or voting system things that are related to voting system implementation. And I think, you know, maybe what we should do is have some unspoken benchmarks for when we're trying to get all
this together so that we can work internally towards those deadlines.

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

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

And, see, that's another part of what makes this whole dynamic of planning difficult is because you have to
do your State Plan and you need to coincide with legislative priorities to some extent, so on, so forth.

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

MS. FENG: Let me ask a question.

Go ahead.

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

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

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

MR. REYNOLDS: It's in the State Plan. I'd have
to go back and look at the figures. In terms of there was some Title 1 funding that the Legislature directed us -- I believe it was about half a million dollars that the Legislature directed be appropriated for the specific purpose of source code review.

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

MR. REYNOLDS: Actually --

MS. FENG: Or Title 1.

MR. REYNOLDS: -- it was Title 1 expenditure.

We're dealing with different pots of money to do certain things.

What we're dealing with here in the State Plan is Section 251 money. And that money was authorized again under Section 251, and that money is called requirements payment money. Well, what are the requirements? The requirements are Title 3 requirements. And there's three: Section 301 -- broadly speaking -- Section 301, voting
systems; Section 302, which is a combination of voting education which means specifically information posted at the poling place and provisional voting; and then the third one is Section 303, which is the state-wide voter registration system, or VoteCal.

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

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

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

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

MS. JOHNSON: I see. Okay.

MR. REYNOLDS: What we do need to describe -- and it's a particular section of the State Plan. It does describe, okay, we did a top-to-bottom review. We provided for some voter education. We provided for some pole worker training oversight observations. We provided for certain things using Title 1 funds. And those are spelled out in the State Plan as it's currently drafted. So you do have to mention those. But what the plan is supposed to be about is how are you going to -- and then there's 13 specific sections. But principally what you're really talking about is how are you going to meet the Title 3 mandates? How are you going to -- and this is perfectly understandable when you're thinking about HAVA from its inception. It gets a little murkier as you go down the road. Because it becomes a lot about, as Dean mentioned or I kind of expounded upon, what did you do? And so I want to make it clear to everyone who looks at this from the EAC to the public to the groups you represent and here at the Secretary of State's office that we are meeting the Title 3 requirements.

It raises a great question about where are you in Title 303. And, again, I guess what I'm trying to say is, is there a deadline for getting this done? No, but I'm
kind of interested in getting it done, because it makes us eligible for funds. And we may be able to flesh things out and make determinations. And we may even be able to move ahead with things without having to amend the State Plan again if we were to do something like a planning effort in the future if even after this plan is done and the money has been allocated. And if it required a State Plan update, so be it.

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

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

But I think that the representative groups on this Advisory Committee, including local registrars who some of those planning mechanisms that have happened in the past have been impacted by the top-to-bottom review and impacted by interpretation of the advisories from the
EAC, has changed that playing field. And so I guess again as a planning document, I think there's value to taking it to the next level.

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

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

MR. REYNOLDS: Right.

MR. LEE: This is Eugene Lee.

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

And I wanted to support that coming at this from another angle. When I look at the section of HAVA that
requires states to adopt the plan, Section 254, I would read that to say there's actually some sort of obligation to say, well, we're going to do beyond Title 3. So the language in Section 254 talks about how the plan shall describe how the State will use the requirements payments to meet Title 3 requirements and, if applicable, to carry out other activities to improve the administration of elections.

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

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

MR. REYNOLDS: And, Eugene, I'm going to get real bureaucratic for just a minute, but then I'm going to come back to the issue that really is at the heart of this, I
When the Section 254 refers to other things to improve the administration of elections, if applicable, that means are you going to use minimum requirements payment money? And what are you going to do with it? And so that's the if applicable. Because the State doesn't have to exercise the option of having a minimum requirements payment. And minimum requirements payment is used for improving the administration of elections. That's a bureaucratic answer to what you're saying.

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

However, what you said, Dean, was that -- I think -- was that perhaps there are some guiding principles and suggestions that could be included in the description of the fact that you're going to have some
funds which will be used for meeting Title 3 requirements and improving administration of elections. I think that's a great idea in terms of trying to bridge where some people might be. And, again, I don't know who I'm speaking for when I say "some people." May be myself included with wanting just to put it in there and maximize flexibility and be done with it and just do what people tell you you need to do versus having more in there. So I'm open to more in there. And it would be something that I would ask for people consider.

And, Kathay, just one second longer.

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

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

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

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

I think there is a difference between minimally
meeting Title 3 requirements and activities that enhance the compliance with Title 3. And again hopefully there will be an appropriate time to get into more detail later.

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

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

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

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

MS. FENG: I think we should probably figure out
a process by which if we're going to create a separate
addition that we figure out what that process is. Because
I think today we need to get through the draft that you've
given us. That's important.

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

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

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

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

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

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

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

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

Again, I mean, if our photos and our names and
our titles are going to be published in this plan as an
Advisory Committee, to be real blunt and meant with no
disrespect, but right now I'm not sure what we've advised
you on. We sat here and heard what you're reporting in
the plan, but it doesn't necessarily represent the
objectives that I, as the election official for L.A.
County, am hoping to achieve with that money, nor does it
give me any comfort of knowing beyond what's currently allocated to L.A. County what might be available for us to more forward those initiatives. I think that's what's missing.

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

Margaret.

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

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

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

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

MS. CARSON: I agree with everybody, but my
experience even within the League is that when we start
talking about principles, unless you put a date on it,
you're going to talk about principles forever. God knows,
the League of Women Voters loves to talk about principles.
So we need to put a date on when those principles are
enunciated.

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

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

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

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

But going beyond Title 3, I don't disagree with
you, but I think it's the point at which was envisioned in
HAVA that you would go to the place that you're describing
after you've met your Title 3 requirements because that's
when you can start to improve the administration of
election.

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

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

However, I get back to the part where I agree
with you.

Again, this Chris Reynolds talking here.

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

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

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

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

But Kathay mentioned provisional voting. If there was something specific with respect to provisional voting and you said that, well, this is a mandate of HAVA around provisional voting, in theory, it could fall in the Title 3 requirements bucket. But if it goes above and beyond what is required by HAVA, you start to fall into this improving administration of elections which comes after Title 3 --
MS. JOHNSON: But aren't we talking about that?

I thought we were talking about developing principles for spending reserves after we have met. Is that --

MR. REYNOLDS: And that's where I'm agreeing.

But I'm saying be aware -- be aware that if you're thinking about a concrete program that you'd like to see put in place tomorrow, you can't get there until after the Title 3 requirements are met.

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

MR. KELLEY: Can I finish my point?

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

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

MR. KELLEY: I think probably you are, but you're
afraid the EAC is going to say your not.

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

That's --

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

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

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

MR. REYNOLDS: I feel that once we have that
system in play, we can say we have a statewide database.

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

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

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

Again, this may sound like, well, you know, you have as much certainty as you can have at this point in time, because you've got the money locked down. You've
got a schedule. And this is a crutch or it's a reason not
to go beyond where you are in this plan. But I do feel
like it meets all the things that I'm mentioning where we
don't know beyond where we are.

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

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

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

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

MS. CARSON: Yes.

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

But as far as the issue of the money sitting
there and not being expended based on what you've just
described, it seems like we could adopt the plan today and
that money is still going to sit there. So I don't think
our desire to have the plan being more meaningful and more
representative of the stakeholders on this Advisory Committee is preventing taxpayers' money from being used.

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

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

And for California specifically what I would say to people is, well, we are where we are in terms of actually having the money spent because we're waiting for VoteCal to be deployed. And the Title 3 requirements have been met. Except for that, we're going to throw the
1 switch on VoteCal.
2 
3 MR. LOGAN: But again I think there's utility to
4 being able to respond to Congress by saying, you're right.
5 We haven't expended this money, but we have a plan. And
6 we have a vision for how it's going to be expended as soon
7 as we meet that threshold that you've established,
8 Congress. So we're not saying we don't need the money.
9 Don't take it back. In fact, we have a plan for the day
10 that we flip that switch.
11 
12 MR. REYNOLDS: Right. And, again, you're saying
13 exactly what I'm saying, is there is a utility in going
14 and getting that money and having to explain if you will,
15 well, okay. You got the money and why haven't you
16 expended it? It's because of X, Y, and Z. And don't
17 worry, there are plenty of uses for those funds.
18 
19 MS. JOHNSON: So, Chris, I'm just thinking. I
20 know we were talking about everybody go back and in a week
21 provide some information on what the principles would be.
22 I mean, it would be really helpful to me to maybe spend
23 some time in a collective group throwing some of those out
24 and then maybe we can go back and provide that in more
25 detail to you. Because I would really like to hear what
26 the counties have to say in terms of how they would want
27 to spend the money.
28 
29 I know that's railroading your agenda maybe, but
maybe we could take even 15, 20 minutes to do a little bit
of brainstorming right here about what other people think
about that.

MR. REYNOLDS: I have no objection.

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

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

I completely agree with the idea of the
guidelines and how you can build on meeting those
guidelines, what is your plan for it. Are you going to
say we're going to build a ladder to the moon and these
are the people that are going to make the final plans for
that when we have that flexibility. These are the
stakeholders that need to be involved. Maybe that kind of
flexibility guideline that will allow us to move forward
and get the 2010 funding and the 2011 funding and the 2012 funding without having to bring everybody back to the table.

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

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

        MS. FENG: I like the idea.

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

        MR. LOGAN: And there are some principles listed in the draft plan, and I think they're a little bit buried. They're not set out in the front of the plan.
But I want to re-emphasize what Kathay said. A preamble is nice. It makes me feel better. But I'm also interested in some direction of the plan in terms of a process.

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

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

MR. REYNOLDS: I was thinking frankly that it would be more -- forgive me if this is buried, and we'll talk about this I'm certain, figure this out. But put it in the budget section. I mean, if you're talking about
these are the guiding principles for the future use of these funds for meeting Title 3 requirements of improving administration of election that you lay them out there. So --

MS. FENG: Okay. Cool.

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

MR. REYNOLDS: I just created a document in case people are -- when we do this here after lunch, we can just see what you got. And then I guess I would print a copy and provide it to everybody so they can take it back and get the extra week. And however people decide to do that -- one person wants to call other people, wants to call five people, want to call everybody, however that process unfolds.

MS. KAUFMAN: As far as timeline goes, the sooner we get our hands on the money, the more interest we earn.

MS. JOHNSON: That's a good point.

MS. KAUFMAN: That's incentive.

MS. FENG: Should we start with the overview?

MR. REYNOLDS: Yep.

MS. FENG: You want to just do page one?
MR. LOGAN: I wonder how people are prepared, but there's the going through one section at a time, and then there may be people who have just prepared general comments globally about the plan.

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

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

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

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

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

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

MR. REYNOLDS: Okay. But you guys got to make
sure you try to be legible and make sure you put your initials by it.

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

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

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

MS. JOHNSON: What's wrong?

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

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

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

MS. FENG: You have to go?

MR. REYNOLDS: Just to the rest room.

(Thereupon a recess was taken.)

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

Does anybody on the phone want to start? Do they have anything they want to mention by way of global overarching approach or issue?
MR. LEE: This is Eugene Lee.

I'd be happy to offer a couple thoughts.

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

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

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

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

So in the comments I provided last year, I talked
about the idea of having a standing Advisory Committees,
particularly with regard to accessibility for voters with
language needs and voters with disabilities, and kind of
along the same lines some additional language here
regarding language accessibility would be helpful.

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

MR. REYNOLDS: And this is Chris Reynolds.
I'm not sure that the administration is
interested in an implementation committee or
subcommittees. We do have a VAC, and I think there's
receptivity to a Language Accessibility Advisory Committee
as well, and those are just general comments and whether
they should be included in the plan. But I do know the
VAC is mentioned in the plan.

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

Is there anyone else here now in this room in
Sacramento who wants to talk about global or general comments?

MR. LOGAN: I have some.

This is Dean.

Just a couple of semantic ones.

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

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

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

I don't think -- I guess two things on that. I don't think the Cal EAC program necessarily meets the full scope of that objective and the Cal EAC program, just like
everything else, is hurting for funding and is at risk of not being continued. So I think that's a little bit over sold in the plan. So I think that probably should be looked at.

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

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

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

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

And I still think that from L.A. County's standpoint, and I think other counties are on board with this, that there is some potential difference in interpretation of those funding memos and also the potential to get EAC to reconsider some of the elements of those funding memos with regard to things like pole worker training and things that were originally intended to be
paid for but have now been declined based on that interpretation. So I think by putting that into the plan, it limits our ability to try to work with the EAC and the Secretary to re-look at that.

So I would suggest that we not incorporate the EAC funding advisory memos and again that we rely more on the actual act and open the opportunity for us to appeal to the EAC to re-look at that or our opportunity to attempt to convince you of a different interpretation. Not you, but the administration of a different interpretation of those memos. So I think the way it's written in the plan right now limits it, and I think that I don't see what the advantage of that is.

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

And just a suggestion that I think this is somewhat illustrated by our earlier conversation that in the use of the plan as a report of past HAVA activity, I think some sort of a summary table that details the
distribution of funds, the remaining funds, much of what
you described to us very nicely at the beginning of this
meeting would be good to have that laid out in the plan
somewhere where it's easy for somebody to read that and
understand what the original appropriation was and how it
was first allocated, that there's interest accrued and
continuing new appropriations.

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

MS. JOHNSON: Chris, I have some global things.
Just in terms of the EAC guidance, I know we
recommended that you put a link in or summarize what the
guidance was, and Dean's suggesting leaving it out all
together.

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

MR. REYNOLDS: It's just there was such emphasis
in the prior plan the budget they created had taken from various places -- and assuming that I know what they meant, but it was pretty clear -- about $70 million would have been for the voter education. That is not what happened. So I just wanted people to understand that's not what happened.

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

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

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

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

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

MR. LOGAN: But you canceled it last year.

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

MR. REYNOLDS: Okay.

MR. KELLEY: I'll add on the EAC portion, we've
received guidance on other interpretations of EAC
guidelines, inventory control, and other things. You and
I talked about this, Chris. So there are other ways to
interpret that and other ways to come to the same
conclusions at times and certainly different ones.
So I want to make sure that if we do leave it in that there is at least discussion or language that says there's other guidelines or other ways you may arrive at this information. Perhaps each county may appeal to the EAC or do our own seeking of guidance from EAC, and we've done that in the past.

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

MS. FENG: Coming back to this question of about the HAVA, the EAC guidance on how HAVA funds can be spent, sometimes you talk about -- sometimes you actually have named Secretaries of States. Like every once in a while, for instance, SoS Jones will be mentioned. Does it make sense in where it's relevant to have something -- and I'm just looking at section one of page 10, which might be one
of the examples we talked about in the EAC guidance where you could say it's the SoS's interpretation or SoS Bowen's interpretation of the EAC guidance that HAVA funding shall be used for.

MR. REYNOLDS: Well --

MS. FENG: Or the SOS's interpretation.

MR. REYNOLDS: I could bring you a copy of the guidance. I don't think it's open to interpretation.

They say if you want to spend money for pole worker training, you do it when you roll out a voting system. That's it.

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

Now, where there's some room for interpretation from our perspective is where Dean mentioned a county had the voting system. Something happened. In the case of most counties, it was a move away from all DRE to optical scan and one DRE per poling place or an additional one for
malfunction, so on, so forth. So that was considered a change in voting system. And if somebody, a county, came to us and said we needed to do some voter education/pole worker training around that, we agreed with that.

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

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

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

MS. FENG: And it allows that -- I mean, it doesn't look odd, because the SoS is on every other page. You talk about the SoS did this and that. So it wouldn't jump out at you. But it would also satisfy what I think people are articulating without having to go through this
thing about footnotes and alternative interpretations and
whatnot. It's just acknowledging --

MR. REYNOLDS: And --

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

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

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

I don't disagree on a basic level. But I think
the absoluteness of the SOS's position on it, on what it
means, may be more relevant to the background that you've
done with the EAC. So even including more of that
information that we've tried to have alternate
understandings of the guidance, but these are steps we
took and it didn't work out. I like Kathay's suggestion
of saying it's the SOS's understanding of this is what the
EAC's guidance is.

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

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

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

MS. JOHNSON: Right. And sounds like we may be
MS. JOHNSON: Did you already talk about planning performance measures?

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

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

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

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

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

And that might be a slightly more scientific way of doing it.

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

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

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

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

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

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

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

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

MS. JOHNSON: And, yeah, and I don't mean to be obstructionist about coming up with a different strategy. I didn't spend a lot of time thinking about how to do this. I just noticed that in your performance measures the only places I saw where you might conceivably capture whether people with disabilities were having trouble with the voting systems was through your looking at incident reports. And I don't really think that was an effective way of finding out whether people with disabilities are
finding the voting systems that are used a good way to vote. That's all. So that's what I'm trying to look at.

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

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

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

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

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

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

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

MS. JOHNSON: I'm not whetted to something. I just didn't think that that got at what my interest would be in seeing how people with disabilities view these systems and whether they're actually meeting the people's
needs. We're spending a lot of time trying to do these systems.

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

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

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

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

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

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

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

I just wanted to quickly throw out one thing that I think is not controversial. I hope I'm getting this
right. Eugene, you can correct me if I'm wrong.

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

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

MS. JOHNSON: That's fine.

MR. LOGAN: I'm okay.

MR. REYNOLDS: How about people on the phone? Eugene, Anna, are you okay with going for a while longer?

MS. ACTION: That's fine.

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

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

MR. REYNOLDS: Thank you. Well, you know, it's always -- when you hear a comment from somebody and then
you try to capture that comment, it's always a question of
whether you did it right. So thank you. I appreciate
that feedback.

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

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

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

MS. JOHNSON: Did you guys get it?

MR. LOGAN: No.

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

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

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

Now as we've discussed, that may be something
that needs to be finessed in some other way. So that we'll take under advisement, because I was more than happy to provide a link to that.

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

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

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

MS. ACTION: That would be fine. It would be best to go to csilp.org. There's good information there.

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

MS. ACTION: It is a little more --

MS. JOHNSON: There was a little more later on.

That was the first one I got, too.

MR. REYNOLDS: There was a reference to section two and providing a summary in the EAC guidance on voter
education and pole worker training. That is to be
finessed, but maybe not this way. I guess it falls within
what you provided here.

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

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

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

Also, the five person rule as it was called, the
desire to encourage five people to cast a ballot on the
accessible voting unit. If one person cast a ballot,
created a lot of awkwardness for a lot of different people. And there has been a change in the language used to describe what was trying to be achieved there after much discussion with county election officials. And so now it says simply that the county election official will do what is necessary or what they can or something to that effect to ensure that the privacy of the voter is secrecy of the ballot, one of those two terms is maintained. And that was the heart of the matter was that if there was only one voter who showed up, regardless of whether they were a voter with disabilities who wanted to use the voting unit to make sure they could vote independently and privately or whether it was a person who just wanted to use it, if only one person voted on that unit, then you would be able to determine that this ballot was cast by that person. It would violate the privacy of their ballot. So it's really -- if election officials have ways to address this, then that's up to them now according to my understanding of what's been changed about the use procedures.

MS. JOHNSON: Has that gone out?

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

MS. JOHNSON: Can I get a link?

MS. ACTION: Yeah. Where can we find that?
MR. REYNOLDS: I will try to get -- well, get it for the whole group.

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

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

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

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

Section 10, there was a desire for more information about what programs had been conducted here.

So I'll go back and take a look at that. That's more of a general comment and something I need to focus more on
voter education and pole worker training.

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

So there might be in some respects a disconnect between a plan that was provided to us and what the county ultimately did to some extent. And then it's difficult, too, to say with great specificity, well, this many people were reached at these venues by this county, and this many pole workers were trained by this county using this technique. So that kind of specificity may be very difficult to achieve. And I just want people to be aware that we have tried to give some basic information about X number of counties did these kinds of activities. But to try to fit it down really specifically, we could probably if we had the information provide pages and pages of what counties did. But I don't know that would be fruitful
from a State Plan perspective. So we're going to do the
best we can to balance the need to provide information
against the availability of information and the purpose of
the State Plan.

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

On the other hand, there was a pole worker
observation program -- pole worker training observation
program as well as a pole election day observation
program, and we did provide feedback to the counties. And
while you tend to focus on, well, there was a need for
more signage because it wasn't readily apparent from the
street where the poling place was that this was a poling
place, or maybe the flag could be put up, some of those
related to the circumstance of the poling site that the
election official had to choose. And it talks about the
99 other things they did right.
And so there is a balance there that we're trying to achieve. And not the least of which, frankly, I should mention, there is a limitation on the resources that we have to be able to provide some kind of oversight -- that's not the right word -- partnership in terms of getting feedback about the effectiveness of programs.

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

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

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

So did anyone else want to do something specific
or would we like to break now, come back at 1:30 because people are going to brainstorm a little bit over guiding principles over lunchtime?

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

MS. KAUFMAN: You could do it here.

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

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

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

I'll ask the group's indulgence or preference at the outset of the meeting -- re-start of the meeting at 1:30 whether they want to go to that issue right then or whether they want to save it for a little bit later and continue on the very specific step by step. Because they all -- someone also suggested -- I think it was the same person who left the room -- that perhaps we pass around a hard copy of the plan and they make some notations on here so they don't have to worry about raising some of the smaller grammatical or nuance language suggestions that they have. So we're going to do that here and pass around a draft copy and allow that opportunity.
And I know the people on the phone don't have that opportunity, so I apologize for that. But we'll try to go ahead and make use of that.

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

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

MS. ACTION: Sounds good.

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

(Thereupon the Panel recessed for lunch at 12:18 p.m.)
MR. REYNOLDS: We'll get started again.

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

So on the first page, it's a small thing, but the very last sentence finally, "reinforced and expanded practices regarding provisional voting." And I thought maybe we could change "and" to "or." "Reinforced or expanded," because you're describing not just California but sort of generally. And so in some places it's reinforcing, like in California. And in some places, it really is expanding.

MR. REYNOLDS: Okay.

MS. FENG: So page 2, the second full paragraph where you talk about AVVPAT, there's a sentence that says, "Voting systems already in use will be required to be retrofitted." I think it's the DRE voting systems that were already in use were required to be retrofitted, not all of them. So add "DRE."

And I should just say, by the way, although we're giving you a lot of critique, Chris, I did want to appreciate you for incorporating a lot of -- I would say most of the comments that we gave. And we need to have this larger conversation about what next. But I thought that you really did a yeoman's job of trying to
incorporate where we were going in terms of increasing
c kinds of coverage of recognition of access issues and the
reason why HAVA was originally implemented.

MR. REYNOLDS: Okay.

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

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

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

MR. REYNOLDS: We're going --

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

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

MR. REYNOLDS: What happened, as I recall -- I
was part of the Shelley administration for a little while.

There was a task force that was formed on the issue of
VVPAT by the Shelley administration. And Shawn Casey
O'Brien, who was a member of that task force in
particular, became aware of the State Plan update and
mentioned to me that they were really interested in accessible voter-verified paper audit trail. They appreciated the security issues. And the state law actually reads accessible voter-verified paper audit trail.

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

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

MR. REYNOLDS: Okay. Got it.

(Thereupon there was an interruption in the proceeding.)

MR. REYNOLDS: Sorry. That was a staff member from Secretary of State looking for Becky Martinez for a
So a second page. Got it. We're going to go to page 4.

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

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

MR. REYNOLDS: Yeah.

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

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

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

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

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

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

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

MS. FENG: Yeah.

MR. REYNOLDS: Okay.

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

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

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

MR. REYNOLDS: The precinct-based reader, the

PBR --

MS. JOHNSON: The thing that reads the ballots?

MR. REYNOLDS: Right.

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

So 5 was just the thing that I was saying before about population and clarifying that in this sentence we should be talking about California's total population
gives us 53 seats.

MR. REYNOLDS: I have to get to that.

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

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

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

MR. REYNOLDS: Got it.

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

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

MS. FENG: Six, yeah.

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

MR. REYNOLDS: Right. Okay.

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

MS. FENG: Okay. I guess I was saying sometimes
you do that and sometimes you don't, so --

MR. REYNOLDS:  Okay.

MS. CARSON:  Does it matter?

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

I don't know. Not terribly important.

MS. CARSON:  That was my question.

MS. FENG:  I labeled it as not important.

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

MS. FENG:  Definitely low.

MR. REYNOLDS:  Okay. Got it.

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

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

MR. LEE:  Page 8.

This you Eugene Lee.

On the language diversity, just to make it read a little bit more correctly, add a sentence there.
MR. REYNOLDS: Yes.

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

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

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


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

MR. LOGAN: Page what?

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

MR. LOGAN: Of section?

MS. FENG: Of the overview.

MR. LOGAN: Oh. We were brainstorming.

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

MR. REYNOLDS: Okay.

MR. LEE: Chris --
MS. JOHNSON: Maybe we could get through this one.

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

MR. REYNOLDS: Hold on.

MR. LEE: Suggest entering "state law" there.

"Pursuant to federal and state law."

MR. REYNOLDS: Okay. Got that one.

MR. LEE: Thank you.

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

MS. FENG: We can finish.

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

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

MR. REYNOLDS: To page 8?

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

MR. REYNOLDS: And you're right. I tried to
catch that, particularly in the performance section by striking the reference. And I missed this one. So it's page 9, second to last paragraph references PENT not currently in use.

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

MR. REYNOLDS: That was also in section one?

MR. LOGAN: Yeah

MR. REYNOLDS: What page?

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

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

MS. FENG: So I don't know if my numbers match up to yours. Are we up to those bullets? Yes. So this little list of bullets are the examples of things that were in place by the time HAVA first came to California.

MR. REYNOLDS: Right.

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

MR. REYNOLDS: Okay.

MS. FENG: Did we have that in place?
MR. REYNOLDS: Yes.

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

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

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

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

MR. REYNOLDS: Okay.

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

MS. FENG: Maybe just efforts.

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

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

So similarly, fourth bullet point about CalVoter. I don't think we do this for anything else. So you talk about CalVoter, and there is a second sentence that says, "This system was significantly upgraded as part of the
State's efforts to achieve interim compliance."
So, again, if this is just a list of the things
that were in existence at the time of HAVA's
implementation, we should strike this sentence and you say
it later on.

MR. REYNOLDS: Okay. Is that page 9?
MS. JOHNSON: Yeah.
MR. REYNOLDS: Page 9, bullet four, CalVoter,
strike second sentence.

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

MR. REYNOLDS: Okay.
MS. FENG: -- that you should go through and
standardize how you refer to "election day."

MR. REYNOLDS: Yeah.
MS. FENG: Sometimes you capitalize "election
day", and here you put a hyphen in between, or someone
did.

MR. REYNOLDS: It's on page 10.
MS. FENG: Page 10, start of the paragraph it
starts, "As a part of its top-to-bottom review," kind of midway down.

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

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

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

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

MR. REYNOLDS: Okay.

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

MR. LOGAN: This is the section I was going to suggest going back to page 10 where you start, "In California's initial 2003 State Plan and the 2004 update." I would recommend that we pull that out and put that almost like a preamble at the beginning of the plan and use this as a section to flush out the guiding principles.
I mean, if it's sort of the basis of the plan and these are the high-minded goals and priorities of California, then every section of the plan should somehow relate back to them, one way or the other. So I think that would --

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

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

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

MR. REYNOLDS: Okay.

MS. JOHNSON: And these are actually good principles.

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

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

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

MS. FENG: I remember. It was excruciating.

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

MS. FENG: And everybody is tired.

MR. REYNOLDS: Now, if we take this piece, let's
call it, the start, "In California's initial State Plan,"
going all the way to that last paragraph, the last paragraph then is a suggestion to take it out or --

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

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

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

MR. REYNOLDS: Okay.

MS. KAUFMAN: Is that what you're saying, Dean? MR. LOGAN: Yeah. In other words, I'm guessing none of these are things -- I think they all continue to be goals. I think we just might want to articulate a prioritization or some areas of focus based on where we're at today.

MS. FENG: Some of them we're not too far off.

When I read this, I thought voter registration available online, cool. We're almost there.
MS. JOHNSON: Voting machines easy to use and flawlessly capture reporting.

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

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

MR. LEE: This is Eugene. Can I add one more comment on page ten?

MR. REYNOLDS: Okay.

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

MS. JOHNSON: Just give more information about 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
MR. LOGAN: The ones we moved to the front.

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

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

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

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

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

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

MR. LOGAN: Right. I can make that more tactical. I'm not sure I can do it right now.
MR. REYNOLDS: Because expand the online presence is certainly a tactic; right?

MR. LOGAN: Right.

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

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

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

MR. REYNOLDS: Okay.

MS. JOHNSON: That's a tactic?

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

MR. KELLEY: I have a couple here.

One of the big things is going to be very critical for us and I think a lot of jurisdictions nationwide is the ongoing maintenance of our voting systems. They are aging, and the lifespan of them I think was underestimated. And that's a huge concern when you talk about in our case we have $50 million invested in this equipment. We're one of only a few counties that still use DREs in full deployment. But these are aging systems.
MS. KAUFMAN: You said underestimated. Did you mean overestimated? The useful life was overestimated?

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

MR. REYNOLDS: Okay.

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

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

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

MR. LOGAN: Voter options.

MS. FENG: And which include, and that would sort of address some groups which have concerns about vote by
mail. But clearly if people want that as an option, that's fine, and we can come back to what those options are.

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

MS. FENG: Exactly.

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

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

Looking at ways to modernize pole site operations. I think that long term electronic poling place operations voting or whenever we go down that path. This goes back to the original which I think is a great goal and we achieved overseas and military voters. But I'm not sure MOVE is going to solve all that, Chris. That's why I was talking this morning about ways we can go even further above and beyond.

And I think the federal voting systems program is really -- the new director has taken a strong stance on
how we're going to deliver ballots to military personnel and doing some pilot programs on online voting.

MR. REYNOLDS: Okay.

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

MR. REYNOLDS: Sorry. Say that again.

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

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

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

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

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

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

MS. JOHNSON: Exactly.

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

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

MR. KELLEY: Like in our case where we've expended all of our funds, you know, that's where I would be looking at these new funds that are coming out. Would that allocation be the same as it was, that same formula before?
MR. REYNOLDS: Yeah, that's the thing. I mean, one of the difficulties with creating a new program around something that exists now is that people are in various states of deployment and development and so on, so forth. And you want to make sure that you create an equitable program. You want to make sure it targets the need. And so it would be best, you know, from my perspective if we had a pot of money and could say to every county what do you really need.

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

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

MR. KELLEY: But arguably, Title 3 compliance
would be keeping that system in operation.

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

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

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

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

MS. KAUFMAN: Is that your personnel cost?
MR. KELLEY: That's hard cost.

MS. KAUFMAN: Consumables.

MS. JOHNSON: What's an RMA?

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

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

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

MS. MARTINEZ: Changing the batteries.

MR. KELLEY: Yeah.

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

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

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

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

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

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

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

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

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

MR. KELLEY: For federal elections, correct.

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

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

MR. KELLEY: That's a good idea.

MR. LOGAN: I think that's a piece when I used
the term civic engagement strategies which is a real broad
term, but I could flush that a little bit. I think that's one of the things we're trying to focus on our voting systems assessment project is to not be driven by the markets as much as actually having focus groups and working with communities, including future electorates to drive the process rather than responding to the limitations of the current environment.

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

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

And so the easy way of describing it would be to improve voter registration. But I'm wondering if you need to wrap it in provisional voting, because that's the thing that's actually under Title 3. And it is true that part of it is that to the extent that a large number of people end up voting provisionally because they're not sure what happened with their voter registration. It's tied to that. And so --
MR. LOGAN: I think we can tie it to provisional, but I think you can also tie it to the VoteCal project and the lofty objective of online registration that the modernization and automation of the voter registration process on the front end is something that we want to facilitate.

MS. FENG: Right.

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

MR. LOGAN: Right.

MS. FENG: So the second thing that I had -- and I have no idea if you're allowed to use the money for this. But it seems to me that this particular task force maybe with an expanded form is actually -- this is probably the thing that is most valuable in the long run. And it seems like if we could build in something that would promote increased communication or in a retreat thinking session where that's what we're focused on is thinking forward and doing some planning, so planning sessions with this group of people, I think we could work out a lot of issues in terms of how we move forward because you've got folks on the ground who are dealing with particular populations, different kinds of counties.
We have the Secretary of State. So I'd love to see something built in where we don't just come together every time we have to scramble and get a plan together and then wonder, oh, well, what happened to that plan.

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

MR. LOGAN: Registrars.

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

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

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

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

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

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

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

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

MS. MARTINEZ: Some kind of an online session where they get credit for it, because they graduate at the end of the courses. And, you know, with these hard economic times, it's not a bad idea.
MS. KAUFMAN: I just like to think of statewide things that we share; best practices, educate. That was what I was reaching at the pole worker training thing. I know you guys have a great one, but look at some of these smaller counties that, you know, don't even have a video recording device, you know, that could possibly use something like that.

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

MS. FENG: Yeah.

MR. LOGAN: The quick reference guides.

MR. KELLEY: The quick reference guides.

MR. LEE: This is Eugene Lee.

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

MS. FENG: Speak up.

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

MR. LEE: Yes.

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

MR. LEE: I'm not typing.

MS. JOHNSON: We hear you typing.

MS. FENG: Somebody is typing.
MS. JOHNSON: Doing your e-mail, aren't you?

(Laughter)

MR. REYNOLDS: So --

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

MR. REYNOLDS: You guys speak to this --

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

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

MS. FENG: Yeah.

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

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

MR. KELLEY: That's correct.

MS. FENG: So just thinking out loud, I think the idea behind -- there was both kind of a registrar and clerks academy, and then we have this idea of a pole worker academy back when we were first forming HAVA. And
the idea was something where the SoS built on something that had already been created. So you're not creating it entirely from scratch, but a process of encouraging people to engage in continuing education. And I don't know if it's credits or I mean -- you don't want to make it overly harsh or you provide scholarships for people to attend. But essentially you're getting people to a place where they are -- it's more uniform.

MR. KELLEY: If I can just add to that. You have to have a real estate license and you can practice real estate in northern California or southern California.

Selling a piece of property is the same.

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

MS. FENG: What does CalPeek teach?

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

MS. MARTINEZ: It's broad.

MS. JOHNSON: What kind of courses?

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

MS. JOHNSON: Things that have broader --

MS. MARTINEZ: Right. Where we all have to do it 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
counties come up to speed with federal requirements. So it's somewhat in the purview of HAVA. So section 203 language requirements will likely expand to new counties, and some counties will have more languages than they did.

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

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

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

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

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

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

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

MR. LOGAN: And then your travel.

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

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

MS. FENG: That's actually like a real full-on academic program.
MR. LOGAN: To become professionally certified. And then to maintain your certification, you have to in the course of two years -- I can't remember -- you have to document that you attended a national conference. You have to take what they call a graduate level course. They offer -- after their basic curriculum they offer graduate level --

MS. FENG: Who is that certification recognized by?

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

MS. JOHNSON: How long does the program take?

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

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

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

MR. KELLEY: I view the profession as a practice.
I view the profession as a practice, like a doctor.

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

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

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

I know that Washington and I think Florida also have -- they're very different but have codified in their state election code a certification process that's actually run -- it's different from the ones through Auburn and actually run by a unit at the Secretary of State's Office where they do a certain level training. There's an open book course that you pass on the election code. And in Washington, two people from every county are required --
MS. FENG: It's an interesting concept.
MR. LOGAN: But that goes beyond the list --
MS. FENG: You know, in other professions, you
have training about professional ethics. And I think
clearly election officials abide by something, but whether
it's ever been written down and thought through -- and in
certain situations, you do have clerks that get into
trouble. And so you can imagine like a whole realm of
things that -- some things are specific to your county,
but some things are really generally statewide, you know,
here are some things that everybody should be following as
standard.

MS. JOHNSON: Maybe that's part of the first step
is identifying those things.
MR. REYNOLDS: So it's a very, very interesting
and maybe necessary or at least beneficial thing, but --
MS. FENG: Not sure it would be covered.
MR. LOGAN: Also the kind of thing that requires
ongoing funding.

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

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

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

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

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

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

You know, and you can imagine that a group like CACEO, since there's a professional organization that exists, could set what the standards would be. And then it could be that either you do it at a CACEO convening or Orange County says I want to host a continuing education class on how to service Vietnamese voters. We figured it
out. We have a glossary, blah, blah, blah. And you bring in some guest speakers from L.A. And other counties that are coming on line that have new languages, they come to that.

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

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

MR. REYNOLDS: And the convention --

MS. MARTINEZ: The annul conference and we have a Summer Institute in odd years.

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

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

MS. MARTINEZ: And you know, lots of registrars
are elected. They're county clerk-recorders, and they
have the responsibility of election. But there's no
guarantee at any time that the person who's elected has
any election experience, because there isn't a
requirement. And there is no certification that they need
to carry.

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

MS. MARTINEZ: It's true.

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

MS. MARTINEZ: Well, there is a job description.

But --

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

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

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

And then that person who wanted to run for that didn't
have the kind of qualifications they were talking about.

Was some kind of a financial officer. And so they created
them, and he was an assessor or something like that. They
created those requirements and then prevented him from
running.

MS. JOHNSON: Get tied up in politics apparently.

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

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

MR. REYNOLDS: That's the thing. In this

particular case, for this particular county, it didn't.

But people were saying, look, everybody else has these
kinds of qualification. District attorney, you need to be
a lawyer. You need to have -- so this is a threshold to
get to be qualifying to be eligible to run for this
office.

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

MS. JOHNSON: That's it.

MS. CARSON: A lot of cities have no

qualifications at all.

MS. JOHNSON: That's scary.

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

MR. REYNOLDS: But for these other kinds of

positions, an assessor or a financial treasurer or
something like that, you say, okay, I need a person who has numbers experience or budgeting experience or whatever. But those kinds of courses are offered. But there's nothing offered academically. There's not a program.

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

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

MS. JOHNSON: It's still not a requirement.

MS. MARTINEZ: I think it's headed in a positive direction.

MR. REYNOLDS: It's been my impression that the people who are crazy enough to try to become a registrar of voters, believe it or not, are those that have experience doing it. So they're the number two person or number three person at this county and then they go to this county. Or the number one person at this county and they decide to go to another county.

So what I've got so far -- and this is going to go out to people. So I'm just talking more specifically to the folks on the phone, if I can get this darn laptop to do what I want it to.

What I got written down -- and these are just
notes -- is a process more transparent and accountable with voter education. And this should probably say via voter education and outreach programs.

Civic engagement activities; so these are the kinds of either goal oriented or tactical things that might be included in a new set of goals or tactics that describe what the advisory committee and the Secretary of State jointly agree should be the direction. Okay.

Expand online presence; and then again this was just a note to myself to describe specific tactics to reach lofty goals articulated.

SoS may want to describe post-election manual tallies. That's post-election audit mechanism.

Describe creation of advisory committees.

Example, language accessibility advisory committee and the continuation of the voting accessibility advisory committee.

Maintenance of voting systems would be a very specific kind of issue. Doesn't necessarily have a tactic, but I can see where it would fit in with one of those things that the Secretary of State needs to think about and we all need to think about as we move HAVA into the future.

Continued expansion of vote by mail or is it a voter education description concern about the
accessibility of the vote-by-mail needs to be considered here. Perhaps it's just a reference to continuing to expand the options for voters and that includes vote by mail and early voting.

Again, these are very rough notes. So forgive me. I'm just typing away.

Modernizing polling place operations. Possible example, electronic pole books.

Overseas voters, how to go further than strict compliance with Military and Overseas Voter Empowerment Act, which I abbreviated as MOVE. So I hope people understand what I mean by MOVE Act.

Improving outreach on provisional voting or voter education.

Continue every eligible citizen gets a ballot, but make sure this right does not overwhelm the system. Try to address the root cause of provisional voting with voter education so people know I can avoid having to do provisional voting if I register in time. But also we have to make sure that people are clear that you are entitled to a provisional ballot.

Continue voter education targeting traditionally under represented community. Example, young voters soon to be voters, those with language needs.

Education and outreach about voter registration.
Again, tying it back to HAVA Title 3 requirements to address the root causes of provisional voting.

And because it may be necessary as we roll out the new statewide voter registration system VoteCal planning sessions and retreats on an ongoing basis to address issues coming up or lessons learned.

This may just be a continuation on the same thought for the next two, but build on existing support infrastructure for training, reference the CalPeek program.

Also the thoughts about memorializing some of this, create webinars that can be available, videotape training sessions, provide DVDs, have web-based materials available. There was a reference to EAC library reference guide. Creation of a library that may go on the best practices website.

Encourage election officials to achieve continuing education and try to achieve uniformity of training/knowledge base, maybe with some sort of certification at the end.

Focus on language requirements, accessibility, other kinds of issues that are addressed in HAVA and other federal election reform laws.

That's what I've got captured so far. So anybody want to pick up the thread, or are we interested in going
back to the section by section stuff?

MS. JOHNSON: Well, I'd suggest you send this
around and that folks -- we've got to start, that maybe
people can look at and either add to it or expand on it or
something and get that back to you -- would you say in a
week?

MR. REYNOLDS: Yeah.

MR. KELLEY: A quick question on the last one.

Are 251 ones completely expended?

MR. REYNOLDS: No, 251 funds are actually what
we're talking about today.

MR. KELLEY: Let me just clarify that.

Specifically to upgrade pole sites to meet accessible
needs; ramps.

MR. REYNOLDS: Oh, 261. No, as a matter of fact,
I think -- I don't want to get too far out in front of
this, but I think we're talking about another competitive
grant round. And we would say anybody who won in one and
two would not be eligible for three, because we want to
try to make sure that we get as much money spread as
possible.

We're also thinking about -- and this one is
really just between us for now, please -- about trying to
create some mechanism to provide funds to counties so they
can send people to the regional trainings we're trying to
do. Because with the 261 program from the state side, we've given counties funds for the broad categories under 261, generally to improve the accessibility of polling places. We've done the competitive grant thing.

For our side, we've updated the guidelines for creating a survey tool and checklist, but the next step in that continuum is the training sessions. And we know money is tight. Personnel are tight. So we're looking at trying to create a mechanism. First of all, the courses previously, the training sessions, there was a fee required to attend. And whatever happens, there will not be a fee for these regional training sessions for the counties. But we're also hoping to try to find a mechanism to give money to a county to send someone and then to use that knowledge in the county.

Let me describe that just a little bit and then what the pre-conditions are to be eligible, because we're going to get a little tough on that one. So what we're thinking is provide for the salary and benefits and the travel expenses to somebody to go to the training. Then we want them to use that knowledge and to give it to others in the county. So then pay for that person's salary and benefits to train others, okay. So if you have two days of training, you would pay for a couple of days of that. And then to pay for people going out actually
after the training sessions, doing survey of poling places. And then on top of that, allow for them to buy survey kits, which you need for the training sessions. You have to do the survey work. And then if there's any left over, to buy mitigation supplies.

Now, we don't have a ton of money. And so we're looking at something in the neighborhood of $5,000. Now, for some counties -- oh, and only be able to send two people to the training sessions to make sure the ratio of State trainer, which will be the Department of Rehabilitation, and the students if you will is not out of whack. So we'd only allow counties to send up to two people.

So that would be what you would be allowed to do with the funds and that's how we hope to maximize the benefit of the training program.

Then, in order to qualify though, you'd have to tell us in general non-binding terms what are you going to do with any money that you have now. There are some contracts with some counties, and the funds must be expended by May 31st of 2010. The reason for that deadline is because there is a five-year use it or lose it provision that the Department of Health and Human Services came up with in the middle of everything. If you read their stuff, they're not allowed to do that. But I'm not
going to challenge them. I'm going to abide by their rules.

So we want the counties to expend the money. So tell me how you're going to get that done by May 31st, 2010, in a general non-binding way. Then tell me who you're going to send to the training. Again, non-binding. Just give me the name of a person. If it changes, so be it. But think of who's going to go.

And then, how are you going to expend these $5,000 in funds that we hope to provide you. Are you just going to -- the people are going to go and their expenses and salaries are going to add up to this, and we're going to have this much left over and then spend on this. And we have this much left over, so we're going to spend it on mitigation.

MR. KELLEY: You said within this room, but we're hosting one of those trainings March 24th. So one of the first ones. Are you talking about that type of funding within that --

MS. KAUFMAN: Which means I have to go.

MR. REYNOLDS: So what we're trying to do is trying to get a decision on this, trying to get it done because we have to deal with the administrative hurdles and then allow for the ability because the counties need to take this to the boards potentially and explain why and
all that stuff. So we need to get through that. And so there may be a retroactive nature to reimburse them.

In other words, my training session is March 2nd and I send my people there, but I can't get my board to approve this until April. You would still be able to go back and pay for the costs you incurred.

MR. KELLEY: I got you.

MR. REYNOLDS: Okay. Sorry. We got off on an accessibility issue.

But that's one of those areas where there has been -- Congress has been appropriating those funds, too, so we hope to continue to be able to provide.

MS. JOHNSON: Just another side note of that. The State of State's VAC Committee has been involved in looking at the survey tool and the guidelines that go along with the survey tool. We haven't looked at the training curriculum at all.

MS. KAUFMAN: Heavily involved.

MS. JOHNSON: We've been heavily involved in those two aspects.

MR. KELLEY: I know because I think we just recently sent in our comments on pole site checklist. Does that go back to the VAC?

MS. JOHNSON: I don't know. I forgot the process. I don't think we set it up that way. I think we
set it up if there was something really controversial based on what the VAC wanted, they would want to see it back. But if it was just nuance things, rely on Chris and other staff to let us know.

MR. REYNOLDS: It becomes difficult to coordinate the communications with the VAC, which does have some county representation, and then coordinate communication with the counties which have to implement.

So, I mean, we're trying to do that and communicate with Department of Rehabilitation about what needs to be done. We can create an endless loop of here's what we have now, comment on this. And this group; we want to make sure that this group sees this group. So what we did was we got to the point where we said, okay, everybody is commenting, so we're going to collect all those comments and try to be done with them in a fell swoop.

So do we want to try to get back in the time that we have remaining to us -- I have this document such as it is. It will be sent to everyone. It will have at the beginning the notes that I've taken from the brainstorming, if you will, that the groups had about future guidelines and principles for future HAVA activities. And at the end of that, you will see goals already stated in draft State Plan. So be aware that all
I'm doing is replicating those for your quick reference purposes, because those are already in there. Whether they're in the right place or not I've already heard comment about.

And these would actually be something that would stand. So if you have comments about wordsmithing those, do let me know about that.

But, again, what would happen is this would be potentially the very first comment would be that in the State Plan in 2003, the Secretary of State talked about these goals. And then the transitional paragraph would be about now having had experience with HAVA implementation, this is where we're headed next. And that's where the brainstorming stuff comes in. Okay.

So we're all clear?

MR. LOGAN: Chris, what I'm going to recommend -- and I'll put it together and send it to you -- is that at the conclusion of that brainstorming thing that it referenced the fact that I think it would be under section ten will be the description of a grant program where there would be some allocation of the ongoing funding that would be set aside for a local grant program for activities -- competitive grant program for activities related to these types of activities.

MR. REYNOLDS: Right.
MR. LOGAN: And I'll provide some language. I just offer that. I think that probably would fall under the second page. It would be part of the funding.

MS. KAUFMAN: Rather than necessarily characterizing it as a competitive grant, maybe a grant by application or something? I mean, it could be competitive. But I think you want to make it vague enough that we can go any direction we need to go with it.

MR. LOGAN: Okay.

MR. REYNOLDS: And as I described before, I mean, potentially when we get to the part -- and maybe we're there now, as Neal said. I've got to explore that some more.

The notion that, well, with the planning that's been done, with the things that are in place now, Title 3 compliance is assured, and we should recognize that and so we should have more flexibility now.

Setting that aside, when you do get to the point where there's flexibility, as I said, if you were to pull together groups of people and say, okay, there's more flexibility now, including the administration of elections. In your view, what is the need? And so what does that represent? What do we need to do to improve the administration of elections? And then you could do competitive grants. There's advantages to that. Try to
get people to think innovatively and do something different.

Or you do a per capita. We have a certain amount of money. You distribute it per capita based on voting age population. And you say these are the broad categories. And you take all the input about what needs to be done and you've said to counties, you have to do it within these broad categories. More like a 261 approach. And that would give each county the flexibility without us having to worry about this or that or conducting a competitive grant programs. There's winners and losers with competitive grants. And we don't like to see losers. And everybody feels badly about it. But there's rules with respect to the way you have to conduct competitive grant programs. So that gets in the way sometimes.

MS. KAUFMAN: And there's pluses and minuses with the allocation and population, because you get little Alpine County with 900 voters and they have to buy an $80,000 voting machine.

MR. REYNOLDS: Central tabulator.

MS. KAUFMAN: On $8,000 worth of allocation.

MR. REYNOLDS: Yeah. And so that's right. There's pluses and minuses to per capita and competitive no matter what you look at. And you can address some of them with things like we're going to create a floor.
But --  

MR. LOGAN: Also somewhat dependant on the pool of dollars you're looking at in terms of these pros and cons that are impacted by that.

MS. KAUFMAN: I think it's better if you don't characterize what type of grant program it would be, other than just by application by need to be determined. That kind of thing might be better.

MR. REYNOLDS: Okay. It's ten after 3:00 now. It seems unlikely that we would be able to get through the plan going section by section. However, I want to bow to the will of the Committee. Continue to push ahead on section by section, or do we break now and you understand and I understand that I'm going to be getting things of a specific nature that we discussed with respect to the overview and introduction section, and I'll deal with that, and there's also still to come this goals.

Now, if we decide to break now, what I would suggest -- again, the will of the Committee -- that you have until the end of next week to give me your brainstorming on the future of HAVA. Let's call it that. That's the goals and principles issue. And that you would have until the end of the week after that to give me your specific edits as we described for overview and introduction section.
MS. KAUFMAN: Maybe for the whole thing.

MR. LOGAN: Or any other sections we didn't get to today.

MR. REYNOLDS: I would prefer that people -- I want to make sure that I have a hard fast deadline about the future stuff, because I think that one -- again, you're talking to Chris Reynolds of the Secretary of State's Office. You're not talking to the Secretary of State. And there's some thinking and there's some considerations that I'm not the only person involved in the internal process of making determinations about what the State Plan should say.

So that direction about this is the future of HAVA. That, to me, seems to be one of those issues where there would be the most kind of discussion at the Secretary of State's office. So I'd like to see that first. I'd like to see that by not this Friday but the following Friday, which is February 5th. And when I send out this document, the notes I took, I would specify that's the deadline.

And then if it's the 5th, it would be the 12th for giving me any other edits that you have for on a section by section basis.

And try to be as specific as possible and give me specific language if possible around those issues that
would be due on February 12th.

MS. FENG: And, Chris, you would probably be able to e-mail to us the thing that you're typing out by the end of today?

MR. REYNOLDS: No problem. If we break now, I'll get it out to you by 3:30.

MS. FENG: I'm just wondering since we have some groups that are here already if we want to pick a day where we get on a conference call amongst ourselves and flush this out. And if there's anybody who wants to take a first stab at taking that list and formatting it in such a way where it gets closer to the language that would fit with and easily be insertable, we could do that.

But that would then at least get us all to a place where we're doing a little bit of homework and we get something to you by Friday.

So I'm looking at the registrars. And out of respect for your busy schedules, what's doable between now and next Friday?

MR. KELLEY: I have an election on Tuesday.

MS. FENG: So you're cool with drafting the language?

(Laughter)

MS. FENG: Tuesday is usually not that busy, right?
MR. KELLEY: Not that bad unless there is an election.

But that being said, I would be glad to participate towards the ends of the week.

MS. CARSON: The end of --

MR. KELLEY: After the second. So --

MR. LOGAN: So I think your window of opportunity is the third and fourth.

I'm assuming you'll take individual as well as collaborative feedback.

MR. REYNOLDS: Whatever comes in to me by February 5th is what I will be --

MR. LOGAN: I guess I'd like to -- no. I'd just like to reiterate I hope -- and I know you've had this conversation internally, but I would hope that there would be some suggestions coming back internally from the administration, too, that would fit the future standpoint.

I know the Secretary has some visions of future elections, and it would be helpful for all of us to be aware of.

And I will commit -- I was just looking at the list of members who aren't on the phone or here today. I will commit to touching base with Rosalind Gold and Michael Alvarez to try to encourage them participate as well.

MR. REYNOLDS: Thank you.
MS. FENG: So is the third or fourth --

MS. CARSON: Fourth is better for me.

MS. FENG: How long do we think? Like two hours?

One hour? If we have a draft --

MR. KELLEY: You're talking about specific edits within the sections; right?

MS. FENG: I'm actually talking about the brainstorming. Specific edits are just --

MR. KELLEY: An hour?

MS. CARSON: An hour, yes.

MR. LOGAN: An hour preferably with sending out --

MS. FENG: How about something like 9:30 to 10:30?

MS. JOHNSON: Can I interrupt for a minute? What are we doing?

MS. FENG: 9:30 to 10:30 on February 4th is the date we're looking at to try to pull together a conference call to talk about the forward-looking ideas so that we can take what Chris has drafted, come up with a cleaner version, share it with the whole group, and then on February 4th talk about it. Hopefully we're tweaking it --

MS. JOHNSON: What time?

MS. FENG: You name it, because it's really --
MS. JOHNSON: My entire day is screwed that day.

MS. FENG: Screwed that day. Okay.

MS. JOHNSON: Unless you want to do it from 8:00 to 9:00 or something, which doesn't thrill me particularly. If we can pick a different day, I'd rather.

MR. REYNOLDS: So try to recognize that people are -- they probably have done more work on specific edits, because they've seen that. This concept of the future of HAVA is new.

I'll flip around the deadlines if that helps and say you have to get me your specific edits by February 5th and you have to give me your brainstorming/future of HAVA stuff by the 12th. Does that help at all?

MS. FENG: That certainly does.

MS. JOHNSON: It helps me, because I have availability the 8th and 9th and 11th for us to do a conference call.

MS. FENG: You are available 8, 9, and 11?

MS. JOHNSON: Uh-huh.

MS. FENG: What about February 8th?

MR. LOGAN: February 8th in the morning several have us will be here for a public hearing.

MR. REYNOLDS: That's right. That would be the future of voting systems.

MS. FENG: February 9th.
MR. LOGAN: I can do.

MR. KELLEY: The 9th is okay.

MS. FENG: Not a good day for you, Dean?

What about February 5th?

MS. JOHNSON: 4th and 5th are both out.

MR. LOGAN: 10th is good.

MS. JOHNSON: 10th is not so good for me. We have the VAC meeting.

MS. FENG: Morning? Your thing is in --

MS. JOHNSON: I could cancel what I'm doing in the morning on the 10th, if that works for everyone else?

MS. FENG: 10th, should we say -- like we could make it a little bit earlier just so it doesn't intrude into your day too much.

MR. KELLEY: 9:00 to 10:00.

MS. JOHNSON: 9:00 to 10:00.

MR. REYNOLDS: Sorry, Eugene?

MR. LEE: How about the 11th?

MS. FENG: I think the problem is that we're trying to get something to Chris by the 12th. And so, I mean, we could do it on the 11th. I'm just trying not to have it where we have a situation where people have great ideas but, you know, we're not pulling it together more than a day beforehand, which maybe that's all that we were going to spend anyways.
MS. JOHNSON: I like the 10th, 9:00 to 10:00. I think that seems fine.

Eugene, that doesn't work for you?

MR. LEE: Not ideal. But if it works for everyone else, that's fine.

MS. CARSON: Well, Kathay is leaving.

MS. JOHNSON: How about anybody else on the phone? Ana?

MR. REYNOLDS: I think we lost -- somebody departed.

MS. FENG: So the 10th, February 10th at -- is earlier any better for you, Eugene? 8:30? No.

MS. JOHNSON: Is later better?

MR. LEE: I might have to get off early.

MS. JOHNSON: Is later better?

MR. LEE: No. The issue is it's a packed day.

MS. FENG: Okay. Well, how about if we do this. Since we're looking around the room and this may be the only window, even though it's not the best for everybody, at least we know we get a lot of folks on. And I will schedule the call.

And then, Dean, is it possible for you and me to work on a draft?

MR. LOGAN: Sure.

MS. FENG: You haven't got a special election
around the corner?

MR. LOGAN: No, not this week.

MS. JOHNSON: I'd be interested in helping with a
draft, too, just on the disability issues.

MS. FENG: Yeah. I'm fine with anybody. That
would be fantastic.

MR. LOGAN: So you'll send out an e-mail on that?

MS. FENG: Yeah, I will.

MR. LOGAN: Is that something, Chris, where we
could use your conference call line?

MR. REYNOLDS: Well, no.

MR. LOGAN: Okay.

MR. KELLEY: Not until the Title 3 compliance.

(Laughter)

MR. KELLEY: Sorry, Chris.

MS. CARSON: How many people have Skype?

MR. LOGAN: I have Skype. I don't know how to
use it, but I have it.

MS. FENG: Okay.

MR. LOGAN: So you'll handle the logistics?

MR. REYNOLDS: All right. So then --

MS. JOHNSON: The three of us will connect at
some point on the draft.

MS. FENG: If I can borrow somebody's pen,
because this one ran out of ink.
MR. LOGAN: Again, I think Chris has also agreed to take individual input, too. So obviously whatever comes to them, they're going to have to synthesize and run it through their chain and all that. Anybody who can't participate in that should still --

MR. REYNOLDS: Right.

MR. LOGAN: -- put their thoughts together.

MR. REYNOLDS: So here is roughly speaking. This afternoon, I will send out the notes in a very rough, but I think I've described them a couple times that were put together as we discussed this. And those will go out to the members of the Advisory Committee. And they will have until February 12th to give me thoughts on the future of HAVA, the brainstorming piece. And I will ask in that same note that people give me their specific edits to section by section, again as specific as you can get, with proposed language if you can for the rest of the document. And I will ask for that by February 5th.

Thank you all very much. Appreciate it.

(Thereupon the Hava State Plan Advisory Update Committee meeting adjourned at 3:21 p.m.)
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