

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

SECRETARY OF STATE'S OFFICE  
1500 11TH STREET  
2ND FLOOR BOARD ROOM, #270  
SACRAMENTO, CALIFORNIA

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Ms. Ardis Bazyn

Ms. Kathay Feng

Ms. Rosalind Gold

Ms. Alice Huffman

Ms. Margaret Johnson

Mr. Neal Kelley

Mr. Eugene Lee

Ms. Karin MacDonald

Ms. Rebecca Martinez

Mr. Dean Logan

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Ms. Debbie O'Donoghue, Deputy Secretary, Voter Education  
and Outreach Services

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1 PROCEEDINGS

2 CHAIRPERSON REYNOLDS: Okay. Let's get started.  
3 I have Kaye Kaufman who works with me on a lot of HAVA  
4 stuff that I do, contracts, claims, and so on and so  
5 forth. So Kaye's got a few housekeeping details relating  
6 to travel reimbursement and -- but I wanted to mention,  
7 kind of importantly I think, that the bathrooms --

8 (Laughter.)

9 CHAIRPERSON REYNOLDS: -- if you need them, as  
10 you exit this Board room --

11 COMMITTEE MEMBER JOHNSON: I know where they are.

12 CHAIRPERSON REYNOLDS: As you exit the Board  
13 Room, you go around the rotunda and pass the stairwell, if  
14 you will, and look down, there's a long hall, and it's got  
15 a sign that says notary on it. Go down that long hallway,  
16 which is kind of to your left, and about 100 feet down on  
17 the right are the bathrooms. So that's where those are.

18 Kaye.

19 MS. KAUFMAN: Okay. On travel reimbursement, we  
20 have an unfortunate little rule that we have to have your  
21 Social Security number before we can pay you. So, Ardis,  
22 you don't need to listen, and Michael you don't need to  
23 listen, we've got you on file. But most of you we do not  
24 have -- yeah, we know your number.

25 (Laughter.)

1           COMMITTEE MEMBER LOGAN: We have Mike on file,  
2 too.

3           (Laughter.)

4           MS. KAUFMAN: Anyway, what I want you to do so  
5 that I don't have to track you down or find it later in  
6 order to get you paid, if you will, on the left side of  
7 the blue binder is this confidential page. And if you  
8 could just put your name and your social on it, fold it  
9 over, put it in this confidential envelope, seal it -- I  
10 don't want to see it -- give it back to me, and I will  
11 take it directly to accounting. And they have a secure  
12 area where they keep this information. It's only for  
13 audit purposes. I do not want to see anybody putting  
14 their Social Security number on that blank -- on the  
15 travel expense claim form. That expense claim goes  
16 through several desks before it gets to the secure area of  
17 accounting.

18           I don't want to see anybody putting it on there,  
19 that's why we're asking you to do this, it's for your own  
20 protection. We don't want to see your social lying around  
21 where I might see it, because I get tempted.

22           (Laughter.)

23           COMMITTEE MEMBER JOHNSON: If you're not going to  
24 be asking for reimbursement, then you don't need to,  
25 right?

1 MS. KAUFMAN: If you're not going to be asking,  
2 you don't need to do this.

3 Okay?

4 COMMITTEE MEMBER JOHNSON: Okay.

5 COMMITTEE MEMBER FENG: You should do poll-worker  
6 trainings.

7 (Laughter.)

8 MS. KAUFMAN: I do poll-worker training  
9 observation. And I give these people feedback; that's why  
10 Becky doesn't like me. Even though her poll workers are  
11 marvelous, she still doesn't like it.

12 Anyway, I gave you some travel tips. It lists  
13 the receipts that you're to save, which include any  
14 parking fees you may have paid, if they're over \$10; any  
15 toll fees, taxi, or airport shuttle fees. Airfare, if  
16 it's not booked through the Secretary of State, we'll need  
17 your itinerary and your ticket.

18 And then costs that are reimbursed without  
19 receipts are probably vehicle mileage. It's at the rate  
20 of 55 cents a mile. The form, the TEC form is electronic,  
21 and it automatically computes everything into the right  
22 line. So I am going to be sending you the electronic  
23 version at the end of the day, so you'll have it by  
24 tomorrow when you're ready to do your claim. But I wanted  
25 to show you what the form is like. The second page gives

1 you the instructions of how to fill it out.

2 And I'm done.

3 Thank you very much.

4 CHAIRPERSON REYNOLDS: Secretary of State Bowen.

5 SECRETARY OF STATE BOWEN: I come into the

6 middle? Where's the easiest place to --

7 CHAIRPERSON REYNOLDS: Actually, we were thinking  
8 down there, because I'm going to do a PowerPoint shortly,  
9 and that's kind of what I was thinking, if you'd like to  
10 sit -- you're the Secretary.

11 SECRETARY OF STATE BOWEN: Well, thank you all  
12 for being here and for agreeing to do this. It's very  
13 important. And I know it's time consuming and I know that  
14 you're not making the big bucks for doing it, but it's  
15 something that -- we have a lot more information now than  
16 we did when we started with this process of creating the  
17 State plan.

18 So Chris is going to go through with you a little  
19 bit of the history, because you'll see that there's some  
20 differences between the original plan and what's happened  
21 now. Some of that has come about because the EAC has  
22 provided additional guidance about how HAVA funds can be  
23 spent. And I think in all the cases, the guidance has  
24 been to further restrict what will be done with HAVA  
25 funds.

1           And the second is that because we have to pay for  
2 the statewide voter registration database, which is a  
3 HAVA-mandated plan, the legislative -- the LAO and the  
4 people in the capitol and the Governor's office are very  
5 interested in having us basically spend every -- any penny  
6 of HAVA money that we can on the statewide voter  
7 registration database, because otherwise it's paid for  
8 with State general funds.

9           But the State plan does have some -- and as you  
10 know, the State plan has to focus on the HAVA Title III  
11 requirements, which are deploying voting equipment that  
12 complies with Section 301, ensuring that voters have  
13 provisional voting rights, including a mechanism to allow  
14 them to determine if their vote was counted and if not,  
15 why not; to post information on voting rights and  
16 instructions on how to vote at the polling place,  
17 including providing a sample ballot; and then, as I  
18 mentioned before, creating a statewide voter registration  
19 database.

20           California was, I think, ahead of many states in  
21 some of these things. We already had fail-safe voting.  
22 Many states didn't have any mechanism for provisional or  
23 fail-safe voting. But I'm wanting California to go  
24 further now and to look at the patterns of provisional  
25 ballots that were not counted, so that we can see if we



1 have a particular kind of issue, we need training, we need  
2 better voter education, because we're running into a  
3 particular problem, and, frankly, to see if there are some  
4 jurisdictions that have big percentage differences in how  
5 many provisional ballots they count. Again, because  
6 that's a potential signal that there may be something  
7 going on in the way that provisional ballots are handled  
8 or in the standards that are provided in the -- whether a  
9 provisional ballot is counted or not should not depend on  
10 what county or city you're voting in. It ought to be the  
11 same no matter where you are in California. It won't be  
12 the same across the country, because we don't have a  
13 single standard for many of our election criteria.

14           So today I think we'll have an open discussion to  
15 understand from all of you what the priorities of the  
16 stakeholders are. We definitely need input from our  
17 counties. And thank you to all our registrars who are  
18 here. Because if we don't understand the practicalities  
19 of making things work, we can recreate a great plan that  
20 doesn't actually accomplish anything. And I think all of  
21 us want to set things up in a way that actually  
22 accomplishes something.

23           So we'll take that discussion, look at what is  
24 and is not permitted by HAVA, what the EAC has done to  
25 provide guidance in the last six years, and then attempt

1 to create a -- we won't attempt to, we will create a State  
2 spending plan that complies with the HAVA requirements as  
3 elucidated by the EAC. And it is my hope that we will  
4 have a consensus on how our State plan and our State  
5 spending plan should work.

6 I think that the next step should be for me to  
7 officially swear each of you in as a member of this  
8 advisory committee.

9 And I think you have an oath for you. Does  
10 everybody have it in a form in which they can understand  
11 it, deal with it, read it, or if you're like me, you  
12 probably have signed -- some of you have signed enough of  
13 these, so that you could probably give it in the middle of  
14 the night if I woke you up.

15 (Laughter.)

16 SECRETARY OF STATE BOWEN: So this is -- And I  
17 think we'll do this together. There's no point in doing  
18 14 separate oaths for this.

19 If you were being sworn in as the President of  
20 the United States, I would swear you in separately.

21 COMMITTEE MEMBER LOGAN: And you'd get it right.

22 (Laughter.)

23 MS. KAUFMAN: She's showing favoritism.

24 SECRETARY OF STATE BOWEN: Yeah, it's favoritism.

25 But for the office -- this is for the Office of

1 Member of HAVA State Plan Advisory Committee.

2           And if you will repeat after me, and you can  
3 raise your right hand, if you want to. I don't think  
4 that's a requirement. Sometimes it makes you feel more  
5 official.

6           I, state your name --

7           PROSPECTIVE COMMITTEE MEMBERS, "I, (state  
8 individual names in unison) --

9           SECRETARY OF STATE BOWEN: -- do solemnly  
10 swear --

11           PROSPECTIVE COMMITTEE MEMBERS: -- do solemnly  
12 swear --

13           SECRETARY OF STATE BOWEN: -- that I will support  
14 and defend --

15           PROSPECTIVE COMMITTEE MEMBERS: -- that I will  
16 support and defend --

17           SECRETARY OF STATE BOWEN: -- the Constitution of  
18 the United States --

19           PROSPECTIVE COMMITTEE MEMBERS: -- the  
20 Constitution of the United States --

21           SECRETARY OF STATE BOWEN: -- and the  
22 Constitution of the State of California --

23           PROSPECTIVE COMMITTEE MEMBERS: -- and the  
24 Constitution of the State of California --

25           SECRETARY OF STATE BOWEN: -- against all

1 enemies --

2 PROSPECTIVE COMMITTEE MEMBERS: -- against all

3 enemies --

4 SECRETARY OF STATE BOWEN: -- foreign and

5 domestic --

6 PROSPECTIVE COMMITTEE MEMBERS: -- foreign and

7 domestic --

8 SECRETARY OF STATE BOWEN: -- that I will bear

9 true faith and allegiance --

10 PROSPECTIVE COMMITTEE MEMBERS: -- that I will

11 bear true faith and allegiance --

12 SECRETARY OF STATE BOWEN: --- to the

13 Constitution of the United States --

14 PROSPECTIVE COMMITTEE MEMBERS: -- to the

15 Constitution of the United States --

16 SECRETARY OF STATE BOWEN: -- and the

17 Constitution of the State of California --

18 PROSPECTIVE COMMITTEE MEMBERS: -- and the

19 Constitution of the State of California --

20 SECRETARY OF STATE BOWEN: -- that I take this

21 obligation freely --

22 PROSPECTIVE COMMITTEE MEMBERS: -- that I take

23 this obligation freely --

24 SECRETARY OF STATE BOWEN: -- without any mental

25 reservation --

1 PROSPECTIVE COMMITTEE MEMBERS: -- without any  
2 mental reservation --

3 SECRETARY OF STATE BOWEN: -- or purpose of  
4 evasion --

5 PROSPECTIVE COMMITTEE MEMBERS: -- or purpose of  
6 evasion --

7 SECRETARY OF STATE BOWEN: -- and that I will  
8 well and faithfully discharge --

9 PROSPECTIVE COMMITTEE MEMBERS: -- and that I  
10 will well and faithfully discharge --

11 SECRETARY OF STATE BOWEN: -- the duties upon  
12 which I am about to enter.

13 PROSPECTIVE COMMITTEE MEMBERS: -- the duties  
14 upon which I am about to enter.

15 SECRETARY OF STATE BOWEN: All right. Very good.  
16 We don't have any controversy on the blogs about whether  
17 the oath was administered properly.

18 (Laughter.)

19 SECRETARY OF STATE BOWEN: So just one other  
20 point. I've come to the conclusion that the market -- the  
21 voting system market is never going to do an adequate job  
22 of providing accessible voting equipment. That's a  
23 different question than if a polling place accessible and  
24 that the process be open.

25 And so I have already begun to push, at the

1 federal level, for us to do basically the equivalent of  
2 sort of a Manhattan Project for accessible voting. If we  
3 aggregate among the states the need for a wide variety of  
4 types of adaptations, I think that we actually can meet  
5 the goals of the Help America Vote Act to allow every  
6 voter to vote privately and independently in a way that  
7 spends a lot less money than if each state tries to do it.  
8 And that also allows us to gain from the experiences of  
9 the other states.

10           So that doesn't mean we won't work on all of  
11 these issues in California, but I just think that there's  
12 no single -- people ask me about the disabled community,  
13 and there really is no single disabled community. The  
14 needs that we're talking about range from people who might  
15 have dyslexia, to somebody who uses a cane, to people who  
16 need much more; that they need reading assistance, they  
17 need assistance with their hands. It's such a broad range  
18 of kinds of things that we need to accommodate.

19           And in much of the rest of the world, so much of  
20 this is already done. And that's the part I think that's  
21 frustrating to me, when I look at all of the adaptive  
22 technologies and the things that we do, a whole broad  
23 range of things. And then how we've applied that or not  
24 to people's engagement in the political process,  
25 particularly voting, that there's a real disconnect.

1           And that's part of the reason that I looked to  
2 see how we can do this in a way that includes all 50  
3 states and, of course, Guam, Puerto Rico. But that would  
4 also have the advantage of bringing all of the work that's  
5 done to the voters in all of those jurisdictions, rather  
6 than relying on their particular state to get it done.

7           So it's always my hope that California will lead  
8 the way on any given matter or topic, and we're generally  
9 pretty good at that. I hope this will be no exception.

10           Does anybody have any questions for me?

11           Okay. I'm sure you will later.

12           Chris will be your tour guide in this maze. I  
13 was very grateful that he agreed to continue working on  
14 these issues. When you have an office where there were 5  
15 Secretaries of State within 5 years, that makes it harder  
16 to provide a consistent direction and focus. And Chris  
17 really has been our rock when it comes to HAVA and his  
18 relationship with the counties as well as with the  
19 businesses. He's got a good understanding of what's  
20 happening in each of our 58 counties.

21           So with that, Chris, I'll let you go on to your  
22 PowerPoint.

23           And if people want to pass their oaths down or  
24 attests; Debbie, do you want to collect --

25           VOTER EDUCATION & OUTREACH SERVICES DEPUTY

1 DIRECTOR O'DONOGHUE: There's a little type so I need to  
2 redo them.

3 SECRETARY OF STATE BOWEN: Never mind.

4 VOTER EDUCATION & OUTREACH SERVICES DEPUTY

5 DIRECTOR O'DONOGHUE: But I will take them.

6 You're sworn in, but you are signing another  
7 document. We do get a do-over in this.

8 SECRETARY OF STATE BOWEN: Debbie, when I go to  
9 the dry cleaner sometimes, I put a tag on something that  
10 says, "Do over." We don't have that for elections.

11 MS. KAUFMAN: Except in Minnesota.

12 (Laughter.)

13 SECRETARY OF STATE BOWEN: Even in Minnesota it  
14 looks like they might finally be done. It doesn't mean  
15 they're done with litigation, but that's the right that we  
16 have in this country.

17 All right. So I will sign them when the right  
18 oath is signed.

19 So I'm going to listen to the PowerPoint.

20 (Thereupon an overhead presentation was  
21 presented as follows.)

22 CHAIRPERSON REYNOLDS: Thank you, Secretary  
23 Bowen.

24 I do have a quick PowerPoint that I'd like to go  
25 through to cover some of the next items in the agenda.



1 And I'd like to start with a quick overview of the  
2 planning process in abbreviated fashion.

3 COMMITTEE MEMBER MacDONALD: Chris, before you  
4 start, I don't really know everybody here.

5 CHAIRPERSON REYNOLDS: Oh, I'm sorry. We did  
6 skip the portion of the meeting. And, Ms. Huffman,  
7 welcome.

8 SECRETARY OF STATE BOWEN: Oh, and Alice is not  
9 sworn in. Everybody but you.

10 COMMITTEE MEMBER HUFFMAN: I went to the Board of  
11 Education.

12 SECRETARY OF STATE BOWEN: We'll get you sworn  
13 in.

14 CHAIRPERSON REYNOLDS: So thank you for reminding  
15 me, Margaret. I did intend for there to be an  
16 introduction of the members. And so if they wouldn't  
17 mind, we have collected your biographies with your input,  
18 and so we will be using those as a part of the State plan.  
19 But if people could introduce each other.

20 I'm Chris Reynolds. I work for the Secretary of  
21 State. I'm the Deputy Secretary of State for HAVA  
22 activities.

23 This is Kaye Kaufman who works with me. She's an  
24 elections specialist. Laura Baumann, from our Elections  
25 Division, an attorney there. Jane Howell, also with the

1 Elections Division. Debbie O'Donoghue, who works in the  
2 administrative office and handles a number of things,  
3 including voter education and access issues.

4 And Tess, who's last name escapes me --

5 SECRETARY OF STATE BOWEN: Mason-Elder.

6 CHAIRPERSON REYNOLDS: Thank you. Mason-Elder.

7 How could I forget that.

8 But if we could introduce the -- if the members  
9 could introduce themselves to the group, starting with  
10 Ms. Feng.

11 COMMITTEE MEMBER FENG: I'm Kathay Feng. I'm  
12 with California Common Cause.

13 COMMITTEE MEMBER BAZYN: Ardis Bazyn with  
14 California Council of the Blind.

15 COMMITTEE MEMBER CARSON: Chris Carson with  
16 League of Women Voters of California

17 COMMITTEE MEMBER LOGAN: Dean Logan, Registrar,  
18 Recorder, County Clerk for Los Angeles County.

19 COMMITTEE MEMBER MARTINEZ: Rebecca Martinez,  
20 Clerk, Recorder, and Registrar for Madera.

21 COMMITTEE MEMBER ALVAREZ: Michael Alvarez, a  
22 Professor at Cal Tech.

23 COMMITTEE MEMBER GOLD: Rosalind Gold with the  
24 National Association of Latino Elected and Appointed  
25 Officials. That's NALEO Educational Fund.

1           And, Secretary, I just would like to take this  
2 minute to thank you so much for your partnership on our  
3 voter engagement, or our Ve-Y-Vota, our Campaign for 2008.  
4 It was a very helpful partnership for us.

5           COMMITTEE MEMBER MacDONALD: Karin MacDonald,  
6 UC Berkeley.

7           COMMITTEE MEMBER HUFFMAN: Alice Huffman,  
8 California State NAACP President and national board  
9 member, and one who does not know her way around  
10 Sacramento.

11           (Laughter.)

12           COMMITTEE MEMBER JOHNSON: Margaret Jackson with  
13 Disability Rights California.

14           CHAIRPERSON REYNOLDS: And I see we're joined by  
15 Eugene Lee.

16           COMMITTEE MEMBER LEE: Hi. I'm Eugene Lee of the  
17 Asian Pacific American Legal Center.

18           CHAIRPERSON REYNOLDS: And unfortunately, Neal  
19 Kelley, the Registrar of Voters from Orange County's  
20 flight was delayed, and he should be here shortly we hope.  
21 And Ana Acton, who is with the FREED Living Center has not  
22 yet arrived.

23           Those are the other members of the advisory  
24 committee.

25           So with that, I think I will get started on this

1 PowerPoint presentation, which I hope is brief, but may  
2 raise some questions. So I'll ask at the end if there are  
3 any questions about this.

4           As I said, I'm going to start with an abbreviated  
5 description of the planning process to kind of give an  
6 overview. The actual place in HAVA where you can find a  
7 description of this process and the requirements for it  
8 are in Sections 254 through 256.

9           But in an abbreviated fashion, what state plans  
10 are intended to do are to describe how states will use  
11 funding, provided under HAVA, to meet Title III  
12 requirements, how elections officials and poll workers  
13 will be trained, and how information will be provided to  
14 the voters, and generally a lot of information about how  
15 the state plan is to be managed.

16           For a state plan update, it must also describe  
17 how the state succeeded in carrying out previous plans and  
18 any changes between the prior plan and the update.

19           This advisory committee, which must include the  
20 chief elections officials from the two most populous  
21 voting jurisdictions in the state, and that would Los  
22 Angeles County and Orange County, is appointed for the  
23 purpose of advising the Secretary of State on crafting a  
24 preliminary state plan update.

25           Once a preliminary state plan update has been



1 overlap. Section 101 funding is the so-called early  
2 money, that could be used to meet Title III requirements,  
3 educate voters and election officials, or for improving  
4 the administration of elections, among other purposes.  
5 This one-time funding was used extensively by California  
6 for these purposes.

7 Section 102 funding was an incentive program to  
8 replace punch card voting systems and can only be used for  
9 that purpose. These funds have been expended.

10 Section 251, Title II funding, is the funding  
11 that is included in the state plan budget. It's the  
12 funding we're talking about today and can be used only for  
13 meeting Title III requirements, except in limited  
14 circumstances, under a so-called Minimum Requirements  
15 Payment Program, which I'm going to describe in detail  
16 momentarily -- or more detail momentarily.

17 So it's important to remember that the funding  
18 we're going to discuss today is for meeting Title III  
19 requirements.

20 --o0o--

21 CHAIRPERSON REYNOLDS: One important focus for  
22 the State plan, therefore, is meeting Title III  
23 requirements. And as the Secretary described, those are  
24 deploying voting systems that comply with Section 301  
25 requirements for accessibility and second-chance voting,

1 if you will, allowing voters to detect errors before they  
2 pass the ballot; two, ensuring that provisional voting  
3 rights, including the availability of the free access  
4 system that the Secretary mentioned, which will enable a  
5 provisional voter to determine whether their ballot was  
6 counted and if not why not; and providing voter  
7 information at polling places under Section 302.

8           Finally, there's a requirement under Section 303  
9 for creating a statewide voter registration list. And  
10 I'll call it a list as often as I can for Karin  
11 MacDonald's benefit, because she does operate the  
12 database -- the statewide database at UC Berkeley for  
13 purposes of redistricting. But the statewide voter  
14 registration list or database is a requirement under HAVA.

15           The plan must also describe how election  
16 officials and poll workers will be trained and how  
17 information will be provided to voters on HAVA  
18 requirements. There are restrictions, however, on the use  
19 of Title II funding to accomplish these tasks, because the  
20 EAC has determined that these are not, strictly speaking,  
21 Title III requirements. Some of those restrictions speak  
22 to the fact that we have implemented HAVA, and some of  
23 those costs, according to the EAC, are no longer allowed.

24           For example, poll-worker training. EAC guidance  
25 states that poll-worker training is allowable on a

1 one-time basis when new voting systems are deployed that  
2 meet HAVA requirements or is allowable if minimum  
3 requirements payment funding is used.

4 I'll be referring to this minimum requirements  
5 payment funding frequently. So if people have questions  
6 about it, we can talk about it in greater detail.

7 But a minimum requirements payment program is a  
8 statewide allocation of \$11.6 million, and it's a subset  
9 of the Title II funding. Generally speaking though, the  
10 funds for poll-worker training cannot be an ongoing use of  
11 HAVA dollars. Counties have to use local funds for that  
12 purpose on an ongoing basis.

13 The state plan must include cost estimates for  
14 each of the activities the state will carry out, with a  
15 focus on the cost of Title III requirements. And the most  
16 expensive Title III requirements are purchasing voting  
17 systems that comply with Section 301 requirements and  
18 establishing the statewide voter registration list or  
19 database.

20 There's also a prohibition against the use of  
21 federal HAVA funds to supplant the cost of preexisting  
22 activities. In California, those preexisting costs are  
23 meeting provisional voting rights and providing voter  
24 information at the polling place. In a sense, because  
25 California did this before HAVA, it was penalized from a



1 funding perspective in that HAVA funds couldn't be used  
2 here. On the other hand, California voters did have this  
3 information assistance before voters in many other parts  
4 of the United States, and this frees up HAVA funds to be  
5 used for other purposes.

6 States are also required to develop performance  
7 measures to evaluate the implementation of the State plan.  
8 California has some preexisting performance measure, and  
9 has taken other steps to evaluate the implementation of  
10 HAVA, such as election-day observation and poll-worker  
11 training observation programs, but more work should be  
12 done. And it's hoped that the Advisory Committee can  
13 provide some assistance here.

14 There is also a requirement that the state  
15 explain how Title I funds were used to meet the  
16 requirements of the state plan. Again, California relied  
17 heavily upon Title I funds to meet the requirements of the  
18 initial state plan.

19 So there's a need for this state plan update to  
20 explain how the elements in the previous plan were  
21 accomplished, to the extent they were, and to realign the  
22 state plan with where we are now.

23 --o0o--

24 CHAIRPERSON REYNOLDS: In other words, to assess  
25 our progress by explaining how the state implementation of



1 plan.

2           There are reasons why the initial state plan  
3 wasn't closely adhered to. One, it was a planning  
4 document that was written at the same time the EAC was  
5 being appointed and established and before EAC policies  
6 were adopted that eventually precluded some elements from  
7 being carried out as described in the state plans,  
8 particularly as it relates to voter education and  
9 poll-worker training.

10           Two, the administration that drafted the state  
11 plan decided, once it started to implement the state plan,  
12 to change its priorities. After discussions with the  
13 counties, the Governor's Budget Office and representatives  
14 from the legislature, a spending plan was submitted to the  
15 legislature in 2005. That spending plan, which gives the  
16 Secretary of State the legal authority to spend HAVA  
17 funds, was different from the state plan budget. It  
18 appears that the administration preferred to use money in  
19 different ways and/or felt there were better ways to spend  
20 the money than envisioned when the plan was originally  
21 drafted.

22           Legislative oversight and budgetary actions on  
23 that approved 2005 spending plan that budgeted those HAVA  
24 funds included restrictions on the use of the funds.  
25 Specific budget language prohibited spending in ways that



1           Every county is meeting the provisional voting  
2 requirements, which was a preexisting requirement in  
3 California, and each county has made a free access system  
4 available for provisional voters, so that a voter can  
5 determine whether her or his provisional ballot was  
6 counted and if not why not.

7           Every county is posting required information at  
8 the polling place; again, a preexisting requirement in  
9 California. Specifically, HAVA requires the posting of  
10 the sample ballot for the election, information on the  
11 date of the election, and the hours the polling place will  
12 be open, instructions on how to vote, instructions for  
13 first-time mail-in registrants, who may be required to  
14 show I.D., general information on voting rights, and  
15 general information on the prohibition on acts of fraud  
16 and misrepresentation.

17           Finally, California has an interim solution  
18 database that integrates and synchronizes the 58-county  
19 voter rolls with the statewide database -- the interim  
20 solution database, pursuant to that Memorandum of  
21 Agreement that I referred to.

22           The state is also conducting a competitive  
23 bidding process to develop and implement a statewide voter  
24 registration list or database that's fully compliant with  
25 Section 303.





1           CHAIRPERSON REYNOLDS: This brings us to one of  
2 major tasks at hand for California, which is aligning the  
3 state plan and the state plan budget with HAVA  
4 implementation. In this case, I'd like to refer you to  
5 the handout in your folder titled "Spending Plans 2005  
6 through 2009."

7           As I mentioned, California has achieved at least  
8 interim compliance with Title III requirements because  
9 counties have deployed voting systems consistent with  
10 Title III requirements; provisional voting rights,  
11 including the free access system, are being provided;  
12 required voter information is being posted at the polling  
13 place; and a statewide voter registration list that  
14 complies with the Memorandum of Agreement executed with  
15 the U.S. Department of Justice is in place, and we are  
16 pursuing through the competitive bidding process the  
17 long-term project. However, there are differences between  
18 the original state plan and what California has actually  
19 done.

20           As previously described, California's initial  
21 state plan included funding for tasks not directly related  
22 to Title III. \$70 million was earmarked for voter  
23 education efforts. However, because legislatively-  
24 approved spending plans do not include that funding, and  
25 because of EAC restrictions on the use of funds, only



1 about \$8 million in Title II funding was spent on this.  
2 About another \$7.4 million was spent using Title I funds  
3 for voter education.

4           As described earlier, EAC guidance on this issue  
5 has restricted the use of Title II funding for this  
6 purpose to circumstances more limited than was envisioned  
7 in the original state plans.

8           The administrative functions of HAVA, some of  
9 which were included as Title III expenditures in the  
10 original state plans, such as managing the plan, budgeting  
11 the fiscal oversight, are being paid for with Section 101  
12 funds.

13           Finally, the other big difference between the  
14 original state plan and actual implementation is the cost  
15 of the statewide voter registration list or database. The  
16 current cost estimate is about \$66 million. The amount of  
17 money set aside in the original plan was about \$44  
18 million. Therefore, one of the important steps to take is  
19 to realign the state plan budget with actual  
20 implementation of HAVA and then to look to the future for  
21 allocation of the expected funding -- or I'm sorry -- for  
22 funding of \$3.7 million that hasn't been allocated from  
23 the original allotment, \$24 million in new funding, and  
24 about \$35 million in interest earned on HAVA funds, for  
25 about a total of \$63 million.



1 American Legal Center, California Common Cause, the League  
2 of Women Voters of California, and the Disability Rights  
3 Legal Center.

4           So I thought it might be helpful to go through  
5 those comments item by item to discuss the implications of  
6 including them in the state plan and see if there are any  
7 additional comments, either representatives from those  
8 groups or any other advisory committee members would like  
9 to add at this point. I'll also try to clarify, if that's  
10 necessary, the way I've characterized the comments,  
11 because I have tried to provide them in an abbreviated  
12 fashion.

13           But before we do that, I was thinking that if  
14 anyone had any questions about anything that I've said so  
15 far, I would like to entertain those questions now.

16           COMMITTEE MEMBER LEE: Chris, would it be  
17 possible to get a breakdown of how the Title I funds have  
18 been spent, specifically the Section 101 funds? So the  
19 chart that you provided, the spending plans on Title III  
20 requirements from 2005 to 2009, that's very helpful, but I  
21 think it would also be helpful to get a similar breakdown  
22 for the Title 101 funds -- I'm sorry, the Section 101  
23 funds.

24           And I just wanted to clarify, did I hear you  
25 correctly in that all of those funds have been expended?

1 CHAIRPERSON REYNOLDS: No. All the 102 funds  
2 have been expended.

3 COMMITTEE MEMBER LEE: Okay.

4 CHAIRPERSON REYNOLDS: We are using Title 101  
5 funds to administer HAVA. Off the top of my head, there  
6 was an allocation of funding from the Kevin Shelley  
7 administration to the counties leading up to the November  
8 2004 election for poll-worker training and voter  
9 education.

10 I believe that was about \$6.6 million for that  
11 program.

12 MS. KAUFMAN: 6.7

13 CHAIRPERSON REYNOLDS: \$6.7 million.

14 There was expenditure to 101 funds to comply with  
15 the interim solution, the Memorandum of Agreement, that  
16 was executed with the U.S. Department of Justice. I  
17 believe that was about \$3.2 million.

18 MS. KAUFMAN: It's more than that with the  
19 smaller counties. It's a little over three and a half.

20 COMMITTEE MEMBER LEE: So that's for the  
21 database?

22 CHAIRPERSON REYNOLDS: The interim solution  
23 database that we have currently.

24 Then there's some administrative costs. There's  
25 creating the definition of a vote. There's --

1 MS. KAUFMAN: Supporting the evaluation of  
2 equipment, the open source.

3 CHAIRPERSON REYNOLDS: Right. There's the open  
4 source evalu -- I'm sorry, the code -- the source code  
5 evaluation that was done on the voting systems, through  
6 the top-to-bottom review, was an effort that was funded  
7 with Title 101, but there are some others that we'll get  
8 you some --

9 SECRETARY OF STATE BOWEN: Partially. A lot of  
10 the top-to-bottom review was funded by Title 101, but a  
11 big part of it was founded by the vendors.

12 CHAIRPERSON REYNOLDS: Right. That's true,  
13 absolutely. The bulk of the funding. In particular, the  
14 funding that came from 101 was devoted to the  
15 accessibility testing that was done as a top-to-bottom  
16 review.

17 COMMITTEE MEMBER LEE: And there's some other  
18 items, like the Voter Bill of Rights and the HAVA  
19 compliance manual. That's all with Section 101.

20 CHAIRPERSON REYNOLDS: Yeah. We could lump  
21 those -- I mean, generally speaking, lump those under the  
22 administration of HAVA. But we will try to provide you  
23 with as much of a breakdown as we can.

24 COMMITTEE MEMBER LEE: Sure. That would be very  
25 helpful. And also indicating how much is unallocated, if

1 there are any unallocated funds.

2 COMMITTEE MEMBER MacDONALD: Chris, I assume  
3 we'll get a copy of the PowerPoint.

4 CHAIRPERSON REYNOLDS: I can send that to you,  
5 sure.

6 COMMITTEE MEMBER MacDONALD: And somebody's  
7 taking notes that we'll get afterwards?

8 CHAIRPERSON REYNOLDS: We are taking minutes and  
9 we are transcribing the meeting.

10 COMMITTEE MEMBER MacDONALD: And another question  
11 on the Funding Advisory Opinion 08-011.

12 CHAIRPERSON REYNOLDS: Yes

13 COMMITTEE MEMBER MacDONALD: If the State - the  
14 discussion part, if the State has filed a certification  
15 under Section 2571(b)2, what's the certification?

16 CHAIRPERSON REYNOLDS: There's a -- when I refer  
17 to the minimum requirements payment program, and I guess  
18 bureaucracies talk in code sometimes. When they refer --

19 COMMITTEE MEMBER MacDONALD: Sometimes.

20 (Laughter.)

21 CHAIRPERSON REYNOLDS: When they refer --

22 SECRETARY OF STATE BOWEN: Sometimes they don't.

23 (Laughter.)

24 COMMITTEE MEMBER MacDONALD: Rarely.

25 CHAIRPERSON REYNOLDS: When there's a reference

1 in this advisory to Section 251(b) -- I'm sorry, I'm  
2 looking at the wrong one -- to 251(b)2, they're referring  
3 to the minimum requirements payment program, which is  
4 found in Section 251 under subparagraph (b)2. What was  
5 required was that the State file a letter with the  
6 Election Assistance Commission stating that they were  
7 going to have or utilize this provision of HAVA. And that  
8 was done.

9           And the funding primarily -- initially was for  
10 purposes of helping counties cover some of the ancillary  
11 costs associated with HAVA, such as upgrades to warehouse  
12 solutions, storage facilities, to make sure that the  
13 equipment that they were purchasing, the investment in  
14 that equipment was protected.

15           It was also -- there was an interest in having  
16 cell phones, so that there could be immediate and direct  
17 contact between the polling place and election  
18 headquarters.

19           So those kinds of things were the kinds of things  
20 that were initially envisioned as apart of the minimum  
21 requirements payment program, but -- because, frankly, the  
22 Secretary of State's office thought that voter education  
23 and poll-worker training was such an integral part of, you  
24 know, making sure that HAVA was implemented and  
25 implemented fully and correctly, it didn't occur that

1 those kinds of costs would be limited to minimum  
2 requirements payment allocation.

3           Be that as it may, the EAC, when it finds  
4 something that it thinks is worthy, will, in most  
5 cases -- well, in some cases, if they say it's not  
6 directly linked to a Title III requirement, will say that  
7 it's a minimum requirements payment. It's allowable as a  
8 minimum requirements payment. And you'll often see them  
9 refer to 251(b)2. That's the way they refer to it.

10           COMMITTEE MEMBER MacDONALD: And then in that  
11 same section, it talks about training of election  
12 officials, election volunteers, and poll workers. What's  
13 the definition of election officials? Is this election  
14 administrators or --

15           CHAIRPERSON REYNOLDS: You know, there's no  
16 definition that I'm aware of in HAVA. There's reference  
17 under Section 101 to -- they make a distinction between  
18 elections officials and poll workers, but there's no  
19 definition as far as I'm aware in HAVA that says this is  
20 what an election official has been. There's no definition  
21 of what a federal election is, for instance; although  
22 there's reference to federal election there. The EAC has  
23 come back and filled in some of the blanks thereby relying  
24 on, for instance, the definition of the U.S. Department of  
25 Justice for a federal election.



1           So things like that have been fleshed out, but I  
2 don't know that there's any distinction --

3           COMMITTEE MEMBER MacDONALD: Thank you.

4           CHAIRPERSON REYNOLDS: -- that I can elucidate.

5           COMMITTEE MEMBER FENG: Chris, you talked about  
6 the negotiations with the DOJ producing the implementation  
7 of an interim system that was more expensive than --

8           CHAIRPERSON REYNOLDS: No.

9           COMMITTEE MEMBER FENG: Help me understand what  
10 you were describing.

11           CHAIRPERSON REYNOLDS: What I was referring to  
12 was the fact that the long-term fully-compliant voter  
13 registration database, the cost estimate that we have for  
14 that system now, the best cost estimate we have, again, at  
15 this time, and we're still in the competitive bidding  
16 process, is \$66 million. The original state plan, when  
17 you take the different elements that are associated with  
18 the statewide voter registration database, add up to  
19 \$44.1 million. So it's a more expensive system by, I  
20 guess, a third, if you will.

21           COMMITTEE MEMBER FENG: And then there was  
22 another number that I was not catching, 63 million --

23           CHAIRPERSON REYNOLDS: Is the amount of  
24 funding -- under the spending plans, okay -- and, again,  
25 I'm trying to make a distinction here between the State

1 plan budget, which you would find under the State plan  
2 that was produced and was published, and the spending  
3 plans that actually give the Secretary of State the legal  
4 authority to spend the funding, which is done through the  
5 legislative budgetary process. Taking the \$195 million in  
6 contracts that have been executed with the counties for  
7 voting system upgrades pursuant to that legislative  
8 authority in the spending plan, and the cost estimate of  
9 \$65.6 million for the statewide voter registration  
10 database, again, our best cost estimate, at this time,  
11 leaves you a balance of roughly \$63.2 million, which is  
12 comprised of \$3.6 or \$7 million in unallocated funding.

13           If you take the 195 and the 65.6, and you  
14 subtract it out of the original allocation of 264.2,  
15 you'll see that there's about \$3.7 million, \$3.6-7 million  
16 that hadn't been allocated.

17           Then there's the new allocation of new funding,  
18 \$24.1 million, that will be received by the State of  
19 California. It's entitled to receive after submission of  
20 the state plan, after it's completed, after it's been  
21 published in the Federal Register, and after the  
22 certification has been submitted. And then finally, the  
23 interest that's been earned, about \$35.4 million, if I'm  
24 not mistaken. It's in the handout. So that's what  
25 comprises, if you will, the \$63 million.

1 COMMITTEE MEMBER JOHNSON: That can be spent how?

2 CHAIRPERSON REYNOLDS: Title III requirements.

3 COMMITTEE MEMBER HUFFMAN: Can you better explain  
4 to me the prohibition against the voter registration? I  
5 didn't quite understand that.

6 CHAIRPERSON REYNOLDS: All I can do is direct you  
7 to the EAC opinion -- which I seem to have put away now.  
8 Let me see if I can find that.

9 FAO-08-005. It simply says -- and we'll go to  
10 the -- it looks like this. I'm trying to find the  
11 operative phrase here.

12 COMMITTEE MEMBER HUFFMAN: It says, "In the  
13 opinion of the EAC..."

14 CHAIRPERSON REYNOLDS: Yeah. Voter registration  
15 activities do not qualify for funding under the umbrella  
16 of improvements to the administration of elections for  
17 federal office, because the activities do not directly  
18 contribute to the administration of a federal election.

19 That seems to be their reasoning, that these are  
20 activities that were preexisting in the states, and it  
21 doesn't contribute to the administration of the federal  
22 election.

23 Again, issues that you can take with this kind of  
24 an opinion are, in my view, that there are new  
25 requirements for registering voters now in California, or

1 in the nation. And those include making sure that the  
2 person, if they're a first-time voter who's registering by  
3 mail, includes their driver's license number or their  
4 partial Social Security number, so that that can be  
5 verified. And that the form itself has to conform to some  
6 specific provisions in HAVA.

7           So trying to make sure that people understand the  
8 rules about how to register to vote, which is the  
9 threshold to voting, yet the EAC developed this opinion.  
10 Likewise, the issue of voter education and poll-worker  
11 training, when it's critical that poll workers be trained  
12 so that you can, you know, deliver the full benefits of  
13 HAVA, so that they understand the rules. So that they can  
14 properly administer that, you know, front line of  
15 democracy, if you will. It's critically important that  
16 that be done.

17           And in addition to that, voter education is  
18 critically important, because when a person arrives at the  
19 polling place, they should know or should have been given  
20 some access to information about what their rights are,  
21 how the process works, and what they're going to  
22 encounter, so that they can exercise those rights. And  
23 there's a provision within Title III, I believe it's  
24 Section 304, perhaps it's 305, that says that the  
25 Title III requirements are minimum requirements. So there

1 is an expectation that you would be able to go with  
2 respect to voter education, for instance, because the  
3 Title III requirement is that you post specific  
4 information at the polling place.

5           The expectation was that if it is, in fact, a  
6 minimum requirement that you post the information at the  
7 polling place, that you would be able to go beyond the  
8 polling place, if it's a minimum requirement, that you'd  
9 be able to reach out to the voters ahead of time, because  
10 it just facilitates the process. It's just important to  
11 the process. It's just the right thing to do.

12           Nonetheless, the EAC seems to rely heavily on the  
13 strict. And I've talked with the EAC, I went back and  
14 gave a presentation to them at a public hearing on March  
15 20th of 2008, where I raised some issues about both  
16 poll-worker training and provided them with a number of  
17 articles, 15, 20, a few dozen, about the reference poll  
18 worker's training would have really helped in some of  
19 these situations, where there seem to be confusion at the  
20 polls around early primaries that were being conducted in  
21 2008.

22           For instance, there was an actual reference, and  
23 I don't recall what state it was, that a poll worker was  
24 telling voters that it was okay that they couldn't see how  
25 they were marking their ballots because they were using

1 invisible ink.

2           And there was a polling inspector that backed up  
3 that -- and the person -- now, I mean, we're talking about  
4 the nation. You know, we're talking about one instance  
5 that a reporter had, and maybe they didn't get it right.  
6 I don't want to read too much into that, but it's just one  
7 of those quirky and, in some respects, egregious examples  
8 of a need for poll-worker training. And so --

9           COMMITTEE MEMBER MacDONALD: You should read a  
10 lot into that.

11           COMMITTEE MEMBER ACTON: Yeah, I mean, if we hear  
12 of one instance, there are usually more behind that.

13           COMMITTEE MEMBER MacDONALD: Yeah. I mean, we've  
14 been doing this for a long time, and we have a group that  
15 convenes after every election. These are all California  
16 people. And we talk about what we've all observed. You  
17 know, there's a lot out there. Not all of it is just  
18 horrible, but there's a whole lot of error. And of course  
19 there's going to be a lot of errors. Look at how much  
20 time we have to train all these people.

21           COMMITTEE MEMBER ALVAREZ: Yeah, I wanted to ask  
22 one question. It wasn't clear to me from the materials  
23 that you had sent along regarding -- or actually two  
24 questions, regarding the \$35 million in interest.

25           CHAIRPERSON REYNOLDS: Yes.

1           COMMITTEE MEMBER ALVAREZ: The first question is  
2 maybe you can tell me who the investment advisor was who  
3 generated that.

4           (Laughter.)

5           COMMITTEE MEMBER ALVAREZ: That's a pretty  
6 remarkable number.

7           (Laughter.)

8           COMMITTEE MEMBER ALVAREZ: But seriously, is it  
9 fair game to me, is -- can that allocated for any purpose  
10 whatsoever, or does it --

11           CHAIRPERSON REYNOLDS: No. The interest -- HAVA  
12 says that the interest that you earn on the money that you  
13 get -- HAVA was -- as I understand it, this is the first  
14 federal program that I've ever been involved in  
15 administering, but as I understand it, it was an unusual  
16 program, because they provided the money up front if you  
17 will.

18           They said, this is your allocation, and provided  
19 that you do the state plan and submit the certification,  
20 here's your funding, which needed to be deposited in an  
21 election fund. And then the interest earned on that  
22 remains with the state and needs to be used for  
23 Title II -- I'm sorry, Title III requirements. It's  
24 Title II funding, under Section 251 for Title III  
25 requirements, which are a 301 voting systems, and so on

1 and so forth.

2           And the interest would earn, simply based on the  
3 pooled money investment account rate. Like I say, it's an  
4 administrative detail that I can't explain to you fully.  
5 But I think, in part, it was based on the fact that, you  
6 know, California's allocation was pretty large and that  
7 the money wasn't expended immediately.

8           There were contracts that needed to be executed  
9 with counties, and then there were reimbursement processes  
10 that we needed to go through.

11           COMMITTEE MEMBER ALVAREZ: So that stays with the  
12 Title III pool.

13           CHAIRPERSON REYNOLDS: Yes. It needs to remain  
14 within their and needs to be used for Title III purposes.

15           COMMITTEE MEMBER LOGAN: Chris, a couple of  
16 questions.

17           For instance, we've been talking about the EAC  
18 advisory, and you and I talked about this at length. I'm  
19 just curious, is there any plan or intent or ongoing  
20 dialogue between the Secretary and the EAC for further  
21 clarification or reconsideration of this advisory?  
22 Because as I read it, and granted I read it with a slant,  
23 but --

24           (Laughter.)

25           COMMITTEE MEMBER LOGAN: You know, I mean, when



1 it says that things are one-time training expenditures.  
2 You know, I think you could argue that in implementing the  
3 voting system, you implement that and then -- that you  
4 learn that there's a new training technique that will work  
5 to do that. So at least the first time you implement that  
6 new training technique, I think you can argue is a  
7 one-time expense. It wasn't at the time you -- it may not  
8 have been at the election that the first implementation  
9 occurred, but it still could be a one-time expense.

10           Similar, I think you can make that argument with  
11 the voter education program; that when we implemented it  
12 in 2006, we did A, B, and C as voter education; and 2008,  
13 Presidential election cycle, based on our experience, we  
14 focused our education in a different direction. It was  
15 not a repeat of a previous program. It was a one-time --  
16 arguably a one-time expense.

17           So that's my first question, whether any of those  
18 kind of dialogues are going on?

19           CHAIRPERSON REYNOLDS: Actually, you know, other  
20 than beyond asking the opinion, because of, again, my  
21 presentation to the EAC and the questions I raised there  
22 never really elicited a response. And because we are  
23 where we are and we're coming up on a state plan update  
24 and I wanted to be as fully informed as possible, that was  
25 the reason for these questions.

1           Again, based on that presentation and based on  
2 the way I asked the question, in as much detail as I could  
3 provide to them, I'm not sure what more could be done by  
4 the way of asking, but I guess it doesn't hurt.

5           I think there is a question that has been asked  
6 by Sacramento County about the issue of, you know, voter  
7 education, and, you know, what's allowable there.

8           So poll-worker training --

9           COMMITTEE MEMBER LOGAN: In terms of interpreting  
10 this, though, as you look at the funding requests or  
11 reimbursement requests from counties, and you base it on  
12 this, those don't go before the EAC for consideration,  
13 it's a decision made here, right?

14          CHAIRPERSON REYNOLDS: Um-hmm. Based on --

15          COMMITTEE MEMBER LOGAN: And subject to audit of  
16 course, but --

17          CHAIRPERSON REYNOLDS: Correct.

18          COMMITTEE MEMBER LOGAN: All right. Okay. So  
19 questions of interpretation could be directed to you or  
20 the Secretary.

21          CHAIRPERSON REYNOLDS: True. Again, I think that  
22 in some respects the reference to one-time when deploying  
23 a new voting system may be, in some respects, based on old  
24 thinking, even though this opinion precedes what I'm about  
25 to mention; in that, I think the expectation was somehow

1 that voting systems would be purchased and that would be  
2 the end of it, if you will.

3           And so when you get that voting system, you're  
4 going to invest heavily in changing your poll-worker  
5 training, and then you're going to be done with it. But  
6 the EAC on March 20th of 2008, again, before it issued  
7 this opinion -- 2008 or 2007, they issued an opinion that  
8 essentially said it's okay to purchase a new voting  
9 system, even if you've already purchased a voting system  
10 using HAVA funds.

11           Up to that point, they had said it's -- we have  
12 to look at these questions under some OMB guidance, Office  
13 of Management and Budget. Is it allocable, allowable, and  
14 then one of them is reasonable.

15           What they said initially was, we don't consider  
16 it reasonable for you to go out and buy a voting system  
17 and then to use HAVA funds to buy another voting system  
18 when you used HAVA funds to buy the first system.

19           But upon reflection, the EAC changed its mind and  
20 said, no, that's okay. In fact, you know, if you find a  
21 flaw in what you've got, it's a good idea to upgrade or to  
22 buy a new system and so on and so forth.

23           But these opinions, and as a result I think, in  
24 part, from that experience, where staff had issued the  
25 first opinion about it's not reasonable, and then the EAC

1 itself came out with a new opinion, you're not asking the  
2 staff for an opinion any longer, you're asking the EAC.

3           So I guess based on all the information that I  
4 provided to them and the fact that the EAC itself is  
5 looking at this question, that there's some confidence  
6 that they said what they meant, or that there's no further  
7 interpretation. But, you know, I'd be interested in  
8 continuing the dialogue, because certainly we did  
9 consider, and saw training efforts, extending across a  
10 whole cycle. And we have responded accordingly in terms  
11 of what was done for reimbursement purposes. And now  
12 we're faced with this opinion.

13           COMMITTEE MEMBER LOGAN: I guess what I'm trying  
14 just to determine, and then I'll move onto a broader  
15 question, is from -- is what's the best course of action,  
16 in terms of if the reimbursement decisions are being made  
17 here at the state, based on this advisory, and there's  
18 some question on interpretation of what this advisory  
19 says, I would argue that -- I guess I would like the  
20 opportunity for us to be able to try and see if we can  
21 find room in the interpretation that would support the  
22 original spending plans that the State approved and that  
23 the counties approved.

24           I think that that's a better direction,  
25 sometimes, than asking the EAC for further guidance,

1 because they're dealing with a national issue, where we're  
2 dealing with a state issue. So I'm just trying to figure  
3 out what are the best steps to go through that. And it  
4 sounds like, if I'm understanding you correctly, that  
5 would be the first step. And then if there was  
6 disagreement in that interpretation, then there could be a  
7 decision made to -- by either your office or the party  
8 making the inquiry to go do these things.

9 CHAIRPERSON REYNOLDS: Well, I think it's  
10 important, though, to -- the experience seems to indicate,  
11 because there are so many instances where there seems to  
12 be a slight difference of interpretation with respect to  
13 HAVA, there's a need to rely upon the EAC. But let's have  
14 the dialogue.

15 COMMITTEE MEMBER LOGAN: And I don't think I'm  
16 saying anything different from that. I'm saying -- I  
17 mean, I don't think that it's a question of interpreting  
18 HAVA, I think it's interpreting what they've said here in  
19 terms of, when they say implement a new voting system  
20 versus deploy a new voting system. And when they say one  
21 time, and there's no reference to what that one time  
22 applies to, I mean -- again, I don't want to spend too  
23 much time on this, but I don't think it's an unreasonable  
24 thought when you look at the construction of HAVA and the  
25 intent of HAVA, that after you've implemented a new voting

1 system in an election cycle on a very practical and  
2 operational level, that you then learn from very  
3 experience, just like the presentation you made to the  
4 EAC, that, wow, we ought to be using a different training  
5 method for this.

6           And so the initial investment in that new  
7 training method, even though it may be two years after the  
8 deployment of the new voting system, is still arguably a  
9 one-time expense. Now, it's not a one-time expense if you  
10 go back every year and ask to be reimbursed for it, but  
11 the initial investment in the new training tool or  
12 methodology, I would argue, is in fact a one-time expense.  
13 And I think that's an interpretation of this advisory.  
14 It's not an interpretation of HAVA.

15           My broader question is sort of in anticipation of  
16 going through the comments, which I know is coming up, and  
17 that's just to -- is for purposes of understanding the  
18 intent of the state plan. It sounds like from the  
19 presentation that the state -- that this is really a --  
20 being narrowly defined as a spending plan, so the plan is  
21 specific to the money and the pots of money and where  
22 they're being allocated. And I want to be sure that I'm  
23 understanding that correctly versus that being one element  
24 of a state plan that may address broader issues.

25           CHAIRPERSON REYNOLDS: Well, there are actually

1 13 elements that a state plan needs to include. And I  
2 brought, in case people wanted to consult with HAVA at  
3 all, extra copies. There are binders over there in the  
4 back.

5 But I'm going to let you know here -- the first  
6 element talks about how the state will use requirements  
7 payment to meet the requirements of Title III.

8 MS. KAUFMAN: Page 72.

9 CHAIRPERSON REYNOLDS: I'm sorry. Yes, it's page  
10 72.

11 COMMITTEE MEMBER JOHNSON: Can I?

12 CHAIRPERSON REYNOLDS: Yes, please.

13 -- that how the State will use the requirements  
14 payment to meet the requirements of Title III, and, if  
15 applicable, carry out other activities to improve the  
16 administration of an election. So that's the minimum  
17 requirements payment program.

18 How the state will distribute and monitor  
19 distribution of the requirements payment, again, this is a  
20 kind of a managing-the-plan category. For instance, you  
21 know, what's the criteria used to determine eligibility.  
22 Counties were determined to be the eligible units of  
23 government because they administer federal elections.

24 So I'm going to gloss over some of these more  
25 managing the state plan administrative things, if you

1 will.

2           Let's see. How the state will provide for  
3 programs of voter education, election official training  
4 and poll-worker training as I mentioned. Again, this is  
5 one of those things where, if you're supposed to put it in  
6 the state plan, why is the EAC being so restrictive in  
7 terms of their interpretation of the use of --

8           COMMITTEE MEMBER LOGAN: I guess that's where I'm  
9 trying to go with the question, is even if we can't get  
10 past that hurdle, is the Secretary's intent to use the  
11 state plan as a document to identify those things that,  
12 from a policy level, that the state maybe ought to be  
13 doing in terms of voter education and training, even if we  
14 can't use HAVA funds for it.

15           I'm just trying to figure out, for purposes of  
16 the discussion, as we start going through this, and I see  
17 a lot of things that are marked as not being Title III  
18 related. I'm just trying to determine if those are  
19 germane to the discussion of the state plan or if those  
20 just get set aside and should be part of a different  
21 document, maybe a strategic plan or something else.

22           CHAIRPERSON REYNOLDS: Well, I don't have any  
23 great answers for you, with respect to that question.  
24 There are some things that it's worth noting are not  
25 directly related to Title III requirements, and that is



1 supposed to be -- what the state plan, in essence, does,  
2 it describes how you're going to meet the Title III  
3 requirements. Because again, as they talk about the voter  
4 education and election official training, they talk about  
5 the requirements of Title III.

6           And I guess one of the reasons for the focus is  
7 because -- or that I'm bringing the focus to that, is  
8 because the budget, the funds that are being allocated and  
9 the funding that's provided because it's interest earned  
10 and an unallocated amount of money, those funds are for  
11 Title III requirements.

12           And so to answer your question, though, I'm  
13 hoping that there will be an open dialogue here, that I  
14 can bring good ideas to the Secretary, and we will have to  
15 have maybe additional discussions about, you know, how to  
16 include things that are not Title III related in some  
17 other venue, like you said. Is it another document, or is  
18 it to be included? Because most of the things that are  
19 raised as comments are related, in some fashion, to the  
20 Title III requirements.

21           COMMITTEE MEMBER LOGAN: Okay. Thank you.

22           CHAIRPERSON REYNOLDS: Yes.

23           COMMITTEE MEMBER LEE: Go ahead.

24           COMMITTEE MEMBER FENG: I have a lot.

25           COMMITTEE MEMBER LEE: Okay, so do I.

1           COMMITTEE MEMBER FENG: Okay. Well, why don't we  
2 go back and forth.

3           COMMITTEE MEMBER LEE: Sure.

4           COMMITTEE MEMBER FENG: I'll start with the  
5 simpler questions.

6           So Secretary Bowen mentioned that she was  
7 interested in going further and looking to see if there  
8 are patterns regarding the uncounted provisional ballots  
9 and why they're not counted, and if there are things that  
10 can be done policy-wise to address that.

11           Is it your sense that that is work that could be  
12 covered by Title III funds or is it something that she's  
13 just thinking about as a larger initiative from the  
14 Secretary of State's office or different?

15           CHAIRPERSON REYNOLDS: Again, I'm a little  
16 skittish about making predictions about what you can use  
17 Title II funding for, because the EAC seems to look at  
18 things more restricted. But provisional voting is  
19 certainly something that is required under Section 302.  
20 And then there's the performance measures that are to be a  
21 part of the state plan.

22           This, to me, and I know that -- I believe the  
23 joint letter that was written by Common Cause, Disability  
24 Rights California, I believe League of Women Voters,  
25 and -- I'm forgetting somebody, I'm sorry.

1 COMMITTEE MEMBER BAZYN: CCB.

2 CHAIRPERSON REYNOLDS: Yes, thank you. The  
3 California Counsel of the Blind -- mentioned that  
4 specifically. And I think that's an ideal kind  
5 performance measure.

6 COMMITTEE MEMBER FENG: And it hasn't been done  
7 yet. That you know of, there's nobody in the Secretary of  
8 State's office who is asking all the counties about their  
9 last round of voting, how many provisionals, how many  
10 weren't counted, why.

11 CHAIRPERSON REYNOLDS: My understanding is that  
12 someone is collecting data on the number.

13 COMMITTEE MEMBER FENG: In your office?

14 CHAIRPERSON REYNOLDS: Yes.

15 COMMITTEE MEMBER MacDONALD: No, I don't think  
16 so. I think somebody from the CACEO is going to do that.  
17 Because some counties are actually tracking those  
18 statistics.

19 CHAIRPERSON REYNOLDS: Yeah. No. I mean, yes.  
20 And I was going to ask the counties as well to chime in  
21 here. But from a statewide perspective, I don't know or I  
22 don't believe that we have a standardization on the  
23 terminology that you use. For instance, the EAC in its  
24 survey, its election-day survey, asked the question, "Are  
25 you rejecting a provisional ballot because the person is

1 not registered in the state?" And some counties said,  
2 well, we don't know whether someone is registered in the  
3 state or not. We just know they're not registered in our  
4 county.

5           So there's a standardization of terms, in some  
6 respects, that needs to be done so that everybody clearly  
7 understands what we're talking about. But that  
8 information is being collected. The free access system is  
9 being provided. Although I do understand that one county  
10 was manually looking when people contact their office, in  
11 some cases, for provisional ballot envelopes to, you know,  
12 verify whether it was counted. And if it wasn't, why it  
13 wasn't, and so on and so forth.

14           But standardization of terms and, you know,  
15 collecting the information and having a common place and a  
16 common way to collect that information, and then an  
17 analysis of the data. No, I don't believe that that's  
18 happening on a statewide basis.

19           And do you want to hear from the counties about  
20 what they might be --

21           COMMITTEE MEMBER FENG: I'd love to.

22           Is there anything -- is anybody doing it? Is  
23 CACEO doing it?

24           COMMITTEE MEMBER LOGAN: I think that there are  
25 many counties that are doing it on an individual basis,

1 and there may be somebody who is requesting that data from  
2 anybody who's collecting it. I don't know that I've seen  
3 a cumulative --

4 COMMITTEE MEMBER MacDONALD: I know Bonnie was  
5 talking to somebody who was trying to collect the data  
6 just a month ago, because wasn't she doing a project on  
7 that, so I can tell you --

8 COMMITTEE MEMBER FENG: On a provisional ballot?

9 COMMITTEE MEMBER MacDONALD: And on why, yeah.

10 COMMITTEE MEMBER LOGAN: I don't think -- even if  
11 it's there, I don't think it would be uniform or  
12 consistent just because so much of the coding of how you  
13 code those in a system is unique to your individual  
14 system. So, you know, what you call it, your menu of  
15 reasons for accepting or rejecting a ballot is probably  
16 not consistent from that.

17 COMMITTEE MEMBER MacDONALD: Also --

18 CHAIRPERSON REYNOLDS: That's why I was talking  
19 about standardization of terms. You want to make sure  
20 you're collecting the same data.

21 COMMITTEE MEMBER MacDONALD: But, Chris, I mean  
22 there's also a difference between, you know, collecting  
23 the data and then reporting back to the Board. That's a  
24 big difference.

25 CHAIRPERSON REYNOLDS: I'm sorry, collecting the

1 data --

2 COMMITTEE MEMBER MacDONALD: When you said  
3 somebody's going back and manually and actually then  
4 telling the voter whether or not, you know -- or the  
5 reason for why a ballot was rejected. I mean, those are  
6 two different things. I mean, reporting back to the voter  
7 on that issue or just collecting the data for  
8 administrative purposes.

9 CHAIRPERSON REYNOLDS: Yeah. I mean, it's  
10 always -- you want to make sure that you have the standard  
11 stuff. And then you want to make sure that you're  
12 collecting the data. And then there's the analysis part  
13 of the data. And so as far as I know, that's not  
14 something.

15 COMMITTEE MEMBER FENG: Okay. But it's --  
16 there's nothing, to your knowledge, that would limit this  
17 idea from being included in the upcoming plan.

18 CHAIRPERSON REYNOLDS: I don't think there's a  
19 limitation on putting it in as a performance measure,  
20 certainly, that it would be one of those things that you  
21 would probably include. I mean, it seems like it would be  
22 a good idea to -- I mean, the data is being collected.  
23 And I think the way it was described in the joint letter  
24 was find the commonality and then look at the root causes  
25 and see whether there can be programs to address it. I

1 mean, that seems like a perfectly logical extension of  
2 HAVA.

3 COMMITTEE MEMBER FENG: Okay.

4 CHAIRPERSON REYNOLDS: And there might be some  
5 ways to work with some counties on a pilot basis as a way  
6 to start it, so that you can work out those bugs. You  
7 know, how do you standardize the terms, the data, how do  
8 you collect the data and get everybody used to it, and  
9 then you've also got some people who are used to it from a  
10 county saying, hey, this can be done, and so on and so  
11 forth. And I think some counties are doing it on their  
12 own.

13 COMMITTEE MEMBER KELLEY: I was just going to say  
14 in Orange County, we have the data that's collected and  
15 it's easy to get. And we'd be happy to share it with you,  
16 too.

17 COMMITTEE MEMBER FENG: Cool.

18 COMMITTEE MEMBER KELLEY: I was just going to add  
19 too, I'm on a subcommittee for the EAC Board of Advisors,  
20 and there is -- there are five states that are  
21 participating in a program right now for an extension of  
22 the election-day survey and drilling down to the precinct  
23 level and provisional ballots. So you might also contact  
24 the EAC. There's five states with that data right now,  
25 that have that.

1 COMMITTEE MEMBER HUFFMAN: How difficult could --  
2 I mean, how many reasons could a provisional ballot be  
3 rejected? How difficult is it to get 58 counties to agree  
4 on terminology?

5 CHAIRPERSON REYNOLDS: I'm not sure it would be  
6 difficult.

7 COMMITTEE MEMBER FENG: It seems like there's a  
8 handful of reasons.

9 COMMITTEE MEMBER KELLEY: Very small.

10 COMMITTEE MEMBER LOGAN: Actually, the menu of  
11 reasons is much higher in terms of reasons that they were  
12 counted and the reasons for why they had to vote  
13 provisionally and ultimately that that got counted.

14 COMMITTEE MEMBER MacDONALD: But it's also, to  
15 some extent, a vendor conversation, isn't it? Because the  
16 vendors really -- I mean, we don't have like that many  
17 vendors really. And, you know, I'm just always hoping  
18 that these vendors aren't charging every county  
19 individually for incorporating something like this. Maybe  
20 there's got to be a little conversation about this, that  
21 we all want to implement it, make it easier, because I  
22 think they're really playing games.

23 COMMITTEE MEMBER FENG: Okay.

24 CHAIRPERSON REYNOLDS: How hard would it be to  
25 get people to agree on the standardization of terms?



1 I'm just saying it's one step that needs to be  
2 taken. I think it has to do with -- I mean, if you don't  
3 throw in a question like they're registered in another  
4 state, because that's an easy one for a county to say,  
5 well, I don't know. They're just not registered in my  
6 county. But it was, in fact, a part of the EAC survey,  
7 and I don't know why it was in there. But, you know, the  
8 voter wasn't registered. They were in the wrong county.

9 COMMITTEE MEMBER FENG: Incomplete information.

10 CHAIRPERSON REYNOLDS: Right. They didn't sign  
11 the provisional ballot --

12 COMMITTEE MEMBER FENG: Or they registered too  
13 late.

14 CHAIRPERSON REYNOLDS: Right. And I think that  
15 would fall into the category -- see, there's -- where  
16 maybe you would say they're not registered, because you'd  
17 ask, well, how would I know if they were registered late?  
18 But, yeah, not registered at the time they cast their  
19 ballot or something like that. So you just have to work  
20 through it a little bit.

21 Anyway, but I think you're right, too, Karin, is  
22 it's -- there's also the element of working with the  
23 election management system vendors. You mentioned  
24 vendors, and I assumed that that's who you were talking  
25 about. And I think that these vendors are -- tell us, at

1 least, that they have modules that are available for  
2 people to capture this information.

3           But then there's -- they need some instruction on  
4 how to extract the data in some cases from the election  
5 management system. And then it's a question of whether  
6 the counties are using the module that's available to  
7 them. Do they even know it's available? Do they know how  
8 to use it? Do they think it's important? And, in some  
9 respects, it's an education process.

10           Counties, and I think states generally, told the  
11 Election Assistance Commission about the election-day  
12 survey, give us as much advanced warning as you can about  
13 the data you want to collect, so we know what we're  
14 supposed to be collecting. So, in some cases, I think  
15 counties are doing what they think they can do, what they  
16 need to do, in other words, what they can do with the  
17 resources that they have. And they don't know that  
18 someone's going to come and ask them about this or that  
19 particular thing, and they -- so that's part of it, too.

20           COMMITTEE MEMBER LOGAN: I think that the general  
21 information, as Neal indicated, is -- I'm assuming, that  
22 is available from most counties. I think it just has  
23 never been centrally reported. And I mean before going  
24 down too far an elaborate road, it would be interesting  
25 just to collect that which is already collected and look

1 at it.

2 I think you could probably discern from that the  
3 very information the Secretary was talking about, in terms  
4 of, you know, where are the hot points that we should be  
5 looking at.

6 COMMITTEE MEMBER MacDONALD: We're trying to do  
7 that right now, actually.

8 THE REPORTER: Can she speak up a little bit.

9 CHAIRPERSON REYNOLDS: Karin.

10 COMMITTEE MEMBER MacDONALD: We're working on  
11 that; give us data.

12 COMMITTEE MEMBER MARTINEZ: Well you know DFM is  
13 probably one of the largest election management system  
14 vendors, and they make changes regularly to their  
15 software, and they do not charge the counties. It's  
16 included in their monthly maintenance, if you will. So  
17 I'm sure it would be easy to get that or to be able to  
18 capture that from them.

19 COMMITTEE MEMBER LEE: Chris, can I ask you a  
20 question?

21 CHAIRPERSON REYNOLDS: Yes.

22 COMMITTEE MEMBER LEE: So I wanted to go back to  
23 your presentation about the spending plan for 2005 to  
24 2009.

25 CHAIRPERSON REYNOLDS: Yes.

1           COMMITTEE MEMBER LEE: I think it would be  
2 helpful for me to know some information about the minimum  
3 requirements funding. So you mentioned 11.6 million of  
4 the original Title III allocation or the Section 251  
5 allocation was for minimum payments. And it would be  
6 helpful to know how much of that is remaining.

7           And I think it also would be helpful to know for  
8 the remaining funding and the new funding that California  
9 is expecting, as well as the interest, what portion of  
10 that new funding will be allocated to minimum  
11 requirements, if that's what the Secretary wants to do, in  
12 fact?

13           And the reason I ask is I think that, that money,  
14 in my mind, is basically more flexible in its use. It can  
15 be used for non-Title III purposes, to improve the  
16 administration of federal elections. And I think to the  
17 extent that people want to look at specific issues with  
18 funding costs, it would be helpful to know that sort of  
19 information about the minimum requirements.

20           CHAIRPERSON REYNOLDS: Now, it will vary from  
21 county to county, because what was done was the \$195  
22 million contract, the cumulative total, was allocated  
23 based on the Proposition 41 funding.

24           The minimum requirements payment was a subset of  
25 that \$195 million, and it was allocated based on that same

1 Prop 41 formula. So there are -- each county was assigned  
2 its proportionate share. And so the amount of minimum  
3 requirements payment funding remaining would be in  
4 individual county by county, and we'll try to get you that  
5 breakdown.

6 COMMITTEE MEMBER LEE: For the new funding --

7 CHAIRPERSON REYNOLDS: Yeah, I'll have to ask  
8 that question.

9 COMMITTEE MEMBER LEE: Okay. But in addition to  
10 knowing by the counties, it just would be helpful to know  
11 the total amount that you're expecting would be available  
12 for -- from that new funding.

13 CHAIRPERSON REYNOLDS: Well, let's see. Yeah. I  
14 mean, it's based upon the total amount of money that gets  
15 allocated; and I can't do that calculation off the top of  
16 my head. See, the EAC does the calculation. The reason  
17 they call it a minimum requirements payment is the money  
18 that's get allocated under Title II is the so-called  
19 requirements payment, because the Title II money is used  
20 for Title III requirements.

21 There was a formula or a provision put in HAVA  
22 that says that essentially no state is going to  
23 receive -- every state is going to receive at least this  
24 much money; and so that is the minimum requirements  
25 payment. So out of the new money that's been

1 appropriated, what is each state entitled to receive as a  
2 bear minimum, and that would be the figure. And I don't  
3 have that, but I can ask the EAC.

4 COMMITTEE MEMBER LEE: And does the interest  
5 also -- is that a pool of money from which minimum  
6 requirements can be taken?

7 CHAIRPERSON REYNOLDS: That's not my  
8 understanding, because it's tied to the money that gets  
9 allocated to the states. That's how they derive that  
10 formula.

11 COMMITTEE MEMBER LEE: So it's just the new  
12 funding, the 24 million?

13 CHAIRPERSON REYNOLDS: Correct.

14 MS. KAUFMAN: And the funny thing about is that  
15 all states have the exact same dollar figure, not  
16 percentage. The exact same total dollar figure. All of  
17 the states have 11.6 million available for minimum  
18 requirements use, but -- and so here California is with  
19 the largest allocation, and they've got the same as Rhode  
20 Island.

21 CHAIRPERSON REYNOLDS: Again, because it's based  
22 on what absolute minimum amount of money is every state  
23 entitled to. Because again -- they do this sometimes in  
24 state funding too, is if you do a per capita basis for  
25 your funding, then some counties will receive very little

1 money. And so what they say is, well, to run a proper  
2 program, to do this thing that we want them to do, they're  
3 going to need at least this much money. So whatever we  
4 allocate, it's going to be at least this much money. They  
5 did the same thing with HAVA.

6 COMMITTEE MEMBER JOHNSON: But, Chris, are we --  
7 do we get an additional amount over the minimum based on a  
8 per capita?

9 CHAIRPERSON REYNOLDS: No. Here, let me try it  
10 this way.

11 The general allocation of funding for HAVA was on  
12 a per capita basis. It was your voting age population  
13 divided by the total voting age population for the  
14 United States.

15 And I think, at least initially, it was about  
16 11.6 percent of voting age population in the United States  
17 lives in California. I don't know what the latest figures  
18 are. Someone else around the table, who tracks this stuff  
19 or smarter than I am, might know.

20 So we were allocated more money than any other  
21 state, because we have the largest voting age population  
22 in the United States.

23 However, again, what they said was, since you're  
24 doing a per capita allocation of funding, a state like  
25 Rhode Island or Delaware might get \$50,000. That's not

1 enough for them to run a HAVA program. So we are going to  
2 make sure that they get at least this much money. And  
3 it's one half of one percent of something. It's in HAVA,  
4 and we could dig it out, and I'll show it to you on the  
5 break.

6 COMMITTEE MEMBER JOHNSON: No, I don't think  
7 you're understanding my question.

8 I mean, the way our program is funded is sort of  
9 similar. There's a minimum allotment that goes out to all  
10 the states. Once the minimum allotment has been sent out,  
11 then, depending on the size of your state, you may get  
12 additional monies on top of that.

13 So I guess my question related to the HAVA  
14 funding, is it a similar kind of calculation?

15 MS. KAUFMAN: Right, but not for minimum  
16 requirements. Because minimum requirements, as Chris  
17 says, is a subset. It's not additional dollars. It's  
18 simply defining the dollars you already received, this  
19 much of it can be used for that purpose.

20 COMMITTEE MEMBER JOHNSON: I see. So it's more  
21 related to purpose than funding.

22 MS. KAUFMAN: So it's not a bunch of money.

23 CHAIRPERSON REYNOLDS: That's correct. That's  
24 absolutely correct.

25 COMMITTEE MEMBER FENG: But if your subset falls



1 underneath -- if your State allocation is 11.6 percent and  
2 it falls underneath whatever that minimum allocation is,  
3 then they would at least give you the minimum allocation  
4 is what you're saying, whatever that number was.

5 CHAIRPERSON REYNOLDS: Well, it's -- I mentioned  
6 11.6 percent of the state -- of the voting age population  
7 in the United States. I think that was the figure, but it  
8 just so happens that \$11.6 million is also the amount of  
9 the minimum requirements payment. So --

10 MS. KAUFMAN: That's coincidence.

11 CHAIRPERSON REYNOLDS: Yeah, coincidental.

12 MS. KAUFMAN: Nothing to do with anything.

13 CHAIRPERSON REYNOLDS: So I'm trying to  
14 understand your question.

15 COMMITTEE MEMBER FENG: No. No.

16 MS. KAUFMAN: I guess what she's asking is did  
17 Rhode Island get 11.6 million?

18 CHAIRPERSON REYNOLDS: Yeah. That would have  
19 been --

20 MS. KAUFMAN: I think that's what you're saying.

21 COMMITTEE MEMBER HUFFMAN: But they didn't get as  
22 much overall money as California, based on per capita.

23 CHAIRPERSON REYNOLDS: That's right. That was  
24 their floor. And that's where they derived that number  
25 from.

1 COMMITTEE MEMBER JOHNSON: But then you're saying  
2 that it's purpose driven also.

3 CHAIRPERSON REYNOLDS: Right. You're right.  
4 It's really purpose driven. It's this much of your money  
5 that you're getting, whatever that total amount of money  
6 is, this much of it, \$11.6 million --

7 COMMITTEE MEMBER JOHNSON: Has to go to these  
8 things.

9 CHAIRPERSON REYNOLDS: No, it doesn't have to,  
10 but it can be.

11 MS. KAUFMAN: Can.

12 COMMITTEE MEMBER JOHNSON: Can be. I see, okay.

13 CHAIRPERSON REYNOLDS: We're giving you some more  
14 flexibility with a small amount of the money that you're  
15 going to receive. Well, small for California.

16 COMMITTEE MEMBER FENG: So I'm going to throw out  
17 a wild idea.

18 (Laughter.)

19 COMMITTEE MEMBER FENG: I'm prefacing it so that  
20 you are ready for the wild idea.

21 Is there anything that you know of restricting  
22 Title III funding from being spent on State or county  
23 efforts to develop a voting system in-house that meets the  
24 HAVA, disability, language access, and other requirements?

25 CHAIRPERSON REYNOLDS: You mean could a county

1 develop a system and then submit a claim for reimbursement  
2 for that system that they developed?

3 COMMITTEE MEMBER FENG: Could a county or  
4 consortium of counties or the county plus the SOS work  
5 together to develop a voting system using their know-how  
6 and their staff and maybe some outside consultants?

7 CHAIRPERSON REYNOLDS: I think the Secretary's  
8 referring to a Manhattan project for voting systems,  
9 right?

10 Under the existing mechanisms that we have with  
11 counties, we have reimbursement-based contracts. But I  
12 think you'd be talking about something that's different  
13 from that, outside of that.

14 COMMITTEE MEMBER FENG: I think some model could  
15 be. The commission that's created to initiate -- what's  
16 it called -- stem cell research, not that we want it to be  
17 quite as controversial, but maybe voting systems are that  
18 controversial.

19 (Laughter.)

20 COMMITTEE MEMBER FENG: But the idea being that  
21 California, number one, is a big state with significant  
22 internal resources, that if you got some of the best minds  
23 within the counties and the SOS together, we have the  
24 capacity to develop a system that would be responsive to  
25 the broadest span of special needs that any state would

1 have to face. Because we have, within California, the  
2 largest number of language requirements. We've got a lot  
3 of very active disability rights groups, and also a very  
4 active security -- voter integrity community.

5           So if you put those different resources together,  
6 that California actually might be the perfect place to try  
7 to incubate a system that could meet the requirements of  
8 HAVA, but also the particular requirements that California  
9 brings to the table. It might turn around and be, as you  
10 say -- I don't know a Manhattan Project, but like the stem  
11 cell research where there are -- the dividends that get  
12 paid out are much larger than the initial investment.

13           CHAIRPERSON REYNOLDS: And I don't want to give a  
14 wild answer here.

15           (Laughter.)

16           COMMITTEE MEMBER FENG: Well, the first question  
17 was, is there anything in HAVA --

18           CHAIRPERSON REYNOLDS: That precludes it?

19           COMMITTEE MEMBER FENG: -- that precludes it?

20 That's the first question.

21           CHAIRPERSON REYNOLDS: I don't know that there  
22 is. I just -- I'm thinking about what very little I know  
23 about the voting system certification. Well, they don't  
24 call it certification anymore, at least in California.  
25 They call it testing and approval. The voting system

1 testing and approval process.

2           So you would need the capital, I suppose, to get  
3 it started. Then you would need the capital to go through  
4 the voting system testing and approval process at the  
5 federal level. It gets assigned to a voting system  
6 testing laboratory that's approved and certified by the  
7 EAC and run through its paces there. And then it comes to  
8 California.

9           And presumably you would reduce your costs there,  
10 because you're a part of a consortium on the front end, so  
11 you already know what you're talking about. So you don't  
12 have the cost there. So I guess you'd be primarily  
13 talking about the cost at the federal level, because  
14 vendors do talk about --

15           COMMITTEE MEMBER FENG: Right. And then the --  
16 in theory anyways, if funds were going to be spent on a  
17 county or several counties purchasing new systems, you  
18 were going to allocate it to those counties to purchase  
19 new systems, that those funds might go towards the  
20 development of this joint project, whatever we're calling  
21 it.

22           CHAIRPERSON REYNOLDS: Yeah, but if a county was  
23 in a situation where they said, well, we have the system  
24 that we need right now and we still have some allocation  
25 of funding remaining under this, we would want to kick in

1 some -- yeah, I don't know how to structure anything like  
2 that. I'd certainly, I guess, need to explore how it  
3 would work. And I'm not even sure who I should ask, other  
4 than maybe the EAC, at this point, about could you do this  
5 with HAVA funding? I mean, is there a reason why you  
6 can't?

7           Except that someone might say -- I'm just trying  
8 to think of all the possibilities, someone might say, no,  
9 you have to -- what that money is for is for purchasing a  
10 voting system that complies with HAVA 301, not for  
11 developing a system that complies with 301. You're  
12 putting money into something that hasn't actually met the  
13 standards yet, so it's inappropriate to -- so that's one  
14 possibility.

15           MS. KAUFMAN: Yeah. You run into federal funds  
16 competing with private enterprise, which is always a very  
17 sensitive issue in any federal grant.

18           CHAIRPERSON REYNOLDS: Well, but in this --

19           MS. KAUFMAN: Speaking generally.

20           COMMITTEE MEMBER FENG: Okay. And I don't know  
21 if this is considered to be private enterprise, if it's  
22 something that is generated and owned by -- like the  
23 proprietary ownership somehow resides. The same way,  
24 again, as somehow the stem cell research funds, the  
25 research that's generated is ultimately owned, I think, by

1 the State of California.

2           That if you had some type of partnership between  
3 the counties and the Secretary of State, and a product or  
4 a group of products was created that was responsive to  
5 California's needs. And I'll hypothetically say, for  
6 instance, in Los Angeles, if you were going to replace the  
7 system, that it could be as much as 150 million, is that  
8 right, to replace the whole voting system? And Los  
9 Angeles is fairly seriously considering replacing the  
10 entire InkaVote voting system.

11           So if you were going to do that, you're going to  
12 give that funding to a vendor anyways. And if it was the  
13 case that between the counties or some counties and the  
14 Secretary of State, there was a feeling that the current  
15 products that were available were not up to snuff.

16           CHAIRPERSON REYNOLDS: Yeah.

17           COMMITTEE MEMBER FENG: Then could a partnership  
18 be entered into to develop something, which could turn  
19 around, like the stem cell research, and then be licensed  
20 or marketed to other jurisdictions. So, you know, you  
21 could imagine that somewhere down the line that California  
22 could reap the benefits of that.

23           CHAIRPERSON REYNOLDS: Well, there's --

24           COMMITTEE MEMBER FENG: Besides having full  
25 ownership of software and hardware, so that you no longer

1 have to ask permission every time you want to make  
2 changes.

3 CHAIRPERSON REYNOLDS: Right. And this isn't on  
4 point with your question. But there are some things  
5 within HAVA that point to research and development to be  
6 done by the EAC itself. I don't know whether they have  
7 ever received any funding to do that kind of research, but  
8 there are provisions in HAVA. And I can try to dig out  
9 those provisions on the break and make sure that you have  
10 them when you come back. But that's one thing that  
11 suggests that, at the federal level, this wouldn't be  
12 unheard of.

13 How would the states partner with the EAC on such  
14 a venture? But within California, itself, I don't know.  
15 The only thing I can think of off the top of my head is  
16 this issue about spending federal funds on a speculative  
17 thing. That you're talking about developing a system.  
18 And until you have something to bring forward and we can  
19 show that it meets the Title III, then you can spend  
20 money.

21 COMMITTEE MEMBER FENG: Well, the irony is that  
22 purchase a new voting system is fairly speculative these  
23 days, because you don't know if it's going to be  
24 certified, you don't know if it's going to stay certified.  
25 And blah, blah, blah, blah. So I guess I just throw it



1 out there that -- I guess --

2 CHAIRPERSON REYNOLDS: People shouldn't be buying  
3 systems before they're certified, but -- I'm sorry --  
4 tested and approved, but you're right, on the back end you  
5 find things sometimes and it's, you know --

6 COMMITTEE MEMBER FENG: And you have  
7 conditionally uncertified things and blah, blah, blah.  
8 And so I guess what I would just say is that we now have  
9 quite a few years of experience of going through the tug  
10 of war with vendors, and the EAC certification process,  
11 where some counties, like Los Angeles, have delayed  
12 purchasing a new voting system for over seven years now?

13 Many years. And at the same time, there may be  
14 an accumulation of expertise and resources within counties  
15 and the State to be able to think about this as a viable  
16 option.

17 COMMITTEE MEMBER BAZYN: Part of the problem is  
18 that nowadays it's hard to get investors to go into a  
19 project hoping that they'll get money back from the State  
20 of California.

21 Right?

22 COMMITTEE MEMBER FENG: Yeah.

23 CHAIRPERSON REYNOLDS: If we had only known where  
24 this would all end.

25 But I don't know of anything that would suggest

1 that you absolutely couldn't do that, except for what I've  
2 mentioned so far.

3 Anybody else got any ideas on this?

4 COMMITTEE MEMBER BAZYN: That's a good proposal.

5 MS. KAUFMAN: Where were you five years ago?

6 (Laughter.)

7 COMMITTEE MEMBER FENG: I've been suggesting this  
8 from the very beginning. But I think, at the time five  
9 years ago, we actually were somewhat hopeful that the  
10 vendors would catch up and that the technology that they  
11 were promising was going to be more functional than it's  
12 turned out to be. I think in the -- and all along we knew  
13 that many of our counties actually have the internal  
14 expertise and had been developing hybridized systems  
15 themselves.

16 So again, using Los Angeles as an example, there  
17 are pieces of the voting system that come from different  
18 vendors, but then there's also much that is developed  
19 internally, like much of the software. And so it just  
20 seems like, as we now are in, what feels like, seven years  
21 of back and forth on the viability of voting systems, that  
22 maybe we need to take that radical step. What seemed  
23 radical before now seems maybe a little bit more plausible  
24 as an option.

25 CHAIRPERSON REYNOLDS: Okay. I'll try to -- I'll

1 give you some information in the meantime, but I'll also  
2 try to see what I can do to figure this out or ask the  
3 appropriate people or -- I'm sorry.

4 COMMITTEE MEMBER MacDONALD: Is this -- are they  
5 going to be public? I mean, are these comments going to  
6 be made public?

7 MS. KAUFMAN: Yes.

8 COMMITTEE MEMBER MacDONALD: Then I'm not going  
9 to say anything. But I think you'd want to check the  
10 person you just talked to about this or whoever approached  
11 you on this particular idea.

12 COMMITTEE MEMBER FENG: Nobody approached me.  
13 I've been throwing it out in my own way.

14 COMMITTEE MEMBER MacDONALD: Because there is one  
15 particular organization that has that idea in the State of  
16 California. And I would say that all the other  
17 organizations that happen to work in that particular field  
18 and happen to have probably some of the world's leading  
19 experts on technology and voting systems and whatnot.  
20 They would probably say that some of these should be taken  
21 with caution. I think there's a lot of promise with that  
22 idea, every step of the way. And we can talk off the  
23 record about that.

24 COMMITTEE MEMBER BAZYN: Well, the problem with  
25 going the way we're going right now is a lot vendors don't

1 want to spend, you know, bunches and bunches of money  
2 making changes, if they're not sure if the state is going  
3 the purchase their products. And I think that's why they  
4 haven't made more extensive, you know, changes than what  
5 they have, because of that reason, don't you think?

6 COMMITTEE MEMBER FENG: Right. And there is just  
7 now -- it has become a chicken and egg situation where, as  
8 you say, there are some products out there. It's not  
9 perfect. There's back and forth about whether that  
10 product will be changed. It gets caught up in the testing  
11 system. It's not clear that -- anyways -- if it will be  
12 approved by various entities. And so by the time it's all  
13 said and done, the products that counties end up  
14 purchasing are not as responsive to their needs as what  
15 they'd hoped they would be.

16 And if a county or several counties had more  
17 control over the development of that product from  
18 beginning to end, then, I think, in California anyways, we  
19 would get ourselves out of this Catch 22 situation.

20 CHAIRPERSON REYNOLDS: Did you have --

21 COMMITTEE MEMBER LEE: I have a question on  
22 Section 251 funds for Title III purposes.

23 So the first part of the question is, is the  
24 allocation as set forth in Section 6 of the draft state  
25 plan update set? And can we talk about that? So

1 specifically I would point to page 5, where it talks about  
2 no further Title III requirements payments funding will be  
3 used for voting information, the posting information at  
4 polling places.

5           And so I wanted to ask whether that's a decision  
6 that's been made final by the Secretary of State's office  
7 or is that still open?

8           CHAIRPERSON REYNOLDS: No, this is a draft,  
9 admittedly put together as a way to start discussions.  
10 The description of what the Title II funding is intended  
11 for, the specific Title III requirements are posting  
12 information at the polling places. And so to the extent  
13 that, A, it's a preexisting requirement in California, and  
14 B, it's being met, and there were not HAVA dollars, other  
15 than allocation for Voting Rights Bill of Rights poster,  
16 adding all those things up, that was kind of just a  
17 general statement.

18           However, the group is interested in exploring, I  
19 know, there's been mention here made of providing for  
20 information at the polling place, that would be a  
21 Title III issue. And so the question would be what ideas  
22 do people have. And some of the comments that have been  
23 made, I guess I want to try to draw out, because at least  
24 the way I read them, I wasn't sure I understood what the  
25 proposal was.

1           COMMITTEE MEMBER LEE:  And the second part of the  
2 question is I wanted to get a little bit more  
3 clarification on statements in Section 6 of the draft  
4 state plan as well as in the other materials provided.  I  
5 think the -- tying 2004's funding plan to the current  
6 spending plan, the document you emailed earlier, and  
7 there's a statement about HAVA funds not being -- it's not  
8 a permissible use of HAVA funds to fund activities that  
9 are already being funded or were already required, prior  
10 to the enactment of HAVA under state law.

11           And so I think you're referring to that as the  
12 maintenance of effort provision; is that right?

13           CHAIRMAN REYNOLDS:  Um-hmm.

14           COMMITTEE MEMBER LEE:  So what is specifically  
15 the standard for that?  I was unclear from reading the  
16 actual HAVA section that that imposed a prohibition on  
17 using funding to supplant activities already funded.  I  
18 didn't get that from reading that, so I was wondering if  
19 that's coming from EAC guidance or is that --

20           CHAIRPERSON REYNOLDS:  It's coming from the EAC.  
21 It's coming from a general understanding of what  
22 "maintenance of effort" means.  And, frankly, there's a  
23 lot of confusion at the federal level, and it's very  
24 frustrating for me, and I've been trying to get them to  
25 help us understand, and haven't gotten anywhere with it.

1 Frankly, when I talked about that meeting, the public  
2 hearing that I attended of the EAC, that was one of the  
3 topics of discussion.

4 I talked a lot about voter education, poll-worker  
5 training, but it was principally about maintenance of  
6 effort. The EAC has a policy. They suspended part of the  
7 policy. No one's sure what the policy is. It's a  
8 difficult one, but the intent and the spirit of a  
9 maintenance of effort is something everybody seems to  
10 agree on, which is the intention of an MOE, as they call  
11 it, is to make sure that when you get federal funding,  
12 that you don't take that funding and spend it on an  
13 activity that you're already doing. That would be  
14 considered supplanting, and you should not do that, you  
15 cannot do that. This is intended to expand the activities  
16 that a state is conducting.

17 And I will see what I can dig up for you off of  
18 the frequently asked questions that are on EAC website  
19 about MOE.

20 COMMITTEE MEMBER LOGAN: Chris, does that apply  
21 to the -- just as you said, that it made me wonder about  
22 the push from the Legislature to use the remaining HAVA  
23 funds to pay for ongoing maintenance and operations of the  
24 new voter registration list.

25 I mean, is there an issue of fact -- I mean, the

1 State is currently paying for maintenance and operation  
2 for CALVOTER, right? I mean, that's a current expense.

3 CHAIRPERSON REYNOLDS: Right. Some of  
4 those -- yes, some of that is.

5 COMMITTEE MEMBER LOGAN: So is there a  
6 maintenance-of-effort issue?

7 CHAIRPERSON REYNOLDS: There is and there is not,  
8 because the EAC says specifically, on its frequently asked  
9 questions on its website, that you can use HAVA funds to  
10 do M&O, maintenance and operations, of your statewide  
11 voter registration database. But you do need to take into  
12 account that if you had a cost in your base year -- see,  
13 the way an MOE works --

14 COMMITTEE MEMBER LOGAN: Right.

15 CHAIRPERSON REYNOLDS: Okay, but for those who  
16 may not understand a maintenance of effort, the first  
17 thing you do is you create a base year. What level of  
18 expenditures do you have to maintain, okay? And in HAVA,  
19 it's the fiscal year preceding the November 2000 election;  
20 so 1999-2000 fiscal year for California, what were you  
21 spending on?

22 Now, the EAC -- and here's part of the  
23 confusion -- they say that these categories of HAVA, that  
24 your maintenance of effort applies to categories of  
25 activities, not specifically to what HAVA requires. So if



1 you did something in the past that related to voter  
2 registration, that's what they want to talk about, or at  
3 least that's what they have wanted to talk about.

4           So if a county has been maintaining voter rolls  
5 at the local level, then that kind of expenditure level,  
6 whether it shifts up to the State or it stays at the local  
7 level or it's some combination of the two, needs to be  
8 maintained.

9           But it does get difficult, because if you were  
10 able, for instance, to create some economy of scale and  
11 actually reduce the costs associated with voter  
12 registration, which generally speaking would seem to be a  
13 good thing, this maintenance of effort seems to imply no,  
14 keep spending money that you don't need to spend to keep  
15 doing the same stuff you don't need to do anymore because  
16 you need to maintain your level of effort.

17           Anyway, it's those kinds of --

18           COMMITTEE MEMBER LOGAN: And that's the debate  
19 that they're going through, right, is whether or not it's  
20 a broadly --

21           CHAIRPERSON REYNOLDS: Not really

22           COMMITTEE MEMBER LOGAN: -- this is how much  
23 money you spent for election's administration in that year  
24 versus categorizing it into those individual --

25           CHAIRPERSON REYNOLDS: That was one element or

1 one proposal, one form of a proposal that was introduced  
2 by one of the Commissioners. There are at least three  
3 different proposals that are out there.

4           Although, one was put forward by, then by vice  
5 chair, Caroline Hunter, who has been appointed to the FEC  
6 and moved on, and the other one was -- it was picked up,  
7 if you will, by Rosemary Rodriguez, who was then chair,  
8 who, yes, has since moved on. And so I don't know if  
9 that's an orphaned proposal, but there was one put forth  
10 by Gracia Hillman and then one put forth by Donetta  
11 Davidson, which is the one you're describing.

12           COMMITTEE MEMBER LOGAN: Right

13           CHAIRPERSON REYNOLDS: So, yeah, it's very  
14 difficult. But that is the genesis of the issue of  
15 supplanting. And again, I will try to find you something  
16 at the break.

17           COMMITTEE MEMBER LEE: Sure. Great. I think as  
18 part of that, I have a question in my mind is, to what  
19 extent does maintenance of effort prevent a state from  
20 using HAVA dollars to comply with the existing law, where  
21 it hasn't been doing a good job of doing so. So, for  
22 example, we're using HAVA dollars to help public  
23 assistance agencies comply with the NVRA or helping  
24 election officials comply with state language assistance  
25 obligations.

1 CHAIRPERSON REYNOLDS: Is it a Title III  
2 requirement?

3 NVRA is not.

4 COMMITTEE MEMBER LEE: Sure, that's not, but --

5 COMMITTEE MEMBER GOLD: But a voting system's  
6 accessibility to language is a Title III requirement.

7 COMMITTEE MEMBER LEE: Sure. Or Section 14201 of  
8 the Elections Code, posting of a sample ballot or of a  
9 facsimile ballot in different languages.

10 COMMITTEE MEMBER FENG: Yeah, but if you were  
11 doing it already?

12 CHAIRPERSON REYNOLDS: If there's a preexisting  
13 state law, then that would suggest that you could run into  
14 a supplanting issue, even if you are not doing it well,  
15 I'm not sure. I mean, if there's a state law that  
16 required it and you're not doing it well, I don't know. I  
17 know you did raise that in your comments.

18 COMMITTEE MEMBER GOLD: Perhaps, you know, we can  
19 talk about it more when we get into the whole concept of  
20 performance standards and auditing. But I think there's  
21 an opportunity to use the audit performance standard  
22 concept to take a look at how compliance is going on, with  
23 respect to certain aspects of the Title III requirements.  
24 And, you know, it's one thing I'd just like to bring up  
25 again when we talk about that.

1 CHAIRPERSON REYNOLDS: Sure.

2 And as I mentioned with respect to the  
3 provisional balloting, I guess one of the things that I'd  
4 like to explore is, one, how much information we can talk  
5 about without getting too -- taking up the entire amount  
6 of time, because I'm sure it could, you know, the design  
7 of such a program. And then on top of that, whether it's  
8 possible to do something on a pilot basis that would show  
9 us how to do it right and then move forward from there.  
10 I'm just -- you know --

11 COMMITTEE MEMBER ALVAREZ: Can I make a quick  
12 suggestion on that?

13 CHAIRMAN REYNOLDS: Yeah, sure.

14 COMMITTEE MEMBER ALVAREZ: Because, actually this  
15 is starting to get into something that I really wanted for  
16 us to talk a little bit about. Because, unfortunately, I  
17 was at the table for the last HAVA state plan. And in  
18 that -- you know, in that plan, we set forward maybe 13 or  
19 14 goals. And one of the things I thought was efficient  
20 of it in the draft materials that you sent around was the  
21 sort of reporting and trying to really assess how the  
22 former state plan met some of the goals that we had sort  
23 of laid out at that point in time, one of which was  
24 provisional balloting.

25 And so I thought that one of the things that,

1 just as a general idea, maybe not discussing the details  
2 here, but my general idea would be to literally go back to  
3 the former state plan, look at those goals, one of which  
4 was provisional balloting, and really set forward a series  
5 of performance measures that could really be, I think,  
6 very helpful for all of us in understanding what kind of  
7 progress we've made since 2003, but also what areas are  
8 really deficient and need really serious attention.

9           Because, again, as I went back and flipped  
10 through those goals, you know, to me it looked like about  
11 half of them are ones that really probably hadn't been  
12 seriously addressed.

13           I'd be more than happy to talk about details of  
14 the provisional ballot, but I would just sort of throw it  
15 into this general hopper of performance metrics.

16           CHAIRPERSON REYNOLDS: No, actually, if people  
17 wouldn't mind, I was thinking we would get to the comments  
18 earlier than this. But could we do this: Can we take a  
19 break now for lunch, do an hour, and come back, and could  
20 I turn it over to -- it's Dr. Alvarez, right?

21           COMMITTEE MEMBER ALVAREZ: Yeah. You can call me  
22 Mike.

23           CHAIRPERSON REYNOLDS: Michael. Turn it over to  
24 Mike to kind of start down that path, what you were  
25 talking about.

1 COMMITTEE MEMBER ALVAREZ: Sure.

2 CHAIRPERSON REYNOLDS: I think it would be very  
3 constructive.

4 COMMITTEE MEMBER ALVAREZ: That means I don't get  
5 to eat lunch. I have to sit here and actually think  
6 things through.

7 (Laughter.)

8 CHAIRPERSON REYNOLDS: We won't hold you to that.  
9 This is a free-flowing discussion, but I would --

10 COMMITTEE MEMBER ALVAREZ: I'll just take your  
11 comments and start from there.

12 CHAIRPERSON REYNOLDS: No, I think -- I mean, I  
13 think that's a very good way to get things started with  
14 respect to the comments, if people agree with that, I  
15 mean.

16 Okay. Thank you very much. We'll take -- get  
17 back here in an hour.

18 (Thereupon a lunch break was taken.)

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1                                   AFTERNOON SESSION

2                   CHAIRPERSON REYNOLDS:  I think I'm going to take  
3 care of swearing in the members who were not able to be  
4 here at the top of the meeting.

5                   All right.  For those members who need to be  
6 sworn in, please raise your right hand if you'd like to  
7 and repeat after me.

8                   For the Office of Help America Vote Act of 2002  
9 State Plan Advisory Committee --

10                  PROSPECTIVE COMMITTEE MEMBERS:  For the Office of  
11 Help America Vote Act of 2002 State Plan Advisory  
12 Committee --

13                  CHAIRPERSON REYNOLDS:  -- I --

14                  PROSPECTIVE COMMITTEE MEMBERS:  -- I --

15                  CHAIRPERSON REYNOLDS:  -- state your name --

16                  (Thereupon they stated their names)

17                  CHAIRPERSON REYNOLDS:  -- do solemnly swear --

18                  PROSPECTIVE COMMITTEE MEMBERS:  -- do solemnly  
19 swear --

20                  CHAIRPERSON REYNOLDS:  -- that I will support and  
21 defend --

22                  PROSPECTIVE COMMITTEE MEMBERS:  -- that I will  
23 support and defend --

24                  CHAIRPERSON REYNOLDS:  -- the Constitution of the  
25 United States --

1 PROSPECTIVE COMMITTEE MEMBERS: -- the

2 Constitution of the United States --

3 CHAIRPERSON REYNOLDS: -- and the Constitution of

4 the State of California --

5 PROSPECTIVE COMMITTEE MEMBERS: -- and the

6 Constitution of State of California --

7 CHAIRPERSON REYNOLDS: -- against all enemies --

8 PROSPECTIVE COMMITTEE MEMBERS: -- against all

9 enemies --

10 CHAIRPERSON REYNOLDS: -- foreign and domestic --

11 PROSPECTIVE COMMITTEE MEMBERS: -- foreign and

12 domestic --

13 CHAIRPERSON REYNOLDS: -- that I will bear true

14 faith and allegiance --

15 PROSPECTIVE COMMITTEE MEMBERS: -- that I will

16 bear true faith and allegiance --

17 CHAIRPERSON REYNOLDS: -- to the Constitution of

18 the United States --

19 PROSPECTIVE COMMITTEE MEMBERS: -- to the

20 Constitution of the United States --

21 CHAIRPERSON REYNOLDS: -- and the Constitution of

22 the State of California.

23 PROSPECTIVE COMMITTEE MEMBERS: -- and the

24 Constitution of the State of California.

25 CHAIRPERSON REYNOLDS: -- that I take this



1 obligation freely --

2 PROSPECTIVE COMMITTEE MEMBERS: -- that I take  
3 this obligation freely --

4 CHAIRPERSON REYNOLDS: -- without any mental  
5 reservation or purpose of evasion --

6 PROSPECTIVE COMMITTEE MEMBERS: -- without any  
7 mental reservation or purpose of evasion --

8 CHAIRPERSON REYNOLDS: -- and that I will well  
9 and faithfully --

10 PROSPECTIVE COMMITTEE MEMBERS: -- and that I  
11 will well and faithfully --

12 CHAIRPERSON REYNOLDS: -- discharge the duties --

13 PROSPECTIVE COMMITTEE MEMBERS: -- discharge the  
14 duties --

15 CHAIRPERSON REYNOLDS: -- upon which I'm about to  
16 enter.

17 PROSPECTIVE COMMITTEE MEMBERS: -- upon which I'm  
18 about to enter.

19 CHAIRPERSON REYNOLDS: Thank you very much.

20 And with that, if he's ready, I guess I'll call  
21 on Mike to talk with us about the issue that he raised  
22 just before we went to the lunch break.

23 COMMITTEE MEMBER ALVAREZ: Yeah. I took the  
24 lunch opportunity to stroll around the Capitol and watch  
25 the anti-tax protest. So being a real political junkie,

1 that was the main thing I did.

2 But as I walked, I thought about this a little  
3 bit, and then also I did actually do some homework. And  
4 let me just make a 35,000-foot pitch in the spirit of what  
5 Kathay was doing earlier this morning, just throwing sort  
6 of big ideas out.

7 If you happen to have grabbed a copy of -- I  
8 think Dean has got one right in front of him -- of the My  
9 Vote Counts, which they've got here, or if you look on  
10 page -- it's 9 and 10 of the draft document that I have  
11 that Chris sent around. In the original 2003 HAVA plan,  
12 page 5 of that booklet, there's 12 goals, of which Chris I  
13 think summarized almost all of them.

14 I'll stop until you have them.

15 MS. KAUFMAN: Anybody else need one?

16 COMMITTEE MEMBER ALVAREZ: It's page 5 of that  
17 booklet, or pages 9 and 10.

18 COMMITTEE MEMBER HUFFMAN: 9 and 10 of the draft?

19 COMMITTEE MEMBER ALVAREZ: Of the draft. At  
20 least the draft one that I have --

21 CHAIRPERSON REYNOLDS: Yes.

22 COMMITTEE MEMBER ALVAREZ: -- has page -- the way  
23 I printed it out.

24 And the sort of 35,000-foot proposal that I would  
25 throw on the table at this point, is that these goals --

1 most of them, perhaps not all of them, but some of them  
2 may not still be relevant. But certainly most of them  
3 could be used to frame the general set of performance  
4 metrics that I think we could pretty easily go back to  
5 either 2003 or prior to that, even 2000 in some cases, and  
6 try to quantify in a variety of ways -- and I'll talk  
7 about that in a second. And then we could, I think, do a  
8 pretty effective job of trying to understand how far we've  
9 come under the current -- under the things that have been  
10 done in California regarding HAVA, as well as continuing  
11 to assess progression as we move forward. And I think  
12 that would be a very, very productive thing to do.

13           Now, the proposal that I would pitch actually is  
14 that I have it on very good word, through a string of  
15 emails, probably about 15 -- those of you who know David  
16 Becker know that he likes to send email. Over the lunch  
17 hour I emailed this idea to David. And David actually  
18 thought this might be a very interesting idea as well;  
19 that if a group of folks from this room, including  
20 election officials and the academics, the stakeholders,  
21 and in particular the Secretary of State's office, were  
22 interested in putting together a proposal, they might be  
23 very interested in hearing about that. So this would be  
24 something that could be done without imposing on the HAVA  
25 budget itself.

1           COMMITTEE MEMBER FENG: David Becker from Pew  
2 Foundation.

3           COMMITTEE MEMBER ALVAREZ: The Pew Charitable  
4 Trusts, yes, for those of you who are not in the know of  
5 David Becker.

6           I happen to talk to David on like, you know, an  
7 hourly basis or something. But, anyway, he's very  
8 interested in this idea of developing a package of  
9 performance metrics at the state level. It fits very  
10 nicely with what they do at the Pew Charitable Trusts in  
11 the Make Voting Work Project, which is within the, I  
12 guess, their state policy sort of arm.

13           Anyway, so there's sort of an idea, there's the  
14 possibility that it could be funded. And then to flesh  
15 out how we might actually go about doing this, you know,  
16 I'd actually sort of turn it over to some of the folks who  
17 sent in comments, because I thought that some of the  
18 comments, in particular that Kathay's organization sent,  
19 had a number of very useful ideas for how you can quantify  
20 some of these different goals.

21           We had some conversation about that this morning  
22 regarding the provisional ballot, and I can certainly  
23 think of others. I know Karin's thought a lot about some  
24 of these as well and has already gathered some data on  
25 some of those.

1           But anyway, that's sort of the big picture that I  
2 would put forward, and I'd certainly be happy to help push  
3 this ball forward if there's interest.

4           COMMITTEE MEMBER MacDONALD: To piggyback onto  
5 that. We've had conversations with Pew about this too.  
6 And there's a general interest in the research community  
7 to actually come up with some performance measures and  
8 just outcomes. And Bonnie and I, we've been looking at  
9 poll-worker training work -- we're working on it now you  
10 know on -- because people want to use, for example,  
11 provisional ballots to assess whether or not poll-worker  
12 training is working. And that doesn't work.

13           I mean, yeah, sometimes somebody may get a  
14 provisional ballot because the poll worker didn't, you  
15 know, do something right, but often times it's just not  
16 the case.

17           So just to get our heads around whether  
18 poll-worker training is effective, really is effective.  
19 Also, you know, hear are all the problems, right? It  
20 depends on which audience you're training, you know, who  
21 are these people, how well are they doing, you know, how  
22 well they're educated, what languages do they speak, you  
23 know, how engaged are they? And, you know, sometimes  
24 there are all kinds of -- I mean, it's just like one of  
25 those moving targets. And we've been ripping our hair out

1 for quite some time actually.

2 As you guys know, we've been doing poll-worker  
3 training research for four years now, like really in-depth  
4 working with a lot of counties. And, you know, we've done  
5 surveys. And they were all really helpful. And we came  
6 up with a lot of suggestions, and they were implemented.  
7 And, you know, we now know that everybody loves Neal  
8 Kelley in Orange County. People are like, "Oh, we love  
9 Neal."

10 (Laughter.)

11 COMMITTEE MEMBER MacDONALD: Seriously, we had  
12 27,000 responses to that, if you remember that. Debbie  
13 was actually involved in that survey too. We had a lot of  
14 responses. And I got stuck with coding Orange County.  
15 And like every second survey was like, "We are the  
16 best and Neal Kelley is just fabulous." It was  
17 incredible. I came in the office, I said, "Did anybody  
18 have like all of this like about their registrar and how  
19 they love their registrar?" And I don't know who it is,  
20 is it the League or it's somebody who --

21 (Laughter.)

22 COMMITTEE MEMBER KELLEY: I don't know her. No,  
23 I really don't.

24 (Laughter.)

25 COMMITTEE MEMBER MacDONALD: So anyway. He paid

1 me earlier to say that.

2 (Laughter.)

3 COMMITTEE MEMBER MacDONALD: Anyway.

4 But really what I'm just trying to say is, yeah, Pew and  
5 there's a lot of people involved in Pew. You have some  
6 really talented people. And everybody is trying to figure  
7 out how do we measure those outcomes. And, yeah, I bet,  
8 you know, David Becker would really go to bat for to us  
9 and try to get money to develop some outcome measures.  
10 But, you know, it's going to take a lot of money, and I'm  
11 not sure that -- I mean, I don't know, Mike, what your  
12 assessment is of that situation up at Pew, but they kind  
13 of got hit with the Madoff disaster, because Pew was  
14 partially funded by JEHT and JEHT went down because of  
15 Madoff. And so a lot of that money out of that foundation  
16 went down the tubes.

17 But I think to do some of this well it would  
18 really take a lot of money, a lot, because you need a lot  
19 of research. And a lot of it is going to be qualitative.  
20 And qualitative is really, really difficult and expensive  
21 to do, because essentially you have to have people right  
22 there really absorbing what's going on. It's travel and  
23 like, you know, it's not just data collection, not just  
24 give us a fly-over, provisional ballots. And it's talking  
25 to vendors, and analyzing it.

1           You know, a lot of it is -- I mean, I just think  
2 it's really a worthwhile project. I don't want to be  
3 pessimistic about it. I think we might be a little bit  
4 better off just maybe picking a few of these and then  
5 trying to develop some outcome measures or some  
6 performance measures and trying to implement those rather  
7 than all of them.

8           And on one of them, the overseas military voters,  
9 just to pick that one out. I feel like we've really just  
10 missed an opportunity in California when we redesigned the  
11 voter registration form, to actually even figure out who  
12 our overseas military voters are. I mean, you know, we  
13 say here that overseas military voters can vote  
14 conveniently and safely. We don't even know who they are,  
15 so how can we even assess whether they can vote  
16 conveniently and safely. We don't know who overseas  
17 military voters are. We do not know who our military  
18 voters are. There's very few people in the United States  
19 who actually know this.

20           We did a whole study on it. I think we just  
21 found one state that's actually implementing this properly  
22 so that they actually know who they are. And what they  
23 have is, on their registration form, they ask are you an  
24 overseas or military voter? And then on the return  
25 envelope, on the absentee envelope basically, they say,



1 are you still? They have to check that at the end. And  
2 so the registrar is basically going to check that off.  
3 Are you still an overseas or military voter? So that  
4 helps registrars to keep their registration rolls up to  
5 date.

6 But, you know, we just redesigned the form, there  
7 was nothing on there about are you a HAVA voter. And I  
8 suspect it's going to take a lawsuit someplace before that  
9 actually gets implemented properly somewhere.

10 So now that I've rained on everybody's parade.

11 (Laughter.)

12 CHAIRPERSON REYNOLDS: Well, in some ways I'm  
13 happy to hear what people are saying; and in other ways,  
14 I'm back where I was, which was a little pessimistic about  
15 it because. Likewise, I saw a real difficulty in  
16 developing performance measures. I just wasn't sure where  
17 this would go or could go and how much of it was  
18 qualitative. And a lot of states have used, from what I  
19 can tell from looking at performance measures there, have  
20 tried to use quantitative information as much as they  
21 could.

22 But when you have provisional voting, for  
23 example, and you have the information that's supposed to  
24 be provided to the voter about if the ballot was counted  
25 and why not, I mean, you've got a qualitative kind of

1 information there that, you know, is being collected.

2           So there are some things that are being done in  
3 California by way of the one percent manual tally, the  
4 post-election manual tally and things like that that may  
5 be some kind of a measure for how well your voting systems  
6 are performing that could be included here as things we're  
7 going to do now.

8           But I guess I would ask the group's direction,  
9 guidance, preference in terms of how to write up something  
10 about here are the performance measures we have now, and  
11 for the future, we are going to be exploring opportunities  
12 to partner with -- I mean, is that the kind of thing that  
13 should be put in here, because it doesn't sound as though  
14 there's a real -- anyone has an idea about this is how I  
15 would design this, and this is what we would do, and this  
16 is how we would collect the data, and this is how it would  
17 be analyzed, and this is what the -- this is what outcome  
18 we're measuring.

19           So if I could talk further with people who are  
20 most involved with this about how that could be written up  
21 in the State plan and how far we could go before we know  
22 much more than we know right now.

23           Does that make sense?

24           COMMITTEE MEMBER FENG: Chris, how did the  
25 Secretary of State go about developing the top-to-bottom

1 review standards?

2 CHAIRPERSON REYNOLDS: You know, I'm not  
3 intimate -- I was not intimately involved in developing  
4 the criteria that they used for the top-to-bottom review.  
5 And to some extent, it's my impression, so take this for  
6 what it's worth, that some of this was really open-ended  
7 testing. It was bring in computer experts and let them  
8 take a stab at digging into a voting system and finding  
9 out where the vulnerabilities might lie.

10 So it was a methodology, perhaps, as much as a  
11 criteria; a set of criteria. But I'm pretty sure that  
12 when the first portion -- and, again, this is my  
13 impression of the way it happened -- the first portion  
14 where you do a review of the source code to look for those  
15 vulnerabilities before you dig into the source code to see  
16 what you can actually demonstrate might be there, there's  
17 a set of tools that get used to review the code, to look  
18 for certain things. One of the ones that someone  
19 mentioned to me was buffer overruns.

20 Is there a line of code with a space at the end  
21 that, for lack of -- you know, you have to bear with my  
22 technical ignorance -- is there a line of code that  
23 doesn't have some kind of a wall at the end of it that  
24 doesn't allow you to dump something else in there.  
25 Because if you have these buffer overruns, then you can

1 dump code into them and, either inadvertently or  
2 purposefully, and it will do something that you didn't  
3 intend for the code to do.

4 COMMITTEE MEMBER FENG: I guess I ask that,  
5 because in some ways that is the kind of comprehensive  
6 testing that we're talking about, where a team of experts  
7 was assembled, some basic standards were laid out, your  
8 scope was probably identified, but exactly what they were  
9 looking for was somewhat left open and allowed to be  
10 shaped through that audit process.

11 And while I don't think it should be a  
12 free-for-all-we'll-know-it-when-we-see-it kind of  
13 situation, I think that that may be the level of detail  
14 that we would put into the state plan and then allow your  
15 group of experts to flesh it out.

16 In the plan -- in the letter that we sent in, we  
17 identified four areas of audit. And I'm not sure -- I  
18 will not say that these are comprehensive, but these are  
19 the ones that we thought of, and we did do what Michael  
20 Alvarez suggested, which was to go through the plan as it  
21 had been laid out under Shelley's administration and think  
22 about how we could attach some measurables -- some  
23 measurable way of examining whether we had achieved those  
24 pieces.

25 So the four areas are audit the Secretary of

1 State's and counties' websites, materials, and voter  
2 assistance efforts to ensure usability for voters with  
3 disability and language needs. Some other members of this  
4 advisory panel have suggested that as part of that audit,  
5 we would also want to audit for larger usability issues  
6 than just concerns about voters with disabilities and  
7 language needs, much like TTBR included disability access,  
8 but was looking at a much broader set of issues.

9           Let me give you an example. So I think that  
10 Disability Rights pointed this out. When you go to the  
11 Secretary of State's website, it takes quite a bit of  
12 navigation to find the link that gets you to the  
13 information about how somebody who needs disability  
14 assistance could request it or could -- or could file a  
15 complaint, if there was a problem.

16           It takes quite a bit of digging to get to a  
17 button that allows you to click onto translated materials.  
18 So, for instance, if I was a monolingual Chinese speaker  
19 voter and I was looking for information, I'd have to  
20 navigate through a couple pages of English before I found  
21 the Chinese. And that almost renders it pointless, unless  
22 somebody's helping you.

23           I think that there are many counties that do a  
24 pretty good job. Some counties that probably don't do it  
25 at all. And having some systematic way of kind of looking

1 for usability generally, usability on election day, which  
2 is whole another thing, and then accessibility for people  
3 who have disability needs or language needs are at least  
4 some of the check-offs that we'd want to look for.

5           I'll give you an example of the website capacity  
6 on election day. And I think Rosalind brought this up.  
7 So for a lot of the counties what they do is, outside of  
8 election week, they've got their website as it's  
9 structured normally. And then as you get closer to  
10 election day, they switch it so that the first thing that  
11 pops up is the poll-site locator, because that's what 90  
12 percent of people are logging onto. And rather than  
13 making people jump through six different links and causing  
14 the system to crash, they just put that right up front.

15           That's a great idea. And it's something that,  
16 you know, our bigger counties have figured out. That may  
17 become something that through the audit becomes a  
18 recommended best practice for every county. So we can  
19 think of a lot of things like that.

20           The second thing is an audit of the Secretary of  
21 State's and counties' complaints process detailing the  
22 number of complaints, the substance, the resolution, the  
23 timeliness of reporting, and any changes in long-term  
24 policy. And by the way, this is all in the letter so  
25 don't break your hand trying to write it all down.

1           So that is -- as we understand it, the Secretary  
2 of State created a 1-800 number in compliance with HAVA to  
3 receive voter complaints. And since the creation of that  
4 hot line, despite multiple requests, both orally and in  
5 writing, no Secretary of State has ever issued a report  
6 saying how many calls were actually received and what the  
7 nature of those calls were and how concerns were resolved.

8           So we don't know if it's five calls, or 5,000  
9 phone calls or 50,000 phone calls. And because there's  
10 not an audit of the types of questions that the people are  
11 calling in with, there's also not a way of systematically  
12 then looking at longer-term solutions to help voters not  
13 have to make those phone calls in the future.

14           CHAIRPERSON REYNOLDS: So you're talking -- I'm  
15 sorry, just to clarify. So when you mentioned the audit  
16 of complaints, you weren't talking about HAVA complaints.

17           COMMITTEE MEMBER FENG: I think we were starting  
18 with the Secretary of State's HAVA hotline or the 1-800  
19 hotline that was created, which receives a lot of other  
20 phone calls, but was created with HAVA funding.

21           CHAIRPERSON REYNOLDS: Right. So you're thinking  
22 about -- because HAVA complaints, according to the Act,  
23 need to be notarized and so on and so forth, and I know  
24 there's an issue with that.

25           COMMITTEE MEMBER FENG: There's a whole other

1 thing to that.

2 CHAIRPERSON REYNOLDS: But you were really  
3 talking about that -- because we get many more -- we get  
4 much more information, we get many more complaints, if you  
5 want to call them that, from the 1-800 calls than you  
6 would actually get in formal terms.

7 COMMITTEE MEMBER FENG: Yes, yeah. I remember  
8 thinking first and foremost with the hotline.

9 CHAIRPERSON REYNOLDS: Got it. Okay. Thank you.

10 COMMITTEE MEMBER FENG: And I think similarly, it  
11 would be very helpful to work with counties to do that  
12 similar type of analysis, because I think that if across  
13 the state we had a much better sense of the types of calls  
14 that come in, even the timing of those phone calls, you  
15 know, when is the largest crush, we probably could guess  
16 that, you know, the largest crush happens on election day.  
17 But that then would help us to shape policies that could  
18 be responsive.

19 If really the problem is about finding poll  
20 worker -- or poll-site addresses, then let's sit and think  
21 about what solutions there are to getting that information  
22 into people's hands in a way that's easier than whatever  
23 they're getting right now. So that's one piece of it.

24 The third thing is to create and monitor quality  
25 assurance standards for accessibility and language



1 assistance. I think this is a fairly broad category. And  
2 let me try to give some detail to it. I think that  
3 probably what would fall under that is quality assurance  
4 standards for voting systems, for poll-site accessibility,  
5 for materials that are mailed or provided, for poll-worker  
6 training; maybe those are the big subcategories.

7 Am I missing any subcategories of things.

8 Poll worker training.

9 COMMITTEE MEMBER MacDONALD: In the subcategory  
10 of poll-worker training, whether the training is actually  
11 conducted, in what language the training is conducted and  
12 whether there's a reference guide provided with election  
13 terminology for the bilingual worker.

14 COMMITTEE MEMBER FENG: Right. One of the things  
15 that we talked about during, I don't know, Shelley, and  
16 maybe even McPherson's time was creating out of this some  
17 best practices. So, for instance, some counties have,  
18 from a very early day, created very good glossaries of  
19 common election terms and then their accepted translations  
20 for those terms.

21 And we talked about -- and I think Orange County  
22 was actually one of the first under Rosalind's term. And  
23 we talked about how if --

24 COMMITTEE MEMBER GOLD: You know EAC has a  
25 Spanish glossary.

1           COMMITTEE MEMBER FENG: Now, it does. But I'm  
2 saying like somewhere back in the late nineties Orange  
3 County did it. And I guess what we were thinking was that  
4 if there was a way to compare across counties or to work  
5 with the Secretary of State to develop those type of best  
6 practices, people don't have to keep reinventing the  
7 wheel.

8           If somebody's gone and done it, then another  
9 county doesn't need to. And so we should start figuring  
10 out what those standards might be. Then the fourth thing  
11 is analyze the reasons for provisional ballot rejection by  
12 category and commit to addressing any significant causal  
13 factors.

14           Let me add to that, I think we need to analyze  
15 the reasons that people use provisional ballots in the  
16 first place and try to figure out if there are large  
17 categories of people who are voting provisionally, who,  
18 with some type of systemic fix, could just vote with a  
19 regular ballot, whatever that systemic fix might be.

20           So those were the four main areas.

21           COMMITTEE MEMBER ALVAREZ: Can I actually just  
22 sort of respond now, since I threw this on table.

23           I mean, I'm glad you provided that level of  
24 detail, because I think that's very helpful to flesh some  
25 of these areas out. And I will point out that there are

1 models for doing this.

2           In 2006, I was involved in a project that did  
3 this kind of comprehensive audit, Cuyahoga County, in the  
4 primary. Parts of it, I think, were successful, parts of  
5 it probably not.

6           And since 2006, we've been doing this kind of  
7 comprehensive evaluation in New Mexico at a state level.  
8 And New Mexico is a very different place than California,  
9 of course. It's a lot less complicated than California.  
10 California's got more languages, it's got more voters,  
11 it's got more voting systems. It's just a much more  
12 complicated place.

13           But that involves, I think, some of the things  
14 that Kathay sort of talked about. It involves qualitative  
15 kinds of analyses of poll-worker training programs;  
16 actually going and seeing how poll workers are being  
17 trained, evaluating the materials.

18           It involves poll-worker service, something that  
19 Karin's been working on and other people have been working  
20 on too. It involves voter satisfaction surveys.  
21 Actually, you know, going out in a qualitative and  
22 quantitative way talking to voters about the problems that  
23 they face.

24           It involves qualitative analysis of poll sites  
25 and early-voting locations also. Literally, sending

1 people out in a comprehensive sort of scientifically-valid  
2 way to polling places. And at least in the New Mexico  
3 case, the four largest counties in the state. But you can  
4 certainly imagine how you do that in a variety of ways  
5 here in California.

6           It involves working with the election officials  
7 as they do their preelection voting system testing, the  
8 sort of logic and accuracy testing. And the kinds of --  
9 other kinds of testing that can be done in California in  
10 the voting systems. It also involves looking at the  
11 post-election audit materials, because those are very,  
12 very useful for understanding the performance of the  
13 voting systems.

14           I mean, it really is a very -- I mean, I think  
15 there's a comprehensive set of measures and metrics that  
16 we could put together. And I agree with Karin; it's a  
17 big, daunting task, and so it may be picking and choosing  
18 what the right things are to focus on in the short-term is  
19 appropriate.

20           But I think, again, what would be really exciting  
21 about doing this is, if you can do it in California, you  
22 can do it anywhere in the country. And I think California  
23 could be seen as a model for how to do this kind of  
24 evaluation of the performance of its election system at a  
25 statewide level. And, yeah, I mean, certainly I'm more

1 than happy to sort of spearhead this effort if you want.

2           COMMITTEE MEMBER FENG: Some of the poll  
3 monitoring models, there are groups at this table who do  
4 regular poll monitoring who have surveys and are fairly  
5 standardized and have been tested in the field, so much of  
6 this does not have to be invented from scratch.

7           COMMITTEE MEMBER GOLD: I want to get a little  
8 bit of clarification. You know, I think this is a very,  
9 very powerful idea. One of the things I would like to get  
10 clarified is to what extent are you recommending that this  
11 be funded through HAVA monies for California as opposed to  
12 this idea of going to a private foundation for assistance,  
13 because there's a real tension there between --

14           COMMITTEE MEMBER ALVAREZ: I'd like to have it  
15 funded by somebody else. You know, and I think that's the  
16 first avenue to pursue. Certainly, in the short-term  
17 that's the avenue you'd pursue, would be sort of  
18 getting -- how do you get this thing up and running,  
19 right? And then from then on, you know, I think a  
20 different question is once something like this is  
21 established, how expensive is it to operate. And I guess  
22 we just simply don't know.

23           You know, a lot of this information is  
24 information that is routinely collected and just  
25 disappears.

1           COMMITTEE MEMBER LOGAN: It is routinely  
2 collected and available. But I think one thing that has  
3 to be addressed in doing something on a comprehensive  
4 basis is that there are all sorts of groups out there  
5 doing this on a piecemeal basis. And so there has to be  
6 some recognition in the funding or the support of the  
7 program for assisting the counties in being able to get  
8 the kind of information that you need to actually do the  
9 analysis.

10           And I normally don't beat this drum, but I think,  
11 you know, when you have elections every Tuesday between  
12 now and the end of time --

13           (Laughter.)

14           COMMITTEE MEMBER LOGAN: -- and you have, you  
15 know, six foundations and three oversight organizations  
16 coming around doing surveys all looking at the same data,  
17 but wanting it in a little different format and a little  
18 bit different spin, it becomes unmanageable.

19           So I just want to throw that out, so that that  
20 gets built into this, because we have -- just going on the  
21 four points that Kathay brought up, I mean, we just  
22 completed -- at least many counties just completed a State  
23 Auditor audit of poll-worker training, which I'm sure  
24 everybody around the table may have opinions about what  
25 the meaningful -- how meaningful that audit was, but it

1 did address a lot of these issues. And it was very time  
2 consuming, especially since most of the people involved in  
3 the audit had no idea what poll workers do.

4 (Laughter.)

5 COMMITTEE MEMBER LOGAN: But, you know, likewise,  
6 we've -- we're doing the EAC studies. You know, there's  
7 various pieces of this that are being done all over the  
8 place, and there's not a lot of consistency to it. And  
9 most counties -- I'm probably one of the few counties that  
10 has some resources available on my staff, before the next  
11 curtailment occurs, to try and assist in those. A lot of  
12 counties, you know, if you're running elections or you're  
13 doing your day-to-day activities, there's just no time for  
14 this. I mean, I'm thinking the hotline report, we  
15 finally -- I mean, L.A. County finally had the ability to  
16 run a report on that, because we invested in a system that  
17 collects that data as the calls are coming in.

18 We could not do that in the past. We had all the  
19 information. There just was never any time or resources  
20 to compile it, to be anything meaningful other than a box  
21 full of paper of notes from phone calls. And now we've  
22 finally gotten beyond that, but that's only very recently  
23 that we've been able to do that.

24 So I just throw that out, because there's a cost  
25 on the operational side too that has to be considered in

1 that, if you really want to get good data that's going to  
2 result in something meaningful.

3 COMMITTEE MEMBER MacDONALD: And I just have to  
4 ask this, just the cost of researcher too, that just  
5 assume -- we actually did observe, just because of so many  
6 trainings. I've been in more poll-worker trainings than  
7 anybody else in the world. I'm sure of it. I'm sure of  
8 it. I bet anybody, seriously. It's just -- seriously.  
9 So anyway, I can recite some of them.

10 But it's interesting when you go to some  
11 counties, like, for example, you guys have a  
12 restructure -- L.A. has a restructure in process, right.  
13 So, of course, like all the trainers gets trained.  
14 Everybody gets trained the same way. And then you go to a  
15 training in one area of L.A., and you go to a training in  
16 another area of L.A., and you see two totally different  
17 trainings, you know. And then what do you do with that?  
18 And that's not just L.A., I mean, it's everywhere,  
19 because, you know, the trainers, the more they train --

20 COMMITTEE MEMBER FENG: Closes his eyes and cover  
21 his ears and doesn't want to hear it.

22 (Laughter.)

23 COMMITTEE MEMBER MacDONALD: You know, it's a  
24 normal process. The more these people are doing the same  
25 thing, the more they're making it their own training, and



1 the more things kind of just merge. You can script things  
2 to some extent. Some counties are very -- you know, very  
3 into like scripting, making sure that people really stay  
4 on message, but then everybody falls asleep. It's that  
5 kind of thing.

6 I mean, it's just really difficult to implement.  
7 It's difficult to design. It's difficult to research.  
8 It's difficult -- it's just difficult. You know, it's a  
9 difficult area.

10 I agree with Mike. I mean, you've got to start  
11 somewhere. This is great. But also let's keep in mind  
12 that when we come back with results, let's just say, okay,  
13 it rains Monday, it really does. We can really do a lot  
14 of these things. And then the counties get the reports  
15 back. Okay, here's the stuff that didn't work. Well,  
16 some counties have like no resources to implement any more  
17 than they just --

18 COMMITTEE MEMBER LOGAN: All counties have  
19 limited resources.

20 (Laughter.)

21 COMMITTEE MEMBER MacDONALD: But, you know, I  
22 mean, some counties are in a little better shape than  
23 other counties. I mean, there are some counties -- you  
24 know, are outside of California. I mean, I've been to  
25 election offices where they didn't have a computer hooked

1 up. I mean, this was not in California. You can take a  
2 breath. But, you know, they just didn't have one, you  
3 know.

4 So the resources are so different. And, you  
5 know, the staffing is so different. And just the access  
6 to knowledge personnel, and all of that is just -- it's  
7 all over the place. You know, we've got to keep that in  
8 mind as well. So that we don't have just some people not  
9 doing it.

10 COMMITTEE MEMBER LEE: Chris, can I ask where the  
11 funding source is for the performance measures and  
12 objectives? Is that -- that's not Section 251, right? Is  
13 that from Section 101?

14 CHAIRPERSON REYNOLDS: That is what would strike  
15 me immediately, is that, again, the Title III requirements  
16 are, as I described them before, and if I should go over  
17 them again, I will, but --

18 COMMITTEE MEMBER LEE: But they don't include the  
19 performance measures, right?

20 CHAIRPERSON REYNOLDS: No, they don't. And  
21 developing performance measures are, again, from my  
22 unstudied and ignorant perspective, very difficult, one,  
23 to design, so you get some meaningful data back that you  
24 can do something about. And then they're difficult to  
25 operate, if you will, design them, operate them. And

1 then, as people have pointed out, do something about it  
2 when you get the data back. But the first starting point  
3 does seem to be, well, let's try to gather the data.

4 COMMITTEE MEMBER LEE: Michael, do you have a  
5 cost estimate for the studies you've been involved with in  
6 Cuyahoga County and New Mexico?

7 COMMITTEE MEMBER ALVAREZ: I don't know about  
8 Cuyahoga. I mean, I can -- I don't have it off the top of  
9 my head on New Mexico.

10 COMMITTEE MEMBER LEE: Is it in the millions?

11 COMMITTEE MEMBER ALVAREZ: No, it's in the  
12 order -- no, a lot less than that. Drop at least one or  
13 two zeros.

14 COMMITTEE MEMBER LEE: So 100,000, 500,000?

15 COMMITTEE MEMBER ALVAREZ: Somewhere -- I don't  
16 know. I would say no more than 200,000.

17 COMMITTEE MEMBER LEE: Oh, okay.

18 COMMITTEE MEMBER ALVAREZ: But it's probably  
19 substantially less. And it's almost all -- it's either  
20 survey costs or personnel costs. You know, sending people  
21 out to 100-some polling places on election day is a costly  
22 logistic enterprise.

23 COMMITTEE MEMBER MacDONALD: Did you have them  
24 there all day?

25 COMMITTEE MEMBER ALVAREZ: Yes, all day. And

1 early voting too, all day.

2 COMMITTEE MEMBER MacDONALD: Because that's been  
3 the problem with the observers. We actually pooled  
4 observer reports from various sources for the last  
5 election, and the observations that we found are going on  
6 like by Election Protection and groups like that, which  
7 basically are groups that are made up of groups, is that  
8 they usually go out in the morning during opening and then  
9 maybe during closing and maybe once during the day.

10 But there's like a huge gap of data, which  
11 we -- so it's really kind of difficult to fill those gaps.  
12 So if you're going to want to do that well, you're going  
13 to have to design that differently as well.

14 COMMITTEE MEMBER ALVAREZ: But, again, we can  
15 provide some cost estimates. And I think that the thing  
16 to do here is to just figure out what a variety of  
17 different, you know, sort of methods of sort of  
18 implementing the performance measures are. And to get a  
19 sense of what their costs might be in a state like  
20 California. And, again, California is very different from  
21 a place like New Mexico or Cuyahoga County. It's got a  
22 vast array of very complicated issues.

23 COMMITTEE MEMBER KELLEY: You know, Chris, I  
24 think it's also incumbent upon counties, and I'm sure my  
25 colleagues, if they could reach me from their end of the

1 table --

2 (Laughter.)

3 COMMITTEE MEMBER KELLEY: But that we all --  
4 we're in a very good position to collect a lot of this  
5 data. And, you know, we're starting -- just as an  
6 example. We receive about 10,000 phone calls per day  
7 leading up to a major election in Orange County. I know  
8 L.A. County receives much more than that. But we're now  
9 going to survey all of those callers. And they will all  
10 have the option to take an electronic survey after the  
11 phone call is completed.

12 So we're in a position, at fairly low cost, to  
13 start collecting a lot of this data. Even at the poll  
14 site level, there's options for us to collect data on  
15 voters that are leaving the poll site. You know, there  
16 are satisfaction surveys. How was their experience at the  
17 poll site, as opposed to -- and I deal with Eugene a lot.  
18 I deal with many other groups in Orange County, and they  
19 work very hard to collect data, but we also need to do  
20 that to help assist. So we're going to start doing that  
21 in Orange County.

22 CHAIRPERSON REYNOLDS: Well, and there's -- I  
23 guess that brings up another question. To the extent that  
24 there are counties that are doing things now, that --

25 COMMITTEE MEMBER FENG: You should stop,

1 otherwise you can't get any money for it.

2 (Laughter.)

3 CHAIRPERSON REYNOLDS: No. No, I didn't mean to  
4 suggest that.

5 (Laughter.)

6 CHAIRPERSON REYNOLDS: I meant to suggest that  
7 there might be an opportunity to work with the county  
8 that's already doing some things, and to see how the data  
9 that is desirable to collect can somehow be shoe-horned or  
10 dovetailed with, you know, what people are interested in,  
11 information they're interested in collecting, and to see,  
12 you know, whether something can be piggybacked on it. And  
13 then once you've shown how something works, the  
14 possibility that it could be replicated elsewhere and how  
15 often and what would the cost be to replicate it elsewhere  
16 and so on and so forth.

17 So you may have just volunteered unknowingly.

18 COMMITTEE MEMBER KELLEY: That's okay. I mean,  
19 it would be good to partner with some groups to be able to  
20 do that.

21 CHAIRPERSON REYNOLDS: Right. So I guess this is  
22 still kind of an open-ended issue. I know that there's  
23 ideas about what, you know, information to be collecting  
24 and whether it would be okay, if you will, to put in the  
25 state plan and how to characterize it, that there will

1 be -- that there's an interest in, you know, conducting  
2 research into various components and trying to figure out  
3 where the money comes from, you know.

4           Is this an allowable use of Title II funding? Is  
5 there private funding available? Because it would seem  
6 like if you get the private funding on the front end, and  
7 if there's any 101 money that we haven't already, you  
8 know, budgeted for, and we get legislative approval for  
9 it, and all that that goes along with that, then there's  
10 the back end of the counties, how are they going to  
11 actually do it?

12           And if you've got a system where you've somehow  
13 managed to take your telephone system and link it up with,  
14 you know, go to this website and please take this  
15 electronic survey and then let's see what kind of  
16 responses you get on that, I'm just not sure who's got the  
17 wherewithal to have a system like that.

18           But I think most counties have websites. But I  
19 think some counties still rely upon the League of Women  
20 Voters lookup. Maybe it's because they've decided that  
21 they can't do it better and why reinvent the wheel. But I  
22 think there are some counties that are still relying upon  
23 that as the polling place lookup.

24           So it's an indication of one and the two; they  
25 don't have the resources to do it themselves. They don't

1 know how to do it themselves, or they can't figure out how  
2 to do it better.

3 COMMITTEE MEMBER BAZYN: Chris --

4 COMMITTEE MEMBER GOLD: Excuse me. I just wanted  
5 to take a little bit of a step back and take a second, if  
6 folks will indulge me, in talking a little bit about what  
7 we've learned from our own election hotline.

8 We have a hotline that's fully staffed with  
9 bilingual staff. And most of our calls, I would say a  
10 good 70 to 80 percent of the calls that we get into our  
11 hotline in the couple of weeks before elections are for  
12 absolutely basic information. Where is my polling place?  
13 How do I determine if I'm registered to vote? How do I  
14 confirm my registration status? What time are the polls  
15 open?

16 And then the complaints that we get or the  
17 concerns that we get raised on election day are basically  
18 related to just, you know, two or three main areas. One  
19 is, my name is not on the registration rolls; and two,  
20 some kind of issue with respect to the provision of  
21 language assistance, whether it was a poll worker who  
22 wasn't aware of the requirement to provide language  
23 assistance; whether it was, you know, unhelpful treatment  
24 in terms of voter I.D. requirements; or lack of offering  
25 people provisional ballots.



1           So with that as the context for our perspectives  
2 on this whole issue of performance standards, you know, we  
3 would really want to highly prioritize things that are  
4 already required by Title III, checking to see what kind  
5 of compliance there is with Title III. And, you know, for  
6 our community, issues relating to how well poll workers  
7 are trained, and implementing HAVA requirements -- fairly  
8 implementing HAVA requirements, and the accessibility, the  
9 language accessibility of voting systems.

10           And I realize that technically, if you look at  
11 the definition of a voting system, that the provision of  
12 basic information and some of the ways we're talking about  
13 it doesn't necessarily fall into it. So, for example,  
14 your ability to call up a county and find out over the  
15 telephone whether or not you're registered to vote or not,  
16 I kind of really tried to work that into the definition of  
17 a voting system, and it was a little difficult. But we  
18 certainly feel, in terms of looking at overall the spirit  
19 of HAVA, the idea that your overall elections will be  
20 accessible to voters with language needs, that something  
21 like this would certainly fall into something you'd want  
22 to check through compliance.

23           I also strongly feel -- we strongly feel that  
24 there is a very unique connection between that and the  
25 Secretary of State being more proactive in terms of best

1 practices. You know, when I went to the Secretary of  
2 State's website, you know, basically what's up there for  
3 best practices for election officials is just, you know, a  
4 couple of little links to some really neat stuff that you  
5 folks are doing on the county level. But it's arguable  
6 that the Secretary of State could be much more proactive  
7 in articulating the criteria for best practices.

8           You know, again, using an example of something  
9 the Election Assistance Commission did with respect to  
10 telephone hotlines, they came up with here's some of the  
11 things that a good telephone hotline system should have.  
12 You know, it should -- you should be able to get answers  
13 to a broad range of issues. It should have really great  
14 language assistance -- language accessibility and  
15 accessibility to persons with disabilities. It should  
16 have a computerized system for, you know, compiling  
17 information about what the calls are about. It should  
18 have well-trained, well-staffed staffers on the other end  
19 of the phone lines.

20           So, you know, what we would like to see ideally  
21 is some connection -- well, first of all, like I said, I  
22 think we could probably together come up with maybe some  
23 of the top priorities in terms of these performance  
24 objectives and in terms of ones that are the most closely  
25 related to Title III requirements. I know it's not

1 quite -- it's a little bit more of constrained vision than  
2 I think some of us would like to see. But at least it  
3 would get us a little closer and more narrowly defined to  
4 something that would be more workable and feasible.

5           And then, like I said, you know, from our  
6 perspective, we'd really like to see a bit more  
7 proactivity in not only -- taking this information and  
8 disseminating it to the counties and officials and  
9 allowing them to share information about the really neat  
10 stuff that they're doing, and what are some of the  
11 criteria for doing that.

12           And some of that, sure, you'd have to have a  
13 pretty intense research component on some of this, but  
14 some of this is not -- ain't so hard to do, you know. I  
15 mean, certainly just going to every single county website  
16 and getting a sense of what its accessibility is is not as  
17 data intense and as labor intense as some of the other  
18 ideas that folks have been talking about.

19           So, you know, I would hope that that's something  
20 maybe we can work towards, is keeping that bigger vision  
21 in mind, but also prioritizing and taking a look at  
22 feasibility of some things that could be really done that  
23 would be very helpful and useful in terms of leading into  
24 best practices.

25           COMMITTEE MEMBER MacDONALD: For piggybacking on

1 what you just said, would there then be money for those  
2 counties that are found to not have accessible voting  
3 sites, I mean, on their -- like online websites?

4 CHAIRPERSON REYNOLDS: Oh. Well, that gets into  
5 a question of whether it's a Title III requirement or not.  
6 And the distinction that the EAC has drawn thus far is  
7 that we're talking about 302 requirements. And 302  
8 requirements are for voting materials at the polling  
9 place. It requires that this information be posted at the  
10 polling place.

11 So there is a questions as to whether, to the  
12 extent as a performance measure or as a function of just  
13 doing elections right, you go out and check county  
14 websites and say these are the things you should do to  
15 improve, and here are the counties that don't have the  
16 websites that are accessible, there might be an issue,  
17 yeah.

18 COMMITTEE MEMBER JOHNSON: This is Margaret.

19 This is really shifting the conversation, I  
20 guess. But I'm really interested in disability access  
21 issues in the state plan. I mean, I think that that's  
22 clearly something that Title III is related to is  
23 accessibility of voting systems and materials that go out  
24 for voters. When I reviewed the draft state plan, I  
25 didn't really see as much attention paid to disability

1 access as I would have liked to. It seemed like there  
2 were pages and pages of information on the security issues  
3 that the Secretary of State was dealing with, not that  
4 those aren't important, but, you know, I really wanted to  
5 see more about disability access.

6           And when she did her top to bottom, she did do a  
7 review of voting systems in terms of disability access,  
8 but I didn't feel like there was enough in the state plan  
9 about what had come out of that. I mean, actually what  
10 came of out that was a bunch of things were conditionally  
11 approved for use, so that counties could use one only.  
12 And to me that's not really meeting the standards of  
13 HAVA -- the requirements in HAVA, if you're conditionally  
14 approving things.

15           I mean, I would really like to see this state  
16 plan focusing on let's get voting systems, you know,  
17 approved and in place that don't have to be conditionally  
18 approved.

19           And then just in line with things that are being  
20 accessible. I mean, even if you're not looking at  
21 websites, if you're looking at material that's available  
22 at the poll site, whether that's accessible or not. And I  
23 know that Title III doesn't really deal with polling place  
24 access, but that's clearly a large issue for people with  
25 disabilities. And if we're going to be doing surveys or

1 looking at, you know, access issues through these kind of  
2 accountability measures, that certainly is something that  
3 I think the disability community would want to see.

4           And I turn to my other colleagues around the  
5 table who deal with disability stuff, I'm sure you guys  
6 have things to add to this, but I feel, in some way, we're  
7 like getting, you know, down a road that isn't really, you  
8 know, focusing in on some of the access things that I  
9 would like to see the state plan deal with.

10           COMMITTEE MEMBER BAZYN: Yeah, that's actually  
11 what I was going to speak on earlier, was the fact that  
12 when we come to performance measures, that I would think  
13 would fit into Title III and the reasons that Margaret  
14 just mentioned, the fact that if you had some disability  
15 aspects in there about how -- or we're getting to  
16 Title III in relation to disability, add that onto this  
17 survey or whatever, I would think we'd have enough things  
18 on a survey, especially if we outlined in the way that we  
19 want to use these surveys or use this research in order to  
20 come up with best practices, that I would think that that  
21 would be under HAVA funding, under Title III. I don't  
22 know, maybe that's just my --

23           CHAIRPERSON REYNOLDS: Well, certainly I would  
24 agree that, you know, particularly when it comes to voter  
25 education, poll-worker training, and just improvement of

1 elections in meeting the spirit of HAVA, I would like the  
2 flexibility -- all the flexibility in the world. But  
3 again, it does seem as though the interpretations that  
4 have come out of the EAC, and I would like people to look  
5 at the EAC website, look under Election Official Center,  
6 look under HAVA funds management, and look at their  
7 advisories that they put out, where there are some  
8 questions that are kind of broad in this respect. And  
9 they have taken a narrow view of, you know, the Title III  
10 requirements related to voter information at the polling  
11 places, what we're talking about. We're talking about  
12 educating voters under Title III. Provisional voting  
13 rights and free access systems is what we're talking  
14 about. Voting systems are what we're talking about and  
15 the statewide voters registration database. Those are the  
16 Title III requirements as they see them.

17           So, but, you know, it's not to say that it's not  
18 worth going out and asking more questions or different  
19 questions about what's allowable and what's not allowable.  
20 In particular, could research be done or could funding be  
21 provided to follow up, to address deficiencies or issues  
22 that are discovered through research.

23           We just don't know, at this point, what those  
24 deficiencies might be. But as they relate to things like  
25 provisional voting, as they relate to things like voting

1 materials; those, I agree, they seem to fall under  
2 Title III, but that's not the opinions that the EAC has  
3 put out.

4           With respect to the conditional approval of  
5 voting systems, every voting system has use procedures  
6 that go with it. So every voting system is always  
7 conditionally approved, because you can't use a voting  
8 system contrary to the use procedures, because if you do,  
9 then you're not following the conditions that are placed  
10 on the voting system, and it's being inappropriately used.  
11 And so that's -- I did want to clarify. That's the way I  
12 understand it.

13           And I understand the comments about paying more  
14 attention to the fact that HAVA talks to accessibility for  
15 voting equipment and accessibility generally. And on  
16 polling place accessibility, I do agree that there may be  
17 some things that can be done around there. For instance,  
18 as you know, we've asked for an update of the guidelines.  
19 We're working with the Department of Rehabilitation's  
20 Disability Access Section. We're trying to update those  
21 guidelines right now. We want to provide an updated  
22 checklist based on those accessibility guidelines. We  
23 want to provide some training to the counties. This is  
24 built into the contract with the Department of  
25 Rehabilitation. And we have done contracts in the past



1 with the counties to improve -- you know, mitigate,  
2 educate, all those things that are allowable under the  
3 Section 261 Grant Program.

4           And in addition to that, we did the Grant Program  
5 recently to try to see if there was a way to have certain  
6 counties do things in a much more comprehensive way that  
7 could be replicated elsewhere. I mean, that was thinking  
8 behind the Title Grant Program.

9           So we've done those kinds of things to try to  
10 help with the accessibility -- polling place accessibility  
11 issue.

12           COMMITTEE MEMBER HUFFMAN: Let me ask a question  
13 on accessibility at a broader level.

14           Is there anything in HAVA that would speak to  
15 having polling places accessible to neighborhoods in areas  
16 in this state where maybe it's difficult, people, either  
17 low-income or what have you, without transportation to get  
18 to the polling places?

19           CHAIRPERSON REYNOLDS: No. HAVA doesn't speak to  
20 that issue as far as I'm aware. If anybody knows anything  
21 different, please speak up. But no, there's nothing in  
22 HAVA that I'm aware of about that.

23           We're talking about the polling place  
24 accessibility under HAVA, there's a section for a grant  
25 program through the Department of Health and Human

1 Services, federal department, where they provide grant  
2 funding to states to improve polling place accessibility  
3 for voters with disabilities.

4 COMMITTEE MEMBER LOGAN: Is there a report on  
5 that funding? Is there a report on what's been -- what's  
6 been spent and allocated from that funding source?

7 CHAIRPERSON REYNOLDS: We could provide, yes,  
8 information to people about, you know -- part of the issue  
9 with, you know, how it's been used, we have categories  
10 that we've created, but we try to aggregate that  
11 information to report back to the EAC for the annual  
12 report. But we would have to dig through invoices and go  
13 line item by line item to get down to some of the level of  
14 detail. It would be very labor intensive for us to do so.

15 COMMITTEE MEMBER LOGAN: Even categorically, I  
16 think it would be helpful to provide perspective, because  
17 I think that the point is well taken that I don't -- I  
18 don't think that we're telling the story about the focus  
19 on accessibility to the degree that we're telling the  
20 story about the focus on voting systems. And I think  
21 there was a greater balance of that in the original policy  
22 of HAVA.

23 COMMITTEE MEMBER JOHNSON: And the original state  
24 plan, those of us that were involved in that originally  
25 was a number of us in this room, really tried to insert

1 language into disability access, wherever we could, which  
2 is kind of why you've got things in the original state  
3 plan that seems now don't really fit. But I think when we  
4 talked this morning, I thought I heard that there might be  
5 a way to pull some of those kind of best practices,  
6 larger, you know, kind of state policy, bigger picture  
7 issues into a strategic plan, or maybe something that  
8 could be lumped into this, but not part of the funding. I  
9 don't know if there's a way to still capture some of that.

10           What I thought was really good thinking, and I  
11 think in our comments we mentioned numbers of those where  
12 we wanted to know what happened. And, of course, in  
13 conversations we had with you separately kind of explained  
14 why those things didn't happen. But even though they  
15 didn't happen, doesn't mean that they aren't things that  
16 we might not want to still aspire to.

17           COMMITTEE MEMBER GOLD: Chris, I want to -- and  
18 my apologies, if it seems like we're backtracking and  
19 revisiting questions, but I just do need clarification on  
20 2 issues.

21           The first issue -- I just backtrack again -- if  
22 there is a requirement under Title III that a voting  
23 system be accessible in a particular way, and the State is  
24 trying to determine whether that accessibility is actually  
25 occurring in real life. The ability to articulate

1 standards and to investigate whether that is occurring,  
2 you're saying those cannot be funded with HAVA money? In  
3 other words, to assess whether that accessibility is  
4 actually occurring with respect to a voting system, if  
5 there's a requirement under Title III that that  
6 accessibility exists.

7 CHAIRPERSON REYNOLDS: Well, I guess the  
8 assumption that I'm making is that the testing and  
9 approval process has looked for that accessibility  
10 functionality. And from what I'm told, the testing and  
11 approval process does include language accessibility and  
12 access for voters with disabilities. They're looking for  
13 that in the testing and approval process.

14 If there's someone who's going to the polling  
15 place. And that functionality is required and it's not  
16 provided, that shouldn't be happening. But I'm not saying  
17 it doesn't, I'm just saying --

18 COMMITTEE MEMBER GOLD: Right. But can HAVA  
19 money be used to do any kind of assessment of that?

20 COMMITTEE MEMBER LEE: I think that should be  
21 part of the performance metrics objectives. So I think  
22 the question is what source from HAVA -- what particular  
23 pool of HAVA money can be used to fund performance  
24 measure, development, and implementation.

25 COMMITTEE MEMBER GOLD: So we have not definitely

1 ruled out that we can't use HAVA money to determine it.

2           Secondly, I would like to just sort of raise the  
3 question -- and I'm sorry, my computer just decided to be  
4 a brat on me -- but under the definition of what  
5 constitutes a voting system, the first part of the  
6 definition is a voting system is a total combination of  
7 mechanical, electro-mechanical, or electronic equipment,  
8 essentially technology, which is used -- and it lists a  
9 bunch of things it's used for, but one of the things is  
10 technology that is used to make available any materials to  
11 the voter, such as notices, instructions, forms, or paper  
12 ballots. Notices, instructions, forms, or paper ballots.

13           I would just be interested in having explored  
14 whether that is wide enough to say that a website is a,  
15 you know, technology that makes available materials to the  
16 voter. And, therefore, that website has to be compliant  
17 with the accessibility requirements.

18           CHAIRPERSON REYNOLDS: Well, I was interested in  
19 pointing out that the poll worker is the one who provides  
20 that information and the paper ballot to someone, for  
21 instance, at the polling place. And, I mean -- it seems a  
22 little bit of a stretch to say that they're apart of the  
23 voting system. But, in fact, they are the ones that are  
24 delivering, like I said, on the promise of HAVA and, you  
25 know, on the front lines of democracy.

1           And so leaving them out of, you know, the  
2 definition, it seemed as though that was intentionally put  
3 in there as a very broad way to say, listen, we have to  
4 provide the benefits of HAVA, and it includes all these  
5 things. But it hasn't gotten --

6           COMMITTEE MEMBER GOLD: But, I mean, do you know,  
7 has there been any EAC ruling that has specifically said a  
8 website is not part of a voting system?

9           CHAIRPERSON REYNOLDS: Not to my knowledge.

10          COMMITTEE MEMBER GOLD: Okay.

11          CHAIRPERSON REYNOLDS: And again, I guess  
12 the -- it's -- the other thing I think is worth mentioning  
13 here is that to the extent that they talk about voting  
14 information, which you would find on the website, they say  
15 that the voting information requirement under HAVA, under  
16 Title III, Section -- it's in Section 302, and they talk  
17 about specific information that needs to be posted at the  
18 polling place.

19          COMMITTEE MEMBER GOLD: Right. But this is a  
20 different requirement. This is the accessibility. The  
21 voting system -- go to the definition of the voting  
22 system. This says a voting -- and, again, maybe I need to  
23 be more educated about what the EAC has defined or other  
24 interpretations. But this basically says, you know, one  
25 of the things a voting system is, is any combination of

1 technology that makes available materials to the voters,  
2 such as notices and instructions.

3           And, I mean, I think I would just -- you know, I  
4 don't know if there's somebody in your office who could  
5 just take a few minutes to take a look at that issue.

6           COMMITTEE MEMBER LEE: The statutory language is  
7 the practices used to make available any materials to the  
8 voter. And there's an argument, I think, that includes a  
9 website, that's a practice used to make available material  
10 to voters.

11           CHAIRPERSON REYNOLDS: As is the practice of  
12 having a poll worker provide this information at the  
13 polling place. And --

14           COMMITTEE MEMBER MacDONALD: Or provide  
15 assistance.

16           CHAIRPERSON REYNOLDS: Right. And so that's --  
17 again, I tried to go in that direction.

18           COMMITTEE MEMBER GOLD: It's just interesting to  
19 me that a system, when the first initial definition of a  
20 system seems to be technology oriented. So there might be  
21 a -- might be, arguably, an easier argument to make when  
22 you're talking about the provision of information through  
23 that. Just, like I said, just wanted to throw it out  
24 there.

25           COMMITTEE MEMBER ACTON: Especially, when you're

1 talking about accessibility, language, people with  
2 disabilities. This is a means of providing voter  
3 education materials in accessible formats.

4 COMMITTEE MEMBER BAZYN: That's right, because at  
5 the polling place there is nothing accessible as far as  
6 polling materials, except the poll worker.

7 COMMITTEE MEMBER BAZYN: Yeah, but they don't  
8 want to take the time to tell you anything though.

9 COMMITTEE MEMBER GOLD: By asking these  
10 questions, I'm not at all in any way meaning to diminish  
11 the importance of, you know, the poll workers as  
12 front-line people. But to the extent that you're telling  
13 us that the EAC has already sort of short-circuited the  
14 ability to use HAVA funding to do as much as we'd like to  
15 with respect to ongoing poll-worker training or  
16 enhancements of poll-worker training, you know, I just  
17 think this would be good to take a second look at this  
18 other avenue, because, you know, there are a lot of folks  
19 who are -- again, there's -- not everybody in the world  
20 can get to the web, but a lot more people are.

21 CHAIRPERSON REYNOLDS: And the intent here --  
22 just to make sure that I'm clear, the intent here would  
23 be, all right, if this falls under the definition of a  
24 voting system, then making the website accessible would be  
25 allowable under Title III and would then be allowable



1 under your voting system contract that you have with the  
2 State or some other means.

3 COMMITTEE MEMBER GOLD: As well as allowable in  
4 terms of then also looking at performance. It would be  
5 easier to make the argument, and we can also look at an  
6 audit and take a look at what's happening.

7 COMMITTEE MEMBER KELLEY: This is a selfish  
8 statement, but I'm glad the EAC's not certifying our  
9 websites though.

10 (Laughter.)

11 COMMITTEE MEMBER ALVAREZ: Well, not yet, at  
12 least. If they're not considered voting systems, yeah,  
13 there's a whole other layer of requirements there.

14 COMMITTEE MEMBER JOHNSON: Whatever happened to  
15 the notion of vote by Internet?

16 COMMITTEE MEMBER FENG: It's still out there.

17 (Laughter.)

18 COMMITTEE MEMBER LEE: Chris, I'd like to take  
19 one moment just to go back to what you had asked about,  
20 Alice; does HAVA include any provisions relating to trying  
21 to make polling places accessible by neighborhood?

22 And, you know, I think there's some wiggle room  
23 there under Section 101. There's talk about using Section  
24 101 funds to make -- to increase both the accessibility  
25 and the quantity of polling places. And so arguably, you

1 could look at that language, the quantity of polling  
2 places to mean, well, where do these additional polling  
3 places need to be placed? So I think that's something  
4 that could be picked up front.

5 COMMITTEE MEMBER ACTON: Which actually brings to  
6 mind, you know, we serve a very rural area. And, of  
7 course, the transportation is a huge issue, which brings  
8 to mind for me the idea of maybe these neighborhood, you  
9 know, accessible voting areas and just general access I  
10 guess to the ballot for people.

11 There's really a need for early voting to be  
12 accessible. People who are living in rural areas, there  
13 are some actually mail-in-only vote-by-mail precincts.  
14 And that means that person is not getting an accessible  
15 ballot if they need one. So there's really a need for  
16 early voting to be accessible, so that's an opportunity  
17 for them to vote privately and independently. But also  
18 the whole issue around provisional ballots and  
19 accessibility to provisional ballots, because if someone  
20 is going to their local closest accessible polling place  
21 to vote in an accessible manner, and they need a  
22 provisional ballot, because it's not -- maybe they're in a  
23 vote-by-mail-only area or what have you, or maybe their  
24 polling place is not accessible, so they didn't go to the  
25 closest accessible polling place, the provisional ballots

1 are not accessible, that's something we've put in our  
2 comments. We're interested in really looking into the  
3 idea of making provisional ballots accessible.

4 CHAIRPERSON REYNOLDS: Every voting -- I'm told  
5 every voting system, accessible voting system, that's  
6 certified has to provide for the opportunity to cast a  
7 provisional ballot on an accessible voting system.

8 COMMITTEE MEMBER ACTON: What's the issue though?

9 CHAIRPERSON REYNOLDS: I don't know.

10 COMMITTEE MEMBER ACTON: Is that happening or  
11 not?

12 COMMITTEE MEMBER JOHNSON: I didn't think that  
13 that was happening. I thought most counties made you do a  
14 paper.

15 COMMITTEE MEMBER KELLEY: No, not --

16 COMMITTEE MEMBER JOHNSON: Not in your county?

17 COMMITTEE MEMBER KELLEY: No.

18 COMMITTEE MEMBER ACTON: I think it might be  
19 dependent on the voting system.

20 COMMITTEE MEMBER KELLEY: It is. We have an  
21 electronically-certified system. We have Hart.

22 COMMITTEE MEMBER ACTON: I think Hart is one of  
23 the ones that you can do the provisional.

24 COMMITTEE MEMBER KELLEY: And Hart provides that.

25 MS. KAUFMAN: So does Premier.

1 COMMITTEE MEMBER FENG: I thought Hart was the  
2 only one that was certified to be able to be used for  
3 early voting and for some of these other kinds of  
4 additional --

5 CHAIRPERSON REYNOLDS: No. I checked with the  
6 Voting Systems Technology Office about this. And their  
7 response to me was that when they certify the --

8 COMMITTEE MEMBER JOHNSON: They don't certify  
9 anymore.

10 CHAIRPERSON REYNOLDS: Approve.

11 (Laughter.)

12 CHAIRPERSON REYNOLDS: When they test and approve  
13 a system, there's going to be that component of the system  
14 that needs to be accessible to voters with disabilities  
15 and you have to be able to cast an original ballot on  
16 that. That's what I'm told.

17 COMMITTEE MEMBER ACTON: Is that happening in the  
18 real world?

19 COMMITTEE MEMBER BAZYN: It's not happening now.  
20 I mean, you can go to a provisional ballot if it's in your  
21 district. You could do a provisional ballot; but if you  
22 go out of your district, you can't.

23 COMMITTEE MEMBER JOHNSON: So you can't do a  
24 provisional ballot, if you're not in your polls, like --

25 COMMITTEE MEMBER BAZYN: I can go to one if it's

1 four blocks away, I can do a provisional ballot, if the  
2 one's not working at my polling place. But I couldn't go  
3 anywhere else in L.A. County and do it.

4 COMMITTEE MEMBER LEE: You should be able to.

5 COMMITTEE MEMBER LOGAN: I think we have the same  
6 ability to go to any polling place in L.A. County and cast  
7 a provisional ballot on the audio ballot booth, just as  
8 any voter would with a paper ballot. You may not have the  
9 same ballot style as your home precinct, but that's true  
10 for any voter.

11 COMMITTEE MEMBER BAZYN: Well, that's what I'm  
12 talking about, having this access to, whereas some of the  
13 systems, they can plug in a card for the particular area  
14 you live in to do a provisional ballot, like the Premier  
15 used to in L.A.

16 COMMITTEE MEMBER LOGAN: Right, in early voting,  
17 that's correct. I mean, early voting has been eliminated  
18 for that reason.

19 CHAIRPERSON REYNOLDS: Right. But every voting  
20 unit that is accessible to voters with disabilities is  
21 supposed to have, and I'm told does, have the capability  
22 for casting a provisional ballot.

23 COMMITTEE MEMBER JOHNSON: Well, they have to  
24 test it out more, because I thought there was still  
25 problems with that.

1           COMMITTEE MEMBER ACTON: That's what I thought,  
2 too. That was my impression. There was problems with  
3 provisional ballot access.

4           COMMITTEE MEMBER JOHNSON: And then vote-by-mail  
5 ballots are not accessible.

6           COMMITTEE MEMBER ACTON: Right. And that's  
7 why -- I mean, there are precincts that are vote by mail,  
8 maybe they have not enough voters for that precinct. And  
9 so how does that person get access to, you know, an  
10 accessible ballot. And so there are some counties that  
11 are doing early voting in an accessible way, but there  
12 are, from my understanding, counties that do not have  
13 accessible early voting.

14           COMMITTEE MEMBER LEE: Just to pick up on  
15 provisional ballots; so I think there are actually two  
16 issues. One is whether the ballot itself can be cast by  
17 voters with disabilities or with alternative language  
18 needs. But I think the second issue is also what does the  
19 process look like for filling out the provisional ballot  
20 envelope. So it's a two-step process, right? You have to  
21 fill out a provisional ballot envelope, and then you go  
22 ahead and cast your provisional ballot.

23           And so I think when we're talking about whether  
24 provisional ballots are accessible, the process of filling  
25 out the envelope is an important part of that. And part

1 of the comments that APALC submitted was to touch upon  
2 that and basically ask, can we get translated versions of  
3 the provisional ballot envelopes that voters can actually  
4 fill out. I think a lot of counties use translated  
5 reference copies that voters can look at as they fill out  
6 an English language provisional ballot envelope. But the  
7 voters can't fill out a translated provisional ballot  
8 envelope to cast a provisional ballot.

9           And so our comments are to ask whether that's  
10 possible and whether HAVA money could be used for that  
11 under -- particularly under Title III monies.

12           And, you know, I guess there's an issue of the  
13 maintenance of effort, but I don't -- I took a look at  
14 what you gave me, Chris, and I don't think that  
15 maintenance of effort precludes that. It's not whether  
16 activity is already being done or whether an activity is  
17 already required under law. It's tied to what's being  
18 spent. So the State cannot decrease its spending on a  
19 particular activity.

20           And so if the State is not doing something that  
21 either it should be or can be seen as beneficial to do  
22 voluntarily, then it's not spending any money on that,  
23 right? And so the maintenance of effort provision  
24 shouldn't -- in my mind, shouldn't preclude the State or a  
25 county from spending money using HAVA dollars.

1 CHAIRPERSON REYNOLDS: To translate the  
2 provisional ballot on the envelope.

3 COMMITTEE MEMBER LEE: Yeah.

4 CHAIRPERSON REYNOLDS: And translation of the  
5 provisional ballot envelope, I guess I'd want to hear from  
6 counties about whether there's some standardization of the  
7 provisional ballot envelopes from county to county,  
8 because when you're thinking about having some kind of  
9 statewide -- I mean, is there a way to provide for one  
10 translation of a ballot envelope forever and just have  
11 that done and available to counties to be able to -- and  
12 then what's the ongoing expense of --

13 COMMITTEE MEMBER FENG: It seems like there was a  
14 recent standardization of the provisional ballot.

15 COMMITTEE MEMBER KELLEY: Each county is  
16 different.

17 COMMITTEE MEMBER FENG: I thought you all went to  
18 at least trying to pick the same colors and using the --  
19 no, I'm wrong.

20 COMMITTEE MEMBER KELLEY: And I know Eugene and I  
21 have had this conversation many times. Part of the  
22 difficulty is if you have a county with multiple  
23 languages, five, six, seven languages, there's really no  
24 way to translate that envelope. You would have to  
25 translate multiple envelopes to be able to do that. And



1 so standardization is an issue and also inventory  
2 quantity, how you train the poll workers is an issue. But  
3 we're going to redesign that.

4 COMMITTEE MEMBER LEE: And we appreciate that.

5 But does that -- did my point about the  
6 maintenance of effort provision make sense?

7 I think it's tied to funding. So if the State or  
8 a county is not spending money on translating provisional  
9 ballot envelopes, the maintenance of effort provision  
10 doesn't preclude that, in my view. And provisional  
11 ballots are covered under Title III, and so --

12 COMMITTEE MEMBER FENG: But you get at a good  
13 point, which is if currently counties are all doing it on  
14 their own and slightly differently, then there's not a  
15 maintenance of effort issue if the State says we'd like to  
16 try to standardize this, have a single translation, but  
17 that's a new thing, right? So that -- in some ways, it's  
18 maybe a good thing that everybody uses slightly different  
19 versions, because you can then justify it.

20 CHAIRPERSON REYNOLDS: Possibly. It depends on  
21 whether -- what I tried to look at initially is whether  
22 there is some kind of a State law requirement. Because if  
23 there's a State law requirement, then the presumption is  
24 that it's getting done; maybe that's an incorrect  
25 assumption. But is this required by State law now that

1 the provisional ballot envelopes be translated?

2 COMMITTEE MEMBER LEE: No.

3 CHAIRPERSON REYNOLDS: Then you're right. I  
4 mean, in that case, there's not a preexisting, and so  
5 they're not necessarily funding.

6 COMMITTEE MEMBER LEE: But my point was,  
7 regardless of whether it's required or not, the  
8 maintenance effort provision is tied to what's actually  
9 being spent, right?

10 CHAIRPERSON REYNOLDS: True. Again, my  
11 assumption going in is that if there's a State law  
12 requirement, that there is something being done about it;  
13 and so there is a general red flag that goes up when you  
14 say, okay, I'm going to use federal funding now to do --  
15 for instance, if we said, okay, whatever provisional  
16 voting costs the counties were incurring, since HAVA now  
17 has a provision in here that says you have to allow for  
18 provisional voting, send us a bill for those costs, and  
19 we'll reimburse you with HAVA funds. Couldn't do that.

20 So, arguably, you could say, well, we're going to  
21 do something special. We're going to have scented  
22 envelopes now.

23 (Laughter.)

24 CHAIRPERSON REYNOLDS: I'm just -- I don't mean  
25 to -- but something different.

1           COMMITTEE MEMBER JOHNSON: Careful, those aren't  
2 going to be accessible.

3           (Laughter.)

4           CHAIRPERSON REYNOLDS: Something different that  
5 would presumably be better or more, you wouldn't  
6 necessarily say, well, give me the added cost of doing  
7 that. I mean, that would be one of those tricky areas  
8 where they would say, well, is that reasonable, is it  
9 necessary, so on and so forth. But if it's not a state  
10 law requirement now, and there are certainly provisional  
11 balloting requirements in Title III, is --

12           COMMITTEE MEMBER KELLEY: And I would caution  
13 against standardization, because a lot of those envelopes  
14 are designed based on your operation and how you process  
15 those envelopes. I know that each county is different in  
16 that respect. So that would be difficult.

17           CHAIRPERSON REYNOLDS: Okay. Yeah. There are  
18 some other hurdles to consider too. Plus, you need to  
19 consider too that HAVA is one-time funding. So that if  
20 you -- it's the same issue that comes up with respect to  
21 the performance measures. If you get -- you spend money  
22 designing it, and we spend money gathering the data, and  
23 then what about the ongoing cost of doing whatever you  
24 need to change your business processes to respond to it.

25           If it's an initial, we need to change our

1 business rules or business processes to take care of this,  
2 and then we can do it thereafter, that's one thing; but if  
3 it's, you know, there's going to be an added cost forever  
4 hereafter, there's a difficulty as well in requiring  
5 something through the state plan. You can't really  
6 require anything under the state plan. There's still kind  
7 of a need for there to be a state mandate of some sort or  
8 a regulation of some sort or something in HAVA that says  
9 you need to do this for us to really assure ourselves that  
10 something is going to get done, because we can't require  
11 anything in the same way you can require something via a  
12 state mandate or a regulation that you can with the state  
13 plan.

14 Yes.

15 COMMITTEE MEMBER CARSON: You know, these are all  
16 wonderful ideas, but there really isn't a lot of money to  
17 do it with, not that much money, which might be -- just  
18 imagine for the whole state.

19 But following up on what Roz had to say, I mean,  
20 is there a way we can get to some sort of prioritization  
21 of what it is, A, you know, given the money that we think  
22 is reasonably available, without a long, involved argument  
23 with the EAC that takes five years to prioritize this  
24 stuff, that we think can be funded and developed?

25 Because I agree with you, Roz. We've got to do

1 what we can do and what can be funded.

2 CHAIRPERSON REYNOLDS: Well, I was going to see  
3 if we could go through the comments. And actually I was  
4 going to see if we could wrap up with some discussion of  
5 whether anybody wanted to venture priorities. But we have  
6 touched on more than a few of the comments, but do we want  
7 to go through those item by item?

8 COMMITTEE MEMBER JOHNSON: Seems brutal.

9 (Laughter.)

10 COMMITTEE MEMBER GOLD: Let me just ask you this:  
11 Can you make these electronically available to people?

12 CHAIRPERSON REYNOLDS: I can email them to  
13 people?

14 COMMITTEE MEMBER GOLD: And might there be a way  
15 that people could electronically weigh in with you in  
16 terms of, you know, like color coding, red, love it; blue,  
17 no don't concur; you know, yellow, I want to tweak it.

18 MS. KAUFMAN: I'm going to be the one counting  
19 it -- since I'm going to be the one counting it, we'll do  
20 a column. And you put priority one, priority two,  
21 priority three and so forth in that column, and then I can  
22 combine the data more readily. Because if I'm being asked  
23 to sort by color, I can't do it.

24 COMMITTEE MEMBER GOLD: I was sort of being  
25 facetious.

1           (Thereupon a discussion occurred off  
2           the record.)

3           COMMITTEE MEMBER GOLD:  Secondly, Chris, I also  
4 wanted to ask is with respect to things that are  
5 identified as non-Title III, how easy is it for you folks  
6 to come up with just a ballpark cost idea, so that, you  
7 know, we could get a sense of, you know, if we had to  
8 think about in a larger picture sense, you know, other  
9 sources of funding for them, we could at least have an  
10 idea of what you folks think they might cost.

11           You know, for example, some of the advisory  
12 committees, which I think are just, you know, very, very  
13 critical, to really, again, comply with the spirit of  
14 HAVA, to get a sense of what your office might think it  
15 would take to establish and maintain the advisory  
16 committees.  Or is there a way when we give you back  
17 comments, we could say, "Gee, mark off, we'd love to see  
18 what this might cost, if there's an easy way to ballpark  
19 it."

20           CHAIRPERSON REYNOLDS:  Yeah.  Some of them are  
21 going to be really difficult to -- that one may not be as  
22 difficult to do, because we do have advisory committees.  
23 We have the Voting Accessibility Advisory Committee, VAAC  
24 as it's called.

25           Some of them like, you know, translation of

1 provisional ballot envelopes. It's very difficult for me  
2 to try to put a cost estimate on something like that,  
3 because I don't know whether there's standardization. I  
4 don't know whether there's -- it would just be very  
5 difficult for me to try to put a figure on something like  
6 that.

7           COMMITTEE MEMBER FENG: Can we do this: There  
8 are some items that are -- that relate specifically to the  
9 historical narrative or the description of what's planned.  
10 And maybe what we could do is just go through those. And,  
11 Kaye, if you could mark those in -- mark those out or  
12 whatever, so that we're not trying to rank those, because  
13 those don't have -- that's not requiring sort of a cost  
14 analysis. That is more about kind of being more  
15 descriptive about what's happened.

16           And then there are other things where we're  
17 actually talking about items that would entail potential  
18 expenditure of funds, and that's what we're really being  
19 asked. So maybe even truncating those, or consolidating  
20 some of the recommendations so that we've got just a short  
21 list, and we're going through that. Because if -- I guess  
22 I'm looking at this chart, and if we're using this chart  
23 as a basis for doing ranking, this is -- these are  
24 comments to the draft plan, but not necessarily, I think,  
25 an appropriate list of policies that we're trying to rank

1 as important priorities for the next HAVA state plan.

2 CHAIRPERSON REYNOLDS: Would it be best then to  
3 try to see whether we should go to the question of  
4 priorities? You know, take a quick break, come back, and  
5 go right to the question of priorities. And then we can  
6 provide this electronically, but I'm not sure the purposes  
7 for which -- part of the reason why I kind of wanted to  
8 get to these comments was to hear what others might have  
9 to say about them. And I'm not sure if we have enough  
10 time to capture those now.

11 COMMITTEE MEMBER FENG: Okay.

12 COMMITTEE MEMBER JOHNSON: Do we need another  
13 meeting? I mean, we could do something by phone, if you  
14 didn't want to drag us all together.

15 CHAIRPERSON REYNOLDS: No, I was actually  
16 thinking of dragging you all together again.

17 (Laughter.)

18 CHAIRPERSON REYNOLDS: But there's --

19 COMMITTEE MEMBER JOHNSON: And I'm happy to come.  
20 I'm right across the street.

21 COMMITTEE MEMBER FENG: Can we do it in southern  
22 California?

23 CHAIRPERSON REYNOLDS: There's a May 19th  
24 election too. And I know everybody is interested in that  
25 and involved in that. So --



1           COMMITTEE MEMBER JOHNSON:  When does this have to  
2 be done?

3           CHAIRPERSON REYNOLDS:  There's no deadline that  
4 it needs to be completed by.  And so I was thinking that  
5 perhaps there are some things that -- you know, I  
6 guess -- the other thing is I'd like to get a firmer  
7 understanding of some action items that maybe we should be  
8 following up on, making sure that we haven't got forgotten  
9 anything, and go over those before we break from this  
10 meeting.

11           COMMITTEE MEMBER FENG:  Maybe one idea would  
12 be -- again, I'm just a little bit concerned, because this  
13 is eight pages of a fairly long list.  And I'm not sure  
14 how quickly we could get through getting you comments on  
15 this, but if -- in looking at this and hearing the  
16 comments that went around on the table, taking 15 minutes  
17 out and typing it onto a screen and then projecting it  
18 onto the projector, we could all talk through a much  
19 shorter list of priorities.  We might be able to give you  
20 feedback on that, which gives you the ability to go  
21 forward with writing more substance into the draft plan.

22           And then we can go back and kind of do the vote  
23 tally on this at a later point, because this is -- a lot  
24 of these are very detailed comments, some of which are  
25 overlapping, some of which aren't, but I think that's

1 a -- this is a different feedback loop than what you're  
2 asking for, I think.

3 CHAIRPERSON REYNOLDS: Well, and in some ways, I  
4 want to make sure too that I haven't mischaracterized some  
5 things somehow in -- because I did abbreviate what was  
6 there.

7 COMMITTEE MEMBER FENG: Should we -- would you  
8 like to do a 15-minute break, and then we can all come  
9 back and --

10 COMMITTEE MEMBER HUFFMAN: Can I ask a question  
11 before break? I've been dying to ask.

12 I just want to ask about the recruitment of poll  
13 workers and if anywhere in any of this, if there are  
14 standards for recruitment of poll workers and how -- we  
15 talk a lot about evaluating the effectiveness based on  
16 poll workers. And when I used to walk precincts and  
17 work -- do poll watching, I found very unevenness in the  
18 people that are hired to do the work. Some of them were  
19 very sophisticated and educated, and others were  
20 home-grown and very folksy.

21 And I'm just wondering, as far as improving the  
22 system, if there's been any thought given to standardizing  
23 and setting some criteria for the recruitment of poll  
24 workers.

25 CHAIRPERSON REYNOLDS: There is a poll-worker

1 training guidelines that were developed under some  
2 legislation from 2004. They were put together by a task  
3 force in 2005 and then issued in 2006. And there's going  
4 to be an update of those --

5 COMMITTEE MEMBER HUFFMAN: That's on training  
6 though.

7 CHAIRMAN REYNOLDS: Right.

8 COMMITTEE MEMBER HUFFMAN: On recruitment  
9 criteria.

10 CHAIRPERSON REYNOLDS: No, not that I'm aware of.  
11 But what I was going to suggest was that there will be --  
12 those guidelines lines will be updated. And to the extent  
13 that some of the issues that are discussed here in the  
14 comments dovetail with that effort to create those  
15 guidelines, including whether there's some best practices  
16 around recruitment, whether there's maybe -- maybe that  
17 should be an element of the guidelines themselves, even  
18 though it's not training. I mean, it's a question of  
19 where you're drawing your pool of talent from, if you  
20 will.

21 So we're going to be asking for comments from  
22 this group about the -- or inviting this group to make  
23 comments about those poll-worker training guidelines.

24 COMMITTEE MEMBER MacDONALD: When we did this  
25 survey with Debbie, we actually looked at recruitment as

1 well. And we developed a bunch of best practices for  
2 recruitment. There is a lot of variation between the  
3 counties, as you probably observed, within the counties as  
4 well. But within the counties or between the counties on  
5 how they recruit poll workers. We have some counties that  
6 actually test all poll workers before they even let them  
7 attempt to train them. So they weed them out in the  
8 beginning. We have some counties that do that and then  
9 add testing after the training to weed some people out.  
10 And we have some counties that do neither, they're just  
11 happy when they can find somebody.

12 (Laughter.)

13 COMMITTEE MEMBER MacDONALD: That's pretty much  
14 standard. But we did develop a whole bunch of best  
15 practices that -- actually, I thought they were done at  
16 one point in the guidelines. I thought they were -- maybe  
17 they're not in those.

18 MS. KAUFMAN: There is some talking in the  
19 guidelines about retention of poll workers and how to  
20 recruit it, but it's a minor part of those guidelines.

21 COMMITTEE MEMBER MacDONALD: We worked on that as  
22 well obviously.

23 VOTER EDUCATION & OUTREACH SERVICES DEPUTY  
24 DIRECTOR O'DONOGHUE: We can do that.

25 COMMITTEE MEMBER MacDONALD: We can pull it out

1 and have that done as well. We have a ton of research on  
2 that data.

3 COMMITTEE MEMBER JOHNSON: Chris, you were  
4 mentioning that some of the poll-worker training stuff was  
5 going to be kicked over to this other process. I'm  
6 wondering if it would be helpful on this chart to have a  
7 column that kind of says we're going to be doing this  
8 about that, so we don't have to --

9 CHAIRPERSON REYNOLDS: Well, in particular --

10 COMMITTEE MEMBER JOHNSON: -- so we don't have  
11 to --

12 CHAIRPERSON REYNOLDS: There's a suggestion from  
13 the American Pacific -- the Asian Pacific American Legal  
14 Center about improving poll-worker training and  
15 provisional ballot requirements. And I thought that  
16 there could -- that would fit within the guidelines, that  
17 there should be something in there about, you know,  
18 provisional ballot requirements, some attention paid to  
19 that. That's an issue. Just those kinds of things that  
20 might fit.

21 The Secretary of State from -- the California  
22 Federation of Independent Living Centers -- Foundation of  
23 Independent Living Centers. Secretary of State should  
24 outline goals and objectives for poll-worker training and  
25 evaluate the success of these programs. But, you know,

1 poll-worker training guidelines, the update there, that  
2 could dovetail in some respects to that as well. So those  
3 are the kinds of things I was talking about, that we would  
4 want to be aware of.

5 COMMITTEE MEMBER JOHNSON: But I guess my  
6 suggestion was if you had another column that just kind of  
7 said what you were thinking to do, that was some of these  
8 comments, and that might help us, as we wouldn't be  
9 arguing about whether something should be done when you  
10 are already thinking about doing it in a different context  
11 other than the state plan.

12 CHAIRPERSON REYNOLDS: Okay. All right. I'll  
13 see what kinds of things I --

14 COMMITTEE MEMBER JOHNSON: Not that we're  
15 arguing, but I mean, you know.

16 CHAIRPERSON REYNOLDS: So --

17 COMMITTEE MEMBER GOLD: A robust dialogue.

18 CHAIRPERSON REYNOLDS: We're going to take a  
19 15-minute break and come back and talk about the  
20 priorities?

21 Is that right, everyone?

22 Okay. Thanks.

23 (Thereupon a recess was taken.)

24 CHAIRPERSON REYNOLDS: I think maybe we could get  
25 started.

1 Hello. I'm sorry. I just kind of wanted to move  
2 us onto the next part of this and talk about the  
3 priorities. I was kind of waiting for a couple people to  
4 return, but they can catch up. We won't be done by then,  
5 I don't think.

6 I think the next thing we were going to talk  
7 about was what priorities people might see for the state  
8 plan.

9 For the Secretary of State, we do have, as I  
10 mentioned, the voting system contracts with the counties,  
11 which are approved and locked in, if you will, with the --  
12 through the spending plan approval. And we have the  
13 VoteCal project, which is, again, in the competitive  
14 bidding process, but that is a priority we have to -- we  
15 have an interim solution, but we're duty-bound, according  
16 to the Memorandum of Agreement, to pursue the long-term  
17 VoteCal project. So those are items that I think I can  
18 say are priorities for the Secretary of State.

19 What other things?

20 COMMITTEE MEMBER JOHNSON: We, of course, want to  
21 add disability access in whatever shape and form we're  
22 able to do that, right?

23 COMMITTEE MEMBER ACTON: Can I just make a  
24 general comment about the state plan?

25 And the comments that have been submitted, that

1 there's some really good stuff here that maybe doesn't fit  
2 under what we're going to be asking for funding for. But  
3 to me, it makes sense to have some of this stuff in the  
4 actual state plan. Because, for example, you know,  
5 polling place access, I understand that, you know, polling  
6 place access is not a Title III billable item. But HAVA  
7 does reference polling place access in the Americans with  
8 Disabilities Act. And to me, it makes sense to have some  
9 of these components in the actual state plan, even though  
10 we're not specifically asking for funding for it, you  
11 know. And off what Margaret said, to me it did lack  
12 language and content around disability and language  
13 access.

14           And I just wanted to put that out there. I know  
15 we're going to prioritize. My understanding is what we're  
16 actually asking for funding for?

17           CHAIRPERSON REYNOLDS: Well, again, the State  
18 plan is supposed to address the Title III requirements and  
19 some other elements that have to do with managing the  
20 state plan and so on and so forth. But if you don't mind  
21 me characterizing it this way, if there's editorial  
22 comment about the importance of disability access and how  
23 that also relates -- you know, it's -- it also includes a  
24 section of HAVA that talks about polling place  
25 accessibility.



1           And the Secretary of State has formed a Voting  
2 Accessibility Advisory Committee. And, I mean, if that  
3 kind of, you know, language people are interested in  
4 seeing in the state plan, then I'm certainly, you know,  
5 going to bring that to the attention of, you know, the  
6 Secretary and others who ultimately craft this.

7           COMMITTEE MEMBER JOHNSON: Yeah. I think we'd be  
8 eager to see anything like that in the plan.

9           COMMITTEE MEMBER ACTON: I think it just shows an  
10 emphasis that, you know, yes, we're addressing -- we're  
11 asking for specific money on these issues, but we're  
12 taking a much more comprehensive look in addressing these  
13 issues. You know, polling place access, people can't get  
14 into the polls, they can't get to the voting systems. So,  
15 you know, I think that there's a way maybe to include some  
16 of those in the state plan.

17          CHAIRPERSON REYNOLDS: And with respect to  
18 disability access, then as a general issue --

19          COMMITTEE MEMBER MacDONALD: And what about  
20 provisional ballots, I mean we have it right here.  
21 Provisional ballots be accessible to voters with  
22 disabilities and that sort of thing.

23          CHAIRPERSON REYNOLDS: Yeah, I got information  
24 back from our Office of Voting System Technology about  
25 every -- let's see -- all accessible voting devices can

1 handle, must handle provisional voting. I mean, that's  
2 what they're telling me. When they test and approve a  
3 system, that it's got to have that capability to it.

4 COMMITTEE MEMBER ACTON: But does that mean it's  
5 being done? I mean, just because the machine's capable of  
6 doing it, does that mean that it's made available?

7 CHAIRPERSON REYNOLDS: Yeah. And that's -- I  
8 don't know if there is a problem with poll-worker  
9 communication to a voter, you know, do you need to vote?  
10 There's a unit available for casting a ballot if you'd  
11 like to use it, or, you know, would you like to cast an  
12 optical-scan ballot, or how that works, how that message  
13 gets delivered. But the provisional voting option is  
14 available on the voting units that are accessible.

15 COMMITTEE MEMBER ACTON: And counties are setting  
16 it up, so it is available for the voters to begin with.

17 And then secondly, the poll-worker training  
18 issue.

19 CHAIRPERSON REYNOLDS: Yeah, I mean --

20 COMMITTEE MEMBER HUFFMAN: That would then apply  
21 to the vote-by-mail counties, or portions of the counties  
22 with a vote by mail?

23 CHAIRPERSON REYNOLDS: Well, I suppose -- let's  
24 see. I'm not sure. I'd have to hear from a county  
25 about -- first of all, you're right. An absentee ballot

1 is not -- it's a paper ballot, so it's not accessible in  
2 the way that the voting unit makes the ballot accessible.  
3 The accessible voting unit makes it accessible.

4           But how would a person -- I mean, I guess a  
5 person could request a ballot. But if you're going to  
6 send one out to them, do you first ask yourself whether  
7 they're a registered voter or not. I mean, because that's  
8 the way somebody would be required to cast a provisional  
9 ballot. The threshold is, is this a registered voter?

10           And so how is that handled?

11           I mean, if you ever -- if you send out an  
12 absentee ballot, can it, by definition, be a provisional  
13 ballot when it leaves the county?

14           COMMITTEE MEMBER LOGAN: No. You send a  
15 vote-by-mail ballot out to a registered voter based on the  
16 address where they're registered to vote.

17           CHAIRPERSON REYNOLDS: And if someone is -- sends  
18 in a request for a vote-by-mail ballot and they're not a  
19 registered voter --

20           COMMITTEE MEMBER KELLEY: They don't get the  
21 vote-by-mail ballot.

22           COMMITTEE MEMBER MacDONALD: An absentee ballot  
23 is also not accessible.

24           CHAIRPERSON REYNOLDS: Well, that vote-by-mail --

25           COMMITTEE MEMBER MacDONALD: So long as a

1 provisional and absentees are essentially the same  
2 ballots. So I mean, yeah, you don't get a provisional  
3 ballot mailed to you, no.

4 CHAIRPERSON REYNOLDS: Right. That's what I'm  
5 getting at.

6 COMMITTEE MEMBER MacDONALD: You get an absentee  
7 ballot mailed to you.

8 COMMITTEE MEMBER LOGAN: But that's part of the  
9 provision of a provisional ballot is that it's a failsafe  
10 method in the event that you requested a vote-by-mail  
11 ballot and never received it, or you never received a  
12 sample ballot and you go to a polling place in your county  
13 and you have the right to cast a provisional ballot, so  
14 that that -- so that they can determine whether or not you  
15 were registered.

16 COMMITTEE MEMBER MacDONALD: And in certain  
17 counties if they're all mail ballots, you would have to go  
18 down to the registrar?

19 COMMITTEE MEMBER LOGAN: I don't know what the  
20 provisions are in those counties. I do know that for  
21 vote-by-mail precincts in L.A. County, your notice that  
22 tells you that you're in a declared vote-by-mail precinct  
23 informs you of your right to go to a polling place  
24 anywhere in the county and cast a ballot at a polling  
25 place, if you prefer that.

1           COMMITTEE MEMBER JOHNSON: But you'd only get  
2 that if you actually thought they were really a registered  
3 voter.

4           COMMITTEE MEMBER LOGAN: Correct.

5           COMMITTEE MEMBER BAZYN: I have a question about  
6 the provisional ballot. The question about the  
7 provisional ballot that I have is shouldn't you be able to  
8 vote on a provisional ballot with the correct election  
9 things on it, like --

10          MS. KAUFMAN: With the correct races?

11          COMMITTEE MEMBER BAZYN: For an accessible voting  
12 machine. That's what I'm talking about. Like --

13          CHAIRPERSON REYNOLDS: Well, if the reason that  
14 you're receiving a provisional ballot is because you're  
15 going to a precinct other than the one you've been  
16 assigned to, or polling place other than the one that  
17 you've been assigned to, you are going to get the ballot  
18 that is available to that polling -- the person who votes  
19 at that polling place. So you may not get the ballot that  
20 you need. You may not be eligible to cast -- to vote on  
21 every race that's on that ballot or every measure that's  
22 on that ballot. But under State law, they will -- the  
23 county will count as many of the races, contests, as they  
24 can. And so if there's a statewide election and you go to  
25 the wrong county, they would count your vote on statewide

1 offices, and --

2 COMMITTEE MEMBER LOGAN: Correction. Right now,  
3 under state law, you have to be within your county.

4 CHAIRPERSON REYNOLDS: Okay. That's the only  
5 instance in which --

6 COMMITTEE MEMBER LOGAN: And there's a proposal  
7 to do it outside of your county. But right now you have  
8 to be within your county. You can appear at any polling  
9 place within the county that you're registered, and then  
10 any of the contests or measures that you were eligible to  
11 vote on will be counted.

12 CHAIRPERSON REYNOLDS: So I stand corrected.

13 But they will count if -- as long as you're in  
14 the county where you reside, they will count as many of  
15 the contests on that ballot as possible.

16 COMMITTEE MEMBER LOGAN: And that's true for  
17 both -- just -- I think -- because I think -- I think  
18 your point is well taken about the different ballot  
19 styles. But I think the confusion there may be the  
20 difference between early voting and election-day voting.

21 But when we had the electronic, the DRE early  
22 voting programs, you could go to any of the early voting  
23 locations in the county, and they had a direct connection.  
24 They could look up your voter registration and they could  
25 provide you with a ballot for your precinct, regardless of

1 where you went. That's never been available at polling  
2 places on election day. That's only during the previous  
3 early voting program that had to be curtailed because of  
4 the voting system issues.

5 COMMITTEE MEMBER BAZYN: Right.

6 CHAIRPERSON REYNOLDS: Okay. I'm just --

7 COMMITTEE MEMBER ACTON: So back to disability  
8 access too, I would say the notion of the accessible voter  
9 education materials at polling places.

10 CHAIRPERSON REYNOLDS: Now --

11 COMMITTEE MEMBER ACTON: And including looking  
12 into the website.

13 CHAIRPERSON REYNOLDS: -- help me understand what  
14 form that would take, accessible voting materials at the  
15 polling place.

16 COMMITTEE MEMBER JOHNSON: Well, whatever voting  
17 stuff you're supposed to have at the polling place should  
18 be accessible.

19 CHAIRPERSON REYNOLDS: Accessible in what format?

20 COMMITTEE MEMBER ACTON: Braille, electronic,  
21 alternative language.

22 CHAIRPERSON REYNOLDS: Now, alternative  
23 language --

24 COMMITTEE MEMBER JOHNSON: Audio, video.

25 COMMITTEE MEMBER GOLD: Actually, you can do a

1 separate category on language accessibility if that would  
2 be okay. There's less overlap.

3 COMMITTEE MEMBER JOHNSON: Also, plain English.

4 CHAIRPERSON REYNOLDS: Because this could get  
5 very involved and difficult.

6 COMMITTEE MEMBER JOHNSON: Well, audio may work  
7 for most people, and you wouldn't need to have it in  
8 braille. The video might work for people who are deaf.  
9 And the plain English would work for people with  
10 intellectual or cognitive disabilities.

11 MS. KAUFMAN: Now --

12 COMMITTEE MEMBER JOHNSON: What do you think  
13 about plain English?

14 COMMITTEE MEMBER ACTON: Easy to understand. You  
15 don't want language at too high of a reading level. So  
16 it's easy to understand language for --

17 MS. KAUFMAN: Now, are you talking about -- for  
18 these accessible materials, are you talking about stable  
19 items that will not change between elections that perhaps  
20 could be funded with one-time funds as opposed to Susie  
21 Smith is running for dogcatcher and her qualifications  
22 are?

23 COMMITTEE MEMBER JOHNSON: I'm not sure what all  
24 has to be at the polling place right now.

25 CHAIRPERSON REYNOLDS: That includes --



1 COMMITTEE MEMBER JOHNSON: Could you tell me what  
2 that is?

3 MS. KAUFMAN: It includes a sample ballot --

4 CHAIRPERSON REYNOLDS: But what's required under  
5 HAVA --

6 MS. KAUFMAN: -- which would not be one time.

7 CHAIRPERSON REYNOLDS: What's required under  
8 HAVA --

9 COMMITTEE MEMBER ACTON: You know, I wonder if  
10 voting systems could be used for voter education  
11 materials. You know, why couldn't you use the voting --  
12 electronic voting system for a sample ballot?

13 MS. KAUFMAN: I believe the part of the problem  
14 that could be contained in that use would be if it slowed  
15 down the voting process for others who needed to use the  
16 unit.

17 COMMITTEE MEMBER HUFFMAN: I'd like on the  
18 content, wouldn't the content have to be the same as what  
19 goes out on the sample ballot in order to --

20 MS. KAUFMAN: To be totally accessible, but  
21 there's a lot of other things that need to be made  
22 available at the polling place that don't include the  
23 sample ballot, such as, here's how you cast your vote on  
24 this machine. We are open from 7 a.m. to 8 p.m. on this  
25 date. Here is your Voter Bill of Rights. Here is

1 information about provisional voting. Here is information  
2 about why your vote-by-mail ballot dropped off at the  
3 polling place --

4 COMMITTEE MEMBER HUFFMAN: But all that you're  
5 talking about is not what's at the polling place. That's  
6 someplace else before you get to the polling place.

7 MS. KAUFMAN: No, it needs to be at the polling  
8 place. The Voter Bill of Rights has to be there.

9 CHAIRPERSON REYNOLDS: Yeah, at the polling  
10 place.

11 COMMITTEE MEMBER HUFFMAN: They may have the Bill  
12 of Rights, but, I mean, a lot of stuff you're talking  
13 about was before the date to vote.

14 CHAIRPERSON REYNOLDS: Well, what's required to  
15 be posted at the polling place is a sample ballot for the  
16 election. So that's going to include all the contests  
17 with names of the race that -- or the jurisdiction that  
18 the people are running for, as well as their  
19 qualifications, if they decided to put those in there or  
20 some kind of a statement in the sample ballot.

21 You know, information on the date of the election  
22 and the hours of the polling place that will be open, and  
23 that will change from election to election; instructions  
24 on how to vote, which may or may not change from one  
25 election to another; instructions for first time mail-in

1 registrants who may be required to show I.D., that  
2 shouldn't change; general information on voting rights and  
3 general information on the prohibition on acts of fraud  
4 and misrepresentation, which, again, those shouldn't  
5 change, or they may change depending on whether there's  
6 new laws.

7           So the sample ballot would be a very expensive  
8 thing and involved thing to do and to make completely  
9 accessible, as I understand what's being proposed here,  
10 from election to election.

11           COMMITTEE MEMBER JOHNSON: But don't you already  
12 make that available on the Secretary of State's -- from  
13 the Secretary of State's office or the League of Women  
14 Voters provides some -- I thought somebody was providing  
15 audio.

16           CHAIRPERSON REYNOLDS: We provide audio of the  
17 sample ballot.

18           MS. KAUFMAN: But that doesn't include local  
19 races.

20           COMMITTEE MEMBER BAZYN: Most counties provide it  
21 too.

22           CHAIRPERSON REYNOLDS: Do they?

23           COMMITTEE MEMBER BAZYN: As least Los Angeles  
24 County does. I don't know about all counties.

25           VOTER EDUCATION & OUTREACH SERVICES DEPUTY

1 DIRECTOR O'DONOGHUE: Voter Information Guide, not the  
2 sample ballot.

3 CHAIRPERSON REYNOLDS: I'm sorry. Did I say  
4 "sample ballot" or "ballot pamphlet"? I meant to say the  
5 "Voter Information Guide" is what it's called now, which  
6 includes the State races. So --

7 COMMITTEE MEMBER ACTON: Right. And HAVA doesn't  
8 pertain to the local races anyway. I mean, it would be  
9 great to have those accessible, but I'm saying under HAVA.

10 CHAIRPERSON REYNOLDS: But it says the sample  
11 ballot has to be available at the polling place. And so  
12 the sample ballot, it's going to include --

13 COMMITTEE MEMBER ACTON: It's going to include  
14 the local races.

15 CHAIRPERSON REYNOLDS: It's going to include all  
16 that information.

17 COMMITTEE MEMBER KELLEY: In Orange County, we  
18 offer the sample ballot at the polling place, and you can  
19 go to a booth, if you need to, and we'll cancel the booth,  
20 so they can use the audio to hear -- to get the  
21 information on the sample ballot.

22 COMMITTEE MEMBER ACTON: I mean, I was just going  
23 to say, because, you know, there's just -- now there's  
24 this requirement for only one per polling place, which  
25 might hold up the voting process for others.

1 COMMITTEE MEMBER KELLEY: That's a good point.

2 CHAIRPERSON REYNOLDS: And Orange County is one  
3 of the few counties that uses the Hart system, which isn't  
4 bound by the one per polling place. And just to clarify  
5 that, there is an allowance for more than one unit at a  
6 polling place in the event that the machines being used  
7 malfunctions, you have a backup unit available. So there  
8 is an allowance for more than one.

9 COMMITTEE MEMBER ACTON: Could that backup unit  
10 then be used for voter education?

11 COMMITTEE MEMBER JOHNSON: It depends on the unit  
12 it sounds like.

13 COMMITTEE MEMBER LEE: Well, I think that  
14 Registrar Kelley's practice in Orange County is, as said  
15 by others, it's a great best practice. And I think  
16 allowing -- trying to make that more available for  
17 counties to use is a good reason to get rid of the one DRE  
18 per polling place rule. I'll just say that very bluntly.  
19 I think we need to get rid of that.

20 CHAIRPERSON REYNOLDS: Yeah. And to be blunt  
21 back, the Secretary of State did go through a  
22 top-to-bottom review and has real concerns about the  
23 security of voting systems and, you know, how vulnerable  
24 they may be to, you know, problems, malware, unknown  
25 issues.

1 I mean, there was a recent discovery in the  
2 Premiere system of problems with audit logs and Deck Zero,  
3 if people have been following what's going on in Humboldt  
4 County. So I just wanted to make you aware of that.

5 COMMITTEE MEMBER LOGAN: I think the danger in  
6 that message, Chris -- I mean, I understand all that. But  
7 I think the danger in that message is that that almost  
8 comes across as saying that, okay, so if we limit it to  
9 one and only three people vote on it, we're not worried  
10 about that risk. But if we have five of them and 30  
11 people vote on them, then we think that's a bigger issue.  
12 So I mean, I think it's a legitimate concern.

13 CHAIRPERSON REYNOLDS: Well, and I can't speak to  
14 all the particulars on this, because I'm not an expert on  
15 it, certainly. But I think that the use conditions that  
16 they put in place and the need to check against the paper  
17 record, those kinds of things are -- you know, that's the  
18 intent behind those measures, to make sure that you feel  
19 more comfortable, that the security issue is being  
20 addressed.

21 COMMITTEE MEMBER ACTON: And maybe we can go into  
22 more detail on this and how this would actually be  
23 implemented at another time, I don't know, because we  
24 could probably spend all day.

25 COMMITTEE MEMBER JOHNSON: Yeah, I'm sure we

1 could spend hours here going through the nuances of this.  
2 But I think our general notion is just, you know, to have  
3 more about disability access in this plan. And I like  
4 Gene's idea of getting rid of the one per polling place.  
5 And I understand what the concerns with are that, but this  
6 is a state plan. I mean, the plan would be that we would  
7 move to that.

8 CHAIRPERSON REYNOLDS: Okay.

9 COMMITTEE MEMBER FENG: Or to state it another  
10 way, in the letter that several of us wrote together, it  
11 is that the Secretary of State would endeavor to move to a  
12 universe where, within a particular county, everybody is  
13 voting on a uniform system. So whether that's a DRE or  
14 something else, but moving away from this notion of having  
15 two systems or more than one system and essentially  
16 creating a separate but equal situation --

17 COMMITTEE MEMBER JOHNSON: Well, separate but --

18 COMMITTEE MEMBER FENG: Separate and unequal  
19 situation for voters.

20 CHAIRPERSON REYNOLDS: Okay.

21 COMMITTEE MEMBER BAZYN: My thought on this plan,  
22 it seems like that the security has been a total focus  
23 rather than making an equal purpose for both the county  
24 training, the disability, the language access, and  
25 security, I think should be equal focus on all of them.

1 And if it all worked together, I think it would make a  
2 much better plan than to just focus on certain areas.

3 COMMITTEE MEMBER FENG: Or maybe, Chris, another  
4 way to say that on the page would be balance the security  
5 concerns, or whatever, in the report with an attention to  
6 accessibility and removing barriers for voters, because I  
7 wouldn't want you to get in trouble with people who care a  
8 lot about security.

9 COMMITTEE MEMBER BAZYN: No, you stated it  
10 correct, a balance is what -- you know.

11 COMMITTEE MEMBER JOHNSON: Yeah. And I think  
12 people with disabilities are just as concerned about  
13 security issues as people who aren't. And some of us feel  
14 really bad that we're being asked to vote on insecure  
15 systems.

16 COMMITTEE MEMBER LOGAN: But let's clarify that  
17 for my mind. I mean, is the issue -- when you say have  
18 everyone vote on a uniform system, am I'm hearing that  
19 correct in terms of -- I mean, I think there's -- I think  
20 the electorate enjoys the choice of different manners of  
21 voting right now. I mean, some people choose to vote by  
22 mail, because it's convenient. Some people choose to vote  
23 at early voting locations for whatever reasons. And  
24 others vote at the polls. So I'm not sure that we want to  
25 limit ourselves to a single manner of voting.



1 I think the uniformity is in the -- if I'm  
2 hearing correctly, is in the level of security and the  
3 privacy, that should be uniform, but that doesn't  
4 necessarily mean that everybody --

5 COMMITTEE MEMBER GOLD: My understanding was you  
6 meant the polling place for election day polling site  
7 voting.

8 COMMITTEE MEMBER LOGAN: But I'm not -- okay, so  
9 if that's what you're saying? Because I'm not sure I  
10 would concur with that, because I'm not sure that -- I  
11 mean, if you've got the same level of security and the  
12 same level of privacy, do we want to divert resources  
13 towards a bunch of physical equipment that has to be --

14 COMMITTEE MEMBER JOHNSON: Well, we still don't  
15 have a separate but equal system.

16 COMMITTEE MEMBER BAZYN: Well, the problem right  
17 now is that right now you go into a polling place, if they  
18 don't see you carrying a cane or guide dog or that you  
19 obviously have a disability, they won't even tell you  
20 about the audio system.

21 COMMITTEE MEMBER LOGAN: Right. And --

22 COMMITTEE MEMBER BAZYN: And that's what's  
23 separate but equal. They should tell everyone that they  
24 could use that system.

25 COMMITTEE MEMBER LOGAN: What options are

1 available. And I agree with that, and I think part of  
2 that is the limitation on --

3 COMMITTEE MEMBER ACTON: Well, there's this  
4 impression now that those are the insecure ones and this  
5 other system is the secure one.

6 COMMITTEE MEMBER LOGAN: Right. I get that. I  
7 guess I just want to be careful in terms of -- I'm not  
8 sure that I would agree that the solution to that is to  
9 have everybody voting on the same exact thing.

10 COMMITTEE MEMBER FENG: How about if we flip this  
11 around and -- I mean, let's keep this on the board, but  
12 add a sentence that says, "Or find solutions to address  
13 the concern that many counties have dual voting systems in  
14 polling places that create a separate and unequal  
15 situation for voters that need assistance, special  
16 assistance.

17 COMMITTEE MEMBER ALVAREZ: Can we just push that  
18 even one step further, which is to point out that counties  
19 now have a multiplicity of voting systems that have  
20 different, you know, degrees of accessibility and  
21 usability and security. Because, you know, I think we  
22 could have a conversation about the basic security of  
23 voting by mail, which is not something that I think has  
24 really been well addressed in the top-to-bottom review for  
25 example. And so -- and I would sort of push it even a

1 step further.

2           COMMITTEE MEMBER FENG: And I would concur with  
3 you that there are systems that counties currently use  
4 that because they are not -- they don't fall into the  
5 category of DREs, they were not reviewed by the  
6 top-to-bottom review, but are not accessible and may not  
7 be secure, but they were sort of left out of the analysis.  
8 So there seems to be sort of a double standard going on  
9 with how we go about auditing those systems.

10           I think to come back, you know, to something  
11 that's an achievable goal. This is a larger goal. And we  
12 can figure out what the right language is, but the more  
13 specific sort of measurable or deliverable, I think, comes  
14 back to the audit question, or in the performance  
15 measures, it's finding the language to say that there  
16 should be a review of the voting systems that are used in  
17 different counties with accessibility and -- with  
18 accessibility in mind, but also this more holistic  
19 approach.

20           Specifically, TTBR only covered what are  
21 considered to be DREs, and there was not a review of other  
22 systems. So if we're going to -- you know, if we're going  
23 to implement and audit, the audit should be --

24           COMMITTEE MEMBER ACTON: For every system.

25           COMMITTEE MEMBER FENG: -- for every system. And

1 it should more comprehensively look at functionality  
2 across the board. So TTBR didn't look at what the impact  
3 was on voters who needed language assistance.

4 Let me be more concrete.

5 (Laughter.)

6 COMMITTEE MEMBER FENG: TTBR didn't look at how  
7 opticals -- how accessible for people with disabilities or  
8 people who need language assistance, certain optical scan  
9 systems are just the optical scan paper ballot voting  
10 system is. And so while all of these preconditions were  
11 placed on the use of DREs no examination was made of other  
12 systems that are used. How usable are they? How  
13 accessible are they? How secure are they?

14 So we currently have this intense spotlight that  
15 is placed on one set of voting systems and virtually no  
16 examination of other systems, or it feels that way,  
17 particularly with regards to the requirements for  
18 accessibility that HAVA places on voting systems.

19 That doesn't help you at all?

20 (Laughter.)

21 COMMITTEE MEMBER FENG: Audits for voting  
22 systems.

23 COMMITTEE MEMBER JOHNSON: But I think it helps  
24 frame where we're coming from when we say these sorts of  
25 things or point this out. I think that was a helpful

1 summary of --

2 COMMITTEE MEMBER FENG: I'll use the example that  
3 I know best, which is Los Angeles County's InkaVote  
4 system. It is a ballot that's this big with only numbers  
5 and bubbles on it. And so number one, for somebody who is  
6 sight challenged and/or manual dexterity challenged,  
7 taking that thing and inserting it into the recorder is  
8 not an easy thing.

9 Second, for somebody who needs language  
10 assistance, the pages that are on the vote recorder are in  
11 English only. So you have to take a sample ballot and  
12 line it up next to the English language vote recorder, and  
13 hope that you lined it up correctly and then hope that you  
14 marked the correct bubbles correctly.

15 Once you pull that ballot out, it is just a  
16 ballot of bubbles with some marked and some not, and there  
17 is no way for a voter to realistically verify whether they  
18 marked the ballot in the way that they intended to.

19 So on all the different sort of categories of  
20 evaluation that we have for whether a DRE is functionally  
21 serving the things that we want it to serve, we're not  
22 asking those same questions of other type of ballots.

23 And I would argue that even for some of the  
24 full-face ballots, you still have some of those same  
25 challenges. And we're -- again, we're not holding those

1 up to a -- some kind of, you know, standard that ensures  
2 that people have just as much ability to work -- to vote  
3 on those systems as they do on the ones that are  
4 designated disability access or language access.

5 COMMITTEE MEMBER JOHNSON: So the InkaVote was  
6 not subject to the top-to-bottom review?

7 COMMITTEE MEMBER LOGAN: Yes, it was. And  
8 without getting into the specifics that you just went  
9 through, because I think your points are well taken. But  
10 I think it's important to note that in each of those  
11 polling places, there is a piece of voting equipment that  
12 does provide the audio ballot and the language assistance.  
13 So there is an option for the person who needs the  
14 language assistance and who doesn't have the manual  
15 dexterity that you're talking about.

16 COMMITTEE MEMBER JOHNSON: But it's not secure.

17 COMMITTEE MEMBER LOGAN: No, actually, that's not  
18 true. It's actually -- the audio ballot booth is not  
19 set -- it's not a DRE and it's not subject to those same  
20 conditions.

21 COMMITTEE MEMBER GOLD: Chris, could -- with the  
22 folks' permission, could I just talk a bit about the  
23 language accessibility issue?

24 First of all, in my comments, I'm going to pay  
25 homage to Eugene's hard work by concurring with many of

1 his ideas and basically incorporating them into my  
2 comments here. I appreciate that.

3           For language accessibility, as we look at the  
4 recommendations, first of all, I think there's a  
5 constellation of priorities around testing and  
6 certification, enhanced testing and certification, paying  
7 attention during testing and certification to language  
8 accessibility.

9           As part of that, there's this road show idea.  
10 And what I thought was interesting is that on page 1 of  
11 the document, you say the road show is Title III related,  
12 but then on page 6, you say -- and maybe I'm  
13 misunderstanding this -- you say that it's not Title III.  
14 And I would hope that it is Title III related.

15           CHAIRPERSON REYNOLDS: Yeah. I mean, anything  
16 dealing with the voting system would be Title III related.  
17 But the question of whether you're testing and approval  
18 process includes bringing out community groups -- and just  
19 to let people know that there is a concern about that from  
20 the Office of Voting System and Technology Assessment, in  
21 that you have to make sure that the system is secure and  
22 you're testing the system with the software that was  
23 approved from the federal laboratory and so on and so  
24 forth. And there's some logistical issues with moving  
25 around the state.

1           However, there used to be, under the voting  
2 system testing and approval process, an open house that  
3 was provided. And so it would be much easier to control  
4 your environment and have public access to it if it was  
5 here and there was an open house portion to the testing  
6 and approval process.

7           COMMITTEE MEMBER GOLD: The second constellation  
8 of issues for language accessibility are around  
9 poll-worker training. And, again, some of the  
10 enhancements or renewed emphasis on poll-worker training,  
11 not only specifically with respect to what the language  
12 accessibility requirements are under federal -- poll  
13 workers really need to know that you are supposed to  
14 provide appropriate language assistance at the polling  
15 site. But also some of the other issues that APALC has  
16 identified that have a particularly significant impact on  
17 language minority communities, such as the I.D.  
18 requirements and the provision of a provisional ballot.

19           So enhanced poll-worker training on all of those  
20 areas.

21           CHAIRPERSON REYNOLDS: Now, as I recall the APALC  
22 comments, they had to do with a reference to post-election  
23 counseling for anybody who asked for I.D. when they  
24 weren't -- when the voter wasn't required to provide it.  
25 And I was wondering how practical or how, you know, how



1 that would work.

2 COMMITTEE MEMBER MacDONALD: How do we find out,  
3 first of all, who asked for the I.D.?

4 COMMITTEE MEMBER LEE: Well, there are  
5 organizations that conduct their own poll monitoring. And  
6 I think many counties have precinct coordinators or  
7 roaming troubleshooters that conduct their own examination  
8 of polling places.

9 So, for example, in some counties a  
10 troubleshooter is assigned to ten polling places, and he  
11 or she goes around and has notes and can identify  
12 instances where poll workers are asking for I.D. when  
13 they're not authorized to do so. And so those instances  
14 can be compiled.

15 If I understand correctly, Dean Logan --  
16 Registrar Logan, L.A. County does that; they conduct  
17 counseling sessions with poll workers who've been reported  
18 to ask for I.D. Is that right?

19 COMMITTEE MEMBER LOGAN: If we have specific  
20 information, yes.

21 COMMITTEE MEMBER GOLD: And so we would like to  
22 add to that also, to the extent feasible, if you can  
23 identify the person, not only counseling on inappropriate  
24 asking of about I.D., but counseling on failure to provide  
25 a provisional ballot when it should have been provided.

1           CHAIRPERSON REYNOLDS: And getting back to the  
2 provisional ballot, as I understood the comments too from  
3 the Asian Pacific American Legal Center, it was some  
4 people -- you want to make sure that the poll worker  
5 checks the supplemental roster, so people aren't  
6 inappropriately getting a provisional ballot. And I think  
7 that the counties have a real interest in making sure that  
8 someone doesn't get a provisional ballot if they  
9 shouldn't, and that that might have more to do with the  
10 poll-worker training guidelines. Even the I.D.  
11 requirements might jive -- dovetail, to some extent, with  
12 those, emphasizing in the poll-worker training guidelines  
13 to, you know --

14           COMMITTEE MEMBER GOLD: There's both sides of the  
15 issue for our communities. One is inappropriately  
16 providing a provisional ballot when you shouldn't, but  
17 then not providing a provisional ballot when you should.

18           CHAIRPERSON REYNOLDS: And there's the balance  
19 you have to make sure that you achieve when you say, don't  
20 give someone -- you know, if you try to emphasize to  
21 people don't give out a provisional ballot -- I mean, the  
22 simplest message is don't give out a provisional ballot  
23 when you're not supposed to. And they don't hear the when  
24 you're not supposed to part. I don't know how difficult  
25 it is. I've never trained people.

1           COMMITTEE MEMBER GOLD: I would maybe, you know,  
2 ask our registrars. But I know you folks train people to  
3 make some very difficult judgment calls and deal with some  
4 very technical things. I would think this is something  
5 you are training people on in terms of exactly when it is  
6 appropriate and when it's not appropriate.

7           COMMITTEE MEMBER MacDONALD: It's even on the  
8 ballot, so -- I mean, on the envelope, like what are the  
9 reasons for why you're giving --

10          COMMITTEE MEMBER KELLEY: It's more important to  
11 err on the side of the voter, as far as I'm concerned.

12          COMMITTEE MEMBER MacDONALD: Right. And there's  
13 more or less stringent instructions that the counties  
14 give. In some counties, somebody will just say, look,  
15 just don't argue with the voter, just give him a  
16 provisional ballot, because you don't want the -- you  
17 don't want the poll worker to stand there and go into  
18 having arguments about why, you know, this or that can't  
19 find it or whatnot. So, you know, I think the more  
20 lenient they are, the more provisional ballots you get  
21 though too.

22          COMMITTEE MEMBER GOLD: Just two other  
23 constellations related to --

24          COMMITTEE MEMBER LEE: Can I just jump in really  
25 quickly?

1 COMMITTEE MEMBER GOLD: Yes.

2 COMMITTEE MEMBER LEE: I think there are other  
3 best practices the counties can use. So in addition to  
4 really getting their poll workers well trained on checking  
5 their supplemental roster. Another thing that could be  
6 emphasized in trainings is if the roster clerk has  
7 difficulty in finding a voter's name, letting the voter  
8 search for their name, which is permissible under State  
9 law, instead of just concluding that the voter's name is  
10 not on the roster. So I think that is another best  
11 practice that helps, make sure that voter whose name is on  
12 the roster don't inadvertently get shifted to the  
13 provisional ballot table.

14 COMMITTEE MEMBER KELLEY: And even better,  
15 Eugene, print them upside down. You can look at them. It  
16 works.

17 COMMITTEE MEMBER MacDONALD: It totally works.

18 COMMITTEE MEMBER JOHNSON: I also think that  
19 provisional ballots are sometimes inappropriately given to  
20 people with disabilities, because we've had calls from  
21 people who say they are on the list, but because whatever  
22 is there isn't accessible to them for whatever reason or  
23 the other, that they're given a provisional ballot to fill  
24 out, rather than a regular ballot. So the same kinds of  
25 issues.

1           CHAIRPERSON REYNOLDS:  Would it be appropriate to  
2 parenthetically put what I have here, best practices of  
3 training, or is it --

4           COMMITTEE MEMBER GOLD:  Well, I would like to  
5 take -- sort of make best practices sort of a separate  
6 bullet under language accessibility, which is, in general,  
7 to the extent that we can make it Title III related, best  
8 practices on anything relating to language accessibility  
9 and voter information.  You know, being more proactive  
10 with respect to the articulation of that, providing  
11 information about that.

12          COMMITTEE MEMBER MacDONALD:  Could I say  
13 something about the I.D. check?  Okay.

14          Eugene, what we actually found in the research is  
15 that the best way to figure out which poll workers are  
16 actually doing well and which ones don't, is when you have  
17 the inspector of the polling place actually fill out  
18 little rating sheets about the poll workers, because  
19 when -- I work as a rover.  I've worked as a rover in four  
20 different counties, okay?  When the rover shows up,  
21 everything works really well.

22          (Laughter.)

23          COMMITTEE MEMBER MacDONALD:  And you're only  
24 there really quickly, because you have like 10 or 12  
25 polling places -- people are calling you and whatnot.  So

1 you don't see that. I mean, rarely. I've only seen once  
2 something really horrible, and I actually had two poll  
3 workers reassigned that morning, pulled them out and sent  
4 them home, and got new ones. But that only happened once.

5           So, you know, I think the inspector, that's the  
6 person that's there and they have responsibility.

7           So if the counties can just put that like check  
8 sheet, you know, I know that Yolo, for example, does that;  
9 that says, for example, are your poll workers -- you know,  
10 are they good at checking the roster, because sometimes  
11 you also have somebody who doesn't read very well or not  
12 quickly enough at the roster, then you have a line and you  
13 have a bottleneck, right. So are they checking the  
14 roster? Are they checking the supplemental roster and all  
15 of that? They have to check it up -- I mean check it off  
16 during the day.

17           It also reminds them that they actually are in  
18 charge of the polling place and they should be reminding  
19 their poll workers to do certain things. So it actually  
20 improves how the entire polling place works. And then you  
21 can go through with all the time you have while your like,  
22 you know, counting ballots and all of that, right, because  
23 you have a lot of staff going around. And you can go  
24 through and then figure out who should come to some of  
25 this after it's --

1           COMMITTEE MEMBER LOGAN: We actually get more  
2 comments from the inspectors about the precinct working,  
3 but that's --

4           (Laughter.)

5           COMMITTEE MEMBER MacDONALD: Okay. We'll come  
6 over and do your training.

7           COMMITTEE MEMBER GOLD: And, Chris, just the  
8 final point I wanted to make with respect to the language  
9 accessibility. Again, as we're looking at what's -- what  
10 aspects of auditing and performance measures are the most  
11 feasible and can be done in line with the resources we  
12 have, developing performance measures for monitoring the  
13 needs of language minority voters, and some type of audit  
14 capability of to what extent those needs are being met  
15 would be one of our sort of audit performance measure  
16 priorities, top priorities.

17          COMMITTEE MEMBER LEE: If I could just tag team  
18 across on language assistance.

19           So one of the recommendations we made was to try  
20 to achieve full compliance with the state language  
21 assistance laws. And there I'd point specifically to  
22 Sections 14201 and 12303 and consider the use of HAVA  
23 funds to achieve compliance, if funding from the general  
24 fund is an issue.

25           And so with Section 14201, the first step is for

1 the Secretary of State to issue a list of what counties  
2 and precincts are required to provide assistance in the  
3 languages. Assistance is fairly limited. It's basically  
4 a copy of the ballot, but it needs to be posted in a  
5 polling place. And in our view, that ties into Title III  
6 requirements about posting voter information. It doesn't  
7 run into any maintenance of effort issues because no money  
8 is really being spent on the generation of that list, as  
9 far as I know. And also, I don't -- my understanding is  
10 that local election officials don't widely provide  
11 assistance in languages beyond those required by the  
12 Voting Rights Act. Some counties do. For example, L.A.  
13 County does and some parts of the county, like Long Beach.  
14 But generally speaking, across the state, I don't think  
15 this is widely done.

16           And so I think that HAVA money can help fill in  
17 funding gaps and doesn't run into any maintenance of  
18 effort issues, because not much money is being spent on  
19 this currently, and this wouldn't result in any decrease  
20 in State money being spent on that.

21           CHAIRPERSON REYNOLDS: Okay. So I'm sorry, could  
22 you run that by me again?

23           So issue a list of the counties that have  
24 language requirements.

25           COMMITTEE MEMBER LEE: So 14201, the first step



1 is for the Secretary of State to issue a list of which  
2 counties and precincts, applies both at the county and  
3 precinct level, are required to provide assistance in what  
4 languages. The assistance is fairly limited to a copy of  
5 the ballot, which needs to be posted in each polling  
6 place.

7           And then the second step is for county and local  
8 election officials to comply with that. So to provide a  
9 ballot in, say, Russian or Armenian or Farsi, none of  
10 which languages are required under the Federal Voting  
11 Rights Act.

12           And so that's one of our recommendations, is for  
13 consideration of HAVA money to be used.

14           CHAIRPERSON REYNOLDS: So this is -- but this is  
15 a State law requirement.

16           COMMITTEE MEMBER LEE: Um-hmm.

17           CHAIRPERSON REYNOLDS: And to provide a ballot?

18           COMMITTEE MEMBER LEE: It's a copy of a ballot.  
19 It's not a ballot that a voter could fill out, but rather  
20 a reference copy.

21           CHAIRPERSON REYNOLDS: Okay. Is it a sample  
22 ballot?

23           COMMITTEE MEMBER LEE: My understanding, it's  
24 just a copy of the ballot.

25           CHAIRPERSON REYNOLDS: And counties aren't doing

1 what they're required to under State law.

2 COMMITTEE MEMBER LEE: Well, I think part of the  
3 issue is that there's -- as far as I know, there's not a  
4 list that's been issued by the Secretary of State.

5 CHAIRPERSON REYNOLDS: Okay.

6 COMMITTEE MEMBER HUFFMAN: How many languages do  
7 some voting places have now?

8 COMMITTEE MEMBER LEE: I don't know the -- it's  
9 potentially a large number of languages. There's -- under  
10 State law there's no express limit on what languages would  
11 be required.

12 COMMITTEE MEMBER MacDONALD: That's Section 203  
13 of the Voting Rights Act. You may have a whole lot of --

14 COMMITTEE MEMBER HUFFMAN: You may have a whole  
15 lot of residents in that --

16 COMMITTEE MEMBER LOGAN: Right. We have six  
17 requirements under the Voting Rights Act. And as Eugene  
18 said, there are certain areas of the county where we  
19 provide limited materials in additional languages, but not  
20 to the same degree as we do for the Voting Rights Act.

21 CHAIRPERSON REYNOLDS: Okay. And this wouldn't  
22 be one of the things that's required as of -- under HAVA  
23 to be posted in the polling place.

24 COMMITTEE MEMBER LEE: Well, I think that the  
25 language of HAVA talks specifically about the posting of a

1 sample ballot, right, but --

2 CHAIRPERSON REYNOLDS: It says that you have to  
3 provide voter information, and it defines what that is,  
4 and it says specifically what that is, and it's under  
5 Section 302. And I don't know if this would be covered,  
6 but, okay.

7 COMMITTEE MEMBER LEE: Well, I think the argument  
8 is that -- I think that HAVA specifically talks about the  
9 posting of sample ballots.

10 CHAIRPERSON REYNOLDS: Yes.

11 COMMITTEE MEMBER LEE: And any sample ballot  
12 includes a copy of the ballot. So if you're posting just  
13 the ballot, I don't see how that is not covered under  
14 HAVA.

15 CHAIRPERSON REYNOLDS: So provide funding -- the  
16 argument is to provide funding to counties for meeting the  
17 State requirement.

18 COMMITTEE MEMBER LEE: Right, and also for the  
19 first step, for the Secretary of State to figure out which  
20 counties and precincts are covered.

21 CHAIRPERSON REYNOLDS: Okay.

22 COMMITTEE MEMBER LEE: Another recommendation  
23 that we make is about using advisory committees. So our  
24 recommendation there is to have standing language advisory  
25 committees as well as standing disability access advisory

1 committees.

2 CHAIRPERSON REYNOLDS: And we do have a VAAC, as  
3 I mentioned before. We have a Voting Accessibility  
4 Advisory Committee that includes -- Margaret Johnson is a  
5 member. Ardis Bazyn is a member.

6 COMMITTEE MEMBER JOHNSON: Ana is a member.

7 CHAIRPERSON REYNOLDS: And Ana is a member.

8 COMMITTEE MEMBER LEE: Okay. But there's not one  
9 for language access, as far as I know.

10 CHAIRPERSON REYNOLDS: No.

11 COMMITTEE MEMBER LEE: And so I think that  
12 advisory committee could help the Secretary of State, as  
13 well as the counties, in a variety of roles in reviewing  
14 poll-worker training programs that are submitted to the  
15 Secretary of State as part of the voting system contracts,  
16 voter education programs that are submitted as part of the  
17 voting system contracts, review -- assisting in review of  
18 voting systems.

19 And then lastly, we didn't mention this  
20 specifically in the letter, but I think that as part of  
21 the performance measures, I think there should be some  
22 thought given to getting qualitative data on performance.  
23 So in addition to quantitative data, qualitative data.  
24 And I think that using these advisory committees would be  
25 a great way to get that kind of input.

1           COMMITTEE MEMBER GOLD: Excuse me. Eugene, did  
2 you say to expand the access for persons with disabilities  
3 committee into an overall accessibility or to create a  
4 separate committee for language issues?

5           COMMITTEE MEMBER LEE: Our letter talked about  
6 separate -- or about standing committees for language  
7 access and standing committees for disability access.

8           We don't have any strong thoughts on how that  
9 should work. If there are issues in terms of how many  
10 people are in a committee and trying to convene meeting  
11 times, then perhaps separate committees are the way to go.

12           COMMITTEE MEMBER GOLD: I'm just saying if it is  
13 easy for you folks to do, since there have been questions  
14 raised about whether a separate committee on language  
15 accessibility would be covered by HAVA money, if it is  
16 easy, I just think for our information we'd like to know  
17 sort of an estimate of what you think that would cost the  
18 State.

19           CHAIRPERSON REYNOLDS: And I'm sorry, Eugene,  
20 could you mention again -- you mentioned qualitative data.

21           COMMITTEE MEMBER LEE: Um-hmm.

22           CHAIRPERSON REYNOLDS: In what context?

23           COMMITTEE MEMBER LEE: For performance measures.  
24 So getting -- and this would be more like anecdotal  
25 information. But to the extent that there's a way to

1 standardize how qualitative data is collected, then that  
2 would be great.

3           And so one can envision trying to get  
4 representation from community members across different  
5 counties and getting some community input from each county  
6 on how elections are being run.

7           CHAIRPERSON REYNOLDS: Oh, I see. Okay.

8           COMMITTEE MEMBER LEE: The concern is that  
9 numbers are very powerful, but they don't often tell the  
10 entire story. I think to fill out and flesh out what's  
11 going on, it's important to have interviews, focus groups,  
12 or just getting -- simply just getting input from  
13 community members. And I think these standing advisory  
14 committees could be an important tool in that.

15           CHAIRPERSON REYNOLDS: Anybody else want to add  
16 anything?

17           County elections?

18           COMMITTEE MEMBER LOGAN: Well, I haven't  
19 submitted a letter yet, but I will.

20           (Laughter.)

21           COMMITTEE MEMBER LOGAN: No, I mean this is two  
22 small things, since you asked, but --

23           CHAIRPERSON REYNOLDS: Okay.

24           COMMITTEE MEMBER LOGAN: -- one is I did notice  
25 that the reference on voting system's certification is

1 still throughout the draft, so I don't know if that's  
2 going to be changed to testing and approval or not.

3 CHAIRPERSON REYNOLDS: It should be, yes.

4 COMMITTEE MEMBER LOGAN: And also -- and this is  
5 unique to L.A. County, but the references to the  
6 top-to-bottom review and the broad statements about three  
7 voting systems being reviewed and all that are not really  
8 reflective of how that process played out in L.A. County.  
9 So I don't know that you want the plan to be that long, to  
10 talk about how to play it out in L.A. County, but there  
11 maybe should be a footnote or some reference to the fact  
12 that -- I think -- and specifically, I think in the  
13 background, it said that based on the top-to-bottom  
14 review, three voting systems were disapproved and then  
15 reapproved with conditions. There were, in fact, more  
16 than three systems disapproved, and then after  
17 considerable more time, approved with conditions.

18 So I just --

19 CHAIRPERSON REYNOLDS: These drafts were written  
20 at a point in time. And so certain things hadn't happened  
21 yet, and so if you have any suggestions, if you write  
22 something up --

23 COMMITTEE MEMBER LOGAN: Sure, absolutely.

24 CHAIRPERSON REYNOLDS: -- that would be great.

25 So I'm going to --

1           Okay?

2           COMMITTEE MEMBER ACTON:  So poll-worker training.  
3  Now, if I understood you right, that it's only an  
4  allowable expense under Title III if it's -- if there's  
5  been a new system implemented?  It's a one-time-only kind  
6  of a --

7           CHAIRPERSON REYNOLDS:  If you look at the  
8  document that's -- was in your blue folder, it's the  
9  FAO-08-011.  That particular one was in response to the  
10 question that I raised about voter education of  
11 poll-worker training.  At the end of that document, they  
12 say that you can conduct poll-worker training on a  
13 one-time basis.

14          COMMITTEE MEMBER JOHNSON:  When they implement a  
15 new voting system, that one?

16          CHAIRMAN REYNOLDS:  Right.

17          COMMITTEE MEMBER JOHNSON:  This is a one-time  
18 training expenditure.

19          CHAIRPERSON REYNOLDS:  Right.  The expectation  
20 was -- I think, reading into it, the expectation was that  
21 you would have a voting system that you were going to  
22 implement, you were going to deploy, and you would revamp  
23 your training program for that voting system.  And it  
24 wouldn't be something that you would be getting any  
25 reimbursement for on an ongoing basis.  And they



1 reference, you know, this is not something that is  
2 available on an ongoing basis.

3           So that was the reference to the  
4 frequently -- I'm sorry, the funding advisory opinion.

5           COMMITTEE MEMBER ACTON: So my question I guess  
6 is in the comments that you ranked your understanding of  
7 how they related to Title III, or were -- you know,  
8 there's a column of Title III related. So, you know, and  
9 there is a few in there around poll-worker trainings that  
10 were marked as Title III related, such as on page 4, "More  
11 time should be spent by counties giving poll workers  
12 hands-on training for voting systems" and "...on poll  
13 worker sensitivity training for disabilities and language  
14 multicultural."

15           CHAIRPERSON REYNOLDS: So those things are  
16 certainly Title III related. Even the EAC acknowledges in  
17 its opinion that they're related, but there's a  
18 limitation. That's, I guess, the point, is that they're  
19 saying that there should be a limitation on how much  
20 you're going to spend in HAVA funds on these kinds of  
21 activities.

22           And, frankly, the way they characterized it was  
23 you're going to do this as a one-time. But if you're  
24 going to do it thereafter, it's going to be minimum  
25 requirements payment funding. That \$11.6 million that I

1 mentioned that has been allocated to the counties at a  
2 proportionate basis through the \$195 million contracts  
3 they have with the Secretary of State for reimbursement  
4 for HAVA expenses. So that's where that comes in.

5 COMMITTEE MEMBER JOHNSON: But isn't that just  
6 related to voting systems? That wouldn't be educational  
7 programs for other sorts of things, would it?

8 COMMITTEE MEMBER MacDONALD: Because sensitivity  
9 training, in the way we've always defined it, is just, you  
10 know, getting these poll workers to actually treat people  
11 properly that have, you know, language or, you know,  
12 disability needs.

13 CHAIRPERSON REYNOLDS: How does it tie to  
14 Title III, I think, is part of the thing you need to  
15 consider here.

16 COMMITTEE MEMBER MacDONALD: I thought Title III  
17 is --

18 CHAIRPERSON REYNOLDS: Voting systems.

19 COMMITTEE MEMBER JOHNSON: Voting systems.

20 COMMITTEE MEMBER MacDONALD: If it's language,  
21 isn't that what we've been talking about?

22 CHAIRPERSON REYNOLDS: There's three provisions  
23 under Title III. One is 301 for voting systems. Two is  
24 voter information at the polling places, the sample ballot  
25 and other things to be posted at the polling place, and

1 provisional voting rights, including the free access  
2 system. And those are both under Section 302.

3           And then the final one is the statewide voter  
4 registration database. So failing the poll-worker  
5 training to, you know, you're deploying your voting  
6 system, provide training there for the fact that the poll  
7 worker is going to need to set up the system and help  
8 people understand how to use it, break it down, and, you  
9 know, gather in it at the end of the night, collect the  
10 memory cards or whatever it might be, or do a tabulation,  
11 post it, depending on what system you're using.

12           COMMITTEE MEMBER JOHNSON: But they also say that  
13 you can do voter education programs for paper ballot  
14 voting systems. That doesn't seem to be limited to  
15 one-time only.

16           CHAIRPERSON REYNOLDS: No. As a matter fact,  
17 that's not limited to one time. But what that is, is if  
18 you're using a paper-based system that's centrally  
19 tabulated, then there is a provision in HAVA that says  
20 specifically you can have a voter education program around  
21 what they refer to as over-vote protection, or I refer to  
22 it as over-vote protection. That is, tell me how I can  
23 prevent over voting on a ballot.

24           Well, if you're using a paper-based system -- if  
25 you're using a DRE or -- yeah, DRE, it won't let you

1 over-vote. You cast your ballot, your choice for that  
2 race, and it moves on. So you can't over-vote. But with  
3 a paper-based system, you can over-vote.

4           And so HAVA says specifically, under Section 301,  
5 that we're not telling you you can't use a paper-based  
6 system. And if you want to do over-vote protection, you  
7 could use a voter education program by explaining to  
8 someone how to prevent an over-vote and how to correct  
9 their ballot, including receiving a replacement ballot.

10           Under California law, you can receive up to two  
11 additional ballots, if you will, you get three ballots  
12 total.

13           So that's what that's in reference to. And  
14 that's clearly one of those things that I pointed out to  
15 them, under HAVA there's an anticipation that you would  
16 have a voter education program. And that's why they said,  
17 okay, it's a Title III requirement. It's there under  
18 Title III, Section 301. You can do this whenever.

19           COMMITTEE MEMBER JOHNSON: And then the second  
20 one says that -- about posting voter information, but that  
21 doesn't seem to be limited to a one-time only either, is  
22 it?

23           CHAIRPERSON REYNOLDS: Again, that's a  
24 preexisting requirement in California. The Elections Code  
25 provided for the sample ballot and the date and time of

1 the election and so on and so forth, to be posted at the  
2 polling place before HAVA. And so you run into a  
3 supplanting issue.

4 COMMITTEE MEMBER JOHNSON: What about this last  
5 sentence, "If the State has filed this certification,  
6 funds can be used for educating voters on voting"?

7 CHAIRPERSON REYNOLDS: Again, that's the code  
8 word for the minimum requirements payment program that I  
9 mentioned; Section 251(b)2 is where they explain there is  
10 such a thing as a minimum requirements payment program  
11 where the funding is more flexible.

12 So again, it's you've deployed a new voting  
13 system. You're using minimum requirements payment or  
14 you're in those special circumstances that they mentioned,  
15 you're either talking very specifically about posting  
16 information at the polling place, which is a preexisting  
17 issue in California -- or activity in California and  
18 you're worried about supplanting. Or two, you're a  
19 paper-based system, with a central tabulation, where you  
20 have to use a voter education program to protect  
21 the over-votes.

22 COMMITTEE MEMBER LEE: Chris, I have to get to a  
23 4 o'clock meeting. And I just wanted to ask if there's  
24 going to be a next meeting?

25 CHAIRPERSON REYNOLDS: Yes. And I'm sorry I

1 can't say when specifically, but obviously we haven't  
2 finished here.

3 I would really like the opportunity, at the next  
4 meeting, to go through these comments in more detail.  
5 Even though I captured some priorities here, I still need  
6 to see how to bring things together. And if it's  
7 possible, I can make some amendments to the draft State  
8 plan and circulate those based on what I've got here.

9 So, sorry, I'm going to have to say I'll keep you  
10 posted on when the next meeting might be. I'll try to  
11 certainly make it something that's far enough advance  
12 notice, so that we can do a different -- maybe southern  
13 California would be better.

14 COMMITTEE MEMBER LEE: My apologies. I have to  
15 leave early, but it's been a pleasure.

16 CHAIRPERSON REYNOLDS: Thank you very much. I  
17 really appreciate it.

18 COMMITTEE MEMBER LOGAN: I'd willingly host.

19 (Laughter.)

20 COMMITTEE MEMBER GOLD: Can you feed us?

21 (Laughter.)

22 CHAIRPERSON REYNOLDS: We have reached the magic  
23 hour of 4 o'clock. But do people have an interest in  
24 going a few more minutes to kind of capture more?

25 COMMITTEE MEMBER JOHNSON: Somebody's picking me

1 up, so I'd need to like step out and tell them that.

2 They're probably here already.

3 CHAIRPERSON REYNOLDS: Okay. Can we just go for  
4 five more minutes, ten more minutes? Should I wrap this  
5 up, or we kind of -- I don't want to leave it hanging  
6 here.

7 Okay. Some people seem like they have things  
8 they have to go do.

9 COMMITTEE MEMBER FENG: Well, can I suggest  
10 something that might help you. I mean, it sounds like one  
11 of the things that you're going to do is send around the  
12 chart for us to look at. But the other thing that might  
13 be helpful is if we coordinate amongst ourselves to  
14 take -- to start with the document that Eugene started  
15 redlining and edit on top of that, so that it's all in a  
16 single document. And, you know, Word now will sort of  
17 indicate when different people are marking it up.

18 And if people don't agree or have concerns with  
19 an edit that's being proposed, they can insert a comment,  
20 but then at least we can try to bring this process  
21 together. Because I think your challenge right now is  
22 that each of us have provided comments, but we haven't  
23 necessarily developed -- or you don't know if we've  
24 developed an agreement as a group.

25 CHAIRPERSON REYNOLDS: Um-hmm.

1 MS. KAUFMAN: Right.

2 CHAIRPERSON REYNOLDS: Whether, yeah, there is  
3 some consensus around. And I -- at the same time, I have  
4 to -- you know, I'm not the one who's going to say, this  
5 is what we're going to do for the state plan, Secretary.  
6 The Secretary needs to draft the state plan. So I need to  
7 provide feedback to folks here about what we're hearing,  
8 at least as far as we've come.

9 And I really appreciate this. I think it was a  
10 good first step. I hope others see it that way. And this  
11 is certainly something that's going to need to continue.

12 But I like your suggestion, in terms of -- and  
13 that was, frankly, the intent in getting a roster to  
14 people, so that they would communicate or could  
15 communicate with each other.

16 So if you can, you know, work with other folks.  
17 And, you know, I'll certainly stay in the loop if people  
18 have questions.

19 COMMITTEE MEMBER FENG: Okay. Well, several of  
20 us do communicate via email online, so we could try to  
21 facilitate something where we do a little bit of a round  
22 robin with -- starting with what Eugene has started and  
23 get a sense of whether folks are okay with that, and then  
24 editing on top of that to add additional things. And at  
25 some point, we'll have to clean it all up, but at least



1 then it's at least all in one spot.

2 COMMITTEE MEMBER MacDONALD: Aren't we all  
3 experts in that by now?

4 COMMITTEE MEMBER FENG: Yes.

5 So can I just ask the two registrars -- actually,  
6 one of them has left -- there's two.

7 COMMITTEE MEMBER MARTINEZ: Not the one everybody  
8 loves though.

9 (Laughter.)

10 COMMITTEE MEMBER MacDONALD: That would --

11 COMMITTEE MEMBER FENG: Just in terms of the  
12 May 19th election that's coming up, would you like to  
13 provide comments to the letter now or do you want to  
14 wait -- when do you have the bandwidth to deal with this?

15 COMMITTEE MEMBER LOGAN: I think frankly, in my  
16 world, maybe doesn't really come like that, because we  
17 have elections every week between now and November.

18 COMMITTEE MEMBER FENG: I guess what I'm trying  
19 to ask is, do you want first step or would you rather us  
20 go around and around and around and then give you  
21 something that you all can add to?

22 COMMITTEE MEMBER MacDONALD: Would you like to  
23 get the document on a Wednesday then?

24 (Laughter.)

25 COMMITTEE MEMBER LOGAN: It would be -- actually,

1 it would be helpful for me to circle through your groups  
2 first and then add comments after that.

3 COMMITTEE MEMBER FENG: Okay.

4 MS. KAUFMAN: You want your comments on May 18th?

5 (Laughter.)

6 COMMITTEE MEMBER LOGAN: I'll be at work all day  
7 on May 19th, so that might be a good day to send it.

8 (Laughter.)

9 CHAIRPERSON REYNOLDS: Rosalind?

10 COMMITTEE MEMBER GOLD: Just two things, as far  
11 as our wrap up. First of all, it would be great, when we  
12 meet again, to hear the Secretary's perspectives on the  
13 prioritization. And then secondly, I just really want to  
14 thank you and your entire staff. This has been an  
15 absolute bear of a project. And, you know, we very much  
16 understand the constraints that you're dealing with  
17 between the Election Assistance Commission, between the  
18 HAVA requirements, as well as dealing with some very  
19 lively discussion. I just wanted to really thank you and  
20 your team very, very much for --

21 CHAIRPERSON REYNOLDS: Well, thank you.

22 COMMITTEE MEMBER GOLD: -- pulling this together  
23 in the process.

24 CHAIRPERSON REYNOLDS: And I hope we're not  
25 making it more of a bear of a process. I mean, I know

1 this is something that seems to have stretched out to some  
2 extent, but there was the 2008 election cycle and then  
3 there's, you know, May 19th special elections, and then  
4 there's -- yeah. So, but thank you all for being active  
5 and participating.

6 (Thereupon, the Secretary of State's, HAVA  
7 State Plan Advisory Committee meeting  
8 adjourned at 4:08 P.M.)

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