

# **Minutes of the Public Meeting**

## **United States Election Assistance Commission**

1225 New York Avenue, NW

Suite 150

Washington, DC 20005

Held on Thursday, May 22, 2008

VERBATIM TRANSCRIPT

The following is the verbatim transcript of the Public Meeting of the United States Election Assistance Commission (“EAC”) held on Thursday, May 22, 2008. The meeting convened at 10:02 a.m., EDT. The meeting was adjourned at 12:43 p.m., EDT.

### **PUBLIC MEETING**

CHAIR RODRIGUEZ:

Good morning. Welcome to the May 22, 2008, public meeting of the United States Election Assistance Commission. I’m going to ask Vice-Chair and Commissioner Caroline Hunter to lead the Commission in the Pledge of Allegiance this morning.

[Vice-Chair Caroline Hunter led all present in the recitation of the Pledge of Allegiance.]

CHAIR RODRIGUEZ:

As most of you know, Commissioner Hunter has been nominated and had her nomination hearing in the United States Senate on her pending appointment to the Federal Election Commission, and so, this may or may not be her last meeting, but I want to, on behalf of the EAC, wish her the very best of luck.

VICE-CHAIR HUNTER:

Thank you.

CHAIR RODRIGUEZ:

I also want to acknowledge that we have two international visitors here today, with Fair Vote, a gentleman from Guam and a young woman from England. And so, welcome to the EAC this morning.

Madam General Counsel, roll call please.

COUNSEL HODGKINS:

Thank you, Madam Chair. Members please respond by saying “here” or “present” when I call your name.

Rosemary Rodriguez, Chair.

CHAIR RODRIGUEZ:

Here.

COUNSEL HODGKINS:

Caroline Hunter, Vice-Chair.

VICE-CHAIR HUNTER:

Here.

COUNSEL HODGKINS:

Donetta Davidson, Commissioner.

COMMISSIONER DAVIDSON:

Here.

COUNSEL HODGKINS:

Gracia Hillman, Commissioner.

COMMISSIONER HILLMAN:

Here.

COUNSEL HODGKINS:

Madam Chair, there are four members present and a quorum.

CHAIR RODRIGUEZ:

Okay. Do we have a motion to adopt today's agenda?

VICE-CHAIR HUNTER:

So moved.

CHAIR RODRIGUEZ:

We need a motion to amend today's agenda because the two items under NVRA are not ready for Commission consideration yet, today. So is there...

VICE-CHAIR HUNTER:

Madam Chair, I move to amend the agenda to remove those two items you referred to regarding the National Voter Registration Act Form.

COMMISSIONER DAVIDSON:

I s it

CHAIR RODRIGUEZ:

It's been moved and seconded to amend the agenda. All those -- any discussion on the motion? All those in favor indicate by saying aye.

CHAIR RODRIGUEZ:

Aye.

VICE-CHAIR HUNTER:

Aye.

COMMISSIONER HILLMAN:

Aye.

COMMISSIONER DAVIDSON:

Aye.

CHAIR RODRIGUEZ:

Any opposed?

[The motion carried unanimously.]

CHAIR RODRIGUEZ:

Okay. The motion carries. And now, is there a motion to adopt the agenda as amended?

COMMISSIONER DAVIDSON:

I so move that we adopt the agenda as amended.

COMMISSIONER HILLMAN:

Second.

CHAIR RODRIGUEZ:

It's been moved and seconded to adopt the amended agenda. Is there any discussion on the motion? All those in favor please indicate by saying aye

CHAIR RODRIGUEZ:

Aye.

VICE-CHAIR HUNTER:

Aye.

COMMISSIONER HILLMAN:

Aye.

COMMISSIONER DAVIDSON:

Aye.

CHAIR RODRIGUEZ:

Any opposed?

[The motion carried unanimously.]

CHAIR RODRIGUEZ:

Thank you. Then our first item of business is to correct and approve the minutes from the April 16, 2008, meeting that are attached. Is there a motion to adopt these minutes?

VICE-CHAIR HUNTER:

So moved.

COMMISSIONER DAVIDSON:

Second.

CHAIR RODRIGUEZ:

It's been moved and seconded to adopt the minutes from April 16<sup>th</sup>.  
Any discussion?

COMMISSIONER HILLMAN:

I do have one correction that I think should be made to the April 16<sup>th</sup> minutes, and it would be on our copy, page three. It comes under the Executive Director's report and it's the very last statement about the virtual meetings. I think the minutes need to correctly reflect that each Board held its own virtual meeting. There was not one meeting of both Boards, so, perhaps simply by changing the sentence to read, "virtual meetings of the Standards Board and Board of Advisors." Right now, it reads "a virtual meeting," and under the law they both held their own individual meetings.

CHAIR RODRIGUEZ:

Thank you for that clarification. Any further discussion or corrections/amendments to the minutes? Is there a motion to adopt the minutes with that correction, with the Hillman correction?

VICE-CHAIR HUNTER:

So moved.

COMMISSIONER DAVIDSON:

I'll second it.

CHAIR RODRIGUEZ:

Okay. We have it on the table, Julie. So now we accept the amendment. All those in favor of adopting the amended minutes indicate by saying aye.

CHAIR RODRIGUEZ:

Aye.

VICE-CHAIR HUNTER:

Aye.

COMMISSIONER HILLMAN:

Aye.

COMMISSIONER DAVIDSON:

Aye.

CHAIR RODRIGUEZ:

Any opposed?

[The motion carried unanimously.]

CHAIR RODRIGUEZ:

Thank you. Our next item of business is the adoption of the minutes from April 30<sup>th</sup>, which was the special meeting that we held. Is there a motion to adopt these minutes?

COMMISSIONER HILLMAN:

So moved.

COMMISSIONER DAVIDSON:

Second.

CHAIR RODRIGUEZ:

It's been moved and seconded to adopt the minutes from April 30, 2008. Are there any corrections or adjustments? Any discussion on these minutes?

COMMISSIONER HILLMAN:

I do. Apparently, in the email traffic I missed seeing the draft of these before the meeting, so, I do have a couple or three corrections that need to be made. And unfortunately, I didn't have time to look at the transcript to see exactly what happened, but on page two of our copy, which is under the vote to modify Advisory Opinion 07-003-A, I believe we removed the item that was on the

table. The minutes say that I made the motion to remove it. It does not say that that motion was seconded and voted and approved. It also doesn't say it wasn't approved. So, I must admit that I don't have a clear recollection as to how we got the item off the table, because later in the minutes it says that the item was put back on the table.

CHAIR RODRIGUEZ:

This is the kind of -- it might be a substantive point and so, maybe we should postpone adoption of these minutes and do the necessary research. Would that be agreeable?

COMMISSIONER HILLMAN:

Sure.

CHAIR RODRIGUEZ:

Okay. So we have a motion on the table to adopt.

COMMISSIONER HILLMAN:

I'll take my motion off if the seconder agrees.

COMMISSIONER DAVIDSON:

I agree.

CHAIR RODRIGUEZ:

Then we will add the minutes of April 30<sup>th</sup> to the agenda for our next meeting June 19<sup>th</sup>.

Mr. Wilkey, may we have your Executive Director's report?

EXECUTIVE DIRECTOR WILKEY:

Thank you, Madam Chair. We certainly want to welcome everyone to this meeting, including our international visitors. Spring has been a busy time for us, and I'd like to share some of our activities.



Drafts of administrative regulations requiring notice and comment will be circulated to the Commissioners by the end of next week. These regulations include those governing Freedom of Information and Privacy Act requests, and regulations describing how the Commission conducts business consistent with the Government in the Sunshine Act.

The RFP for policies and procedures contract has been prepared and delivered to the National Business Center, formally known as GovWorks, for processing and posting and we're hoping that it will be posted this week.

Under EAC grants, we received 36 applications for the College Poll Worker Grant Program and 15 for the Mock Election Program. An independent review process is underway, and the awards will be announced at our June 19th public meeting.

Ten States applied for the five, 2 million Election Day Collection grants. An independent review is taking place and the winners will be selected by May 30<sup>th</sup>.

To hear about upcoming EAC grant opportunities, check the grant section of our Web site, or sign up for our newsletter by sending an email to [havainfo@eac.gov](mailto:havainfo@eac.gov).

Under research, the EAC's 2008 Election Day Survey comment period was extended to May 21<sup>st</sup>.

Under voting system testing, we've completed our series of stakeholder roundtables on the TGDC draft guidelines, and all of this has been posted and any written testimony we received on our Web site. They were very well attended and very well received.

The comment period for the draft guidelines ended May 5<sup>th</sup>.

We received 2,355 comments.

We sent a letter to State election officials updating them on our testing and certification activities, and it is also posted on our Web site.

A revised test plan for the Premier Solution Assure 1.2 system and a draft plan for the ES&S Unity 4.0 system were also recently posted to the site.

Under HAVA funds and administration, our site now has 17 requests for advisory opinions on the use of HAVA funds under the new policy recently adopted by Commissioners. Visit the Web site to learn how to submit requests and comments, and come back to the site regularly to view new advisory requests.

The Glossary of Key Election Terminology will be available in Chinese, Japanese, Korean, Vietnamese and Tagalog in early June. We'll distribute electronic copies on our Web site, and we'll send hard copies to all election jurisdictions covered for language assistance in those languages under the Voting Rights Act. Spanish language glossaries are also available.

We recently held two working group meetings, one on elderly and disabled voters in long-term care facilities and another on media and public relations. The discussions will inform our Election Management Guidelines on these topics.

The EAC recently briefed the House Administration Subcommittee on Elections on Election Day contingency planning, and our testimony is available on our Web site.

We just completed a comment period that included a chapter on contingency planning in our Election Management Guidelines.

During our July public meeting, we will hold a workshop devoted to contingency planning.

The EAC Web site now offers visitors the option to receive email alerts each time a new IG report is posted.

Hundreds of people are viewing our Webcasts. As of mid May, 1,000 view requests were logged by 429 unique IP addresses.

And two things that were left off my written report. As you know after a very extensive evaluation process, a very comprehensive process, Ms. Alice Miller, the Executive Director of the D.C. Boards of Elections and Ethics will join our staff on June 2<sup>nd</sup> as our Chief Operating Officer.

I'd also like to take this opportunity, as you noted, Madam Chair, that this may or may not be the last meeting of our Vice-Chair Caroline Hunter, and I want to, on behalf of the staff, as well as myself, wish her luck in her new position. I will miss our jousting, and wish you all the luck in the world.

That is my report, Madam Chair, and if there are any questions, I'll be glad to answer them.

CHAIR RODRIGUEZ:

Thank you, Mr. Executive Director. Are there any questions or comments for Mr. Wilkey?

COMMISSIONER HILLMAN:

I do have a question.

CHAIR RODRIGUEZ:

Commissioner Hillman.

COMMISSIONER HILLMAN:

Going to the hearing that was held before the House Administration about contingency planning, do we know, is there one central place where States must deposit their contingency plan, where the public can go to see under what conditions or how they know if, for example, there's really bad weather and a polling place has to be moved or if there's some situation? Is there a central location, do we know, where people can go?

EXECUTIVE DIRECTOR WILKEY:

I don't know of any. I certainly will be happy to check with both of the large organizations, NASED and NASS, to see if they have anything. I think that would certainly be a great idea.

Unfortunately, because of our situation in being able to survey all 50 of them and the length of time it would take, it would be a great idea for us to do it in the future. But I will check with those two organizations, because I think that would be an excellent place for them to host something like this, because what you would have virtually, is, those that are covered in statute, by statutory regulations and those by policies and procedures, that either the Secretary of State or the State Election Board has adopted. And I know of no such place where that's available now, collectively, but I think that would be a great idea and I'd be happy to pass that information along.

COMMISSIONER HILLMAN:

I know that people say, "Well people can go to their Secretary of State's Web site," but if anything should happen that caused the Secretary of State's Web site to be down, they would have no place to go.

EXECUTIVE DIRECTOR WILKEY:

Yes.

COMMISSIONER HILLMAN:

And that's, you know, for me the point of contingency planning, is, if your immediate situation has changed suddenly, where do you go to find out what you can expect. Thank you.

EXECUTIVE DIRECTOR WILKEY:

Thank you, Commissioner.

CHAIR RODRIGUEZ:

Well and just a point of information. Our Election Management Guidelines recommend that the States file them with the EAC. My understanding is, that nobody has filed them with the EAC, but the counties should file with the States and the States should file with the EAC.

Madam General Counsel, our guests, our international guests might be interested in the glossaries that we have available and I wonder if you could just briefly explain the language provisions of the Voting Rights Act and the EAC's involvement with that.

COUNSEL HODGKINS:

Sure. The Voting Rights Act, Section 203 requires that jurisdictions that have a certain -- meet a certain level, in terms of the population of that jurisdiction. When they meet that level of persons who speak a particular language, as their first language and English is not their first language, then they are required by that law to provide election materials and assistance in that language. So, for instance, if that language is Spanish, then they would have to

provide poll assistance as well as ballots and election materials in terms of instructions in Spanish. There are also jurisdictions that have a language requirement in five Asian languages as well. The Department of Justice publishes every -- I don't know that it's every year, but pretty frequently, a list of jurisdictions that are covered in the Federal Register. And so, people can go to that location to find whether or not their jurisdiction is covered.

CHAIR RODRIGUEZ:

Thank you. And just for your information, our working groups on the American Indian languages are meeting in June, in Albuquerque, New Mexico. So, one of my favorite things that we do.

Any further discussion on the Executive Director report?

Thank you, Mr. Wilkey.

EXECUTIVE DIRECTOR WILKEY:

Thank you.

CHAIR RODRIGUEZ:

We now are going to go into a Public Hearing on the Proposal to Modify Advisory Opinion 07-003-A regarding Maintenance of Effort. Comments will be taken from members of the public who have registered to speak, and you'll be allowed up to five minutes a piece. What we have done at our last meeting was tabled the motion to modify Advisory Opinion 07-003. And now, I'm going to ask for a motion to remove the motion from the table, so that we can open the public hearing.

VICE-CHAIR HUNTER:

So moved.

COMMISSIONER HILLMAN:

Second.

CHAIR RODRIGUEZ:

It's been moved and seconded to remove, from the table the motion to modify the Advisory Opinion.

And so, I will invite our speakers to the front. They are all from the State of Washington. I have a note from another person who wants to speak, but he won't be here until 11:30 and that's Jim Dickson, who is a member of our Advisory Board, and so, I'm inclined to let him speak when he arrives, if it's agreeable to the Commission.

So now, I'll invite our guests from the State of Washington, Lori Guerrero, Vicky Dalton and Evelyn Arnold. And they've asked to come up together and speak in a coordinated way. Welcome.

MS. GUERRERO:

Good morning, Madam Chair. Thank you for this opportunity to speak. My name is Lori Guerrero. I am the HAVA Coordinator for Washington State. I have a little over ten years of experience in grant management for the State of Washington in different grant programs.

First of all, I want to empathize with your situation that you have facing MOE. It's a difficult issue and I think it's complicated by the fact that there are so many different States and so many different ways to interpret what HAVA had said in the beginning.

So, what I wanted to do is start off with a review of our grant process in our State. And we -- we start off with -- we have an Advisory Board that's consisting of three county auditors, our

Director of Election and two members from the disability community. And what we do is we meet with that Board. We meet ahead of time as well, but we meet with the Board and we discuss what type of grants we want to offer to the counties. In our State, only counties can apply for grants for the HAVA funds. And then we open up a grant process. We give, you know, we notify the counties. They have an application process to complete. All the applications are reviewed by myself, they're reviewed internally, and then they go before the Board, and they're presented to the Board, and then they're presented to our Secretary of State for final approval. One of the -- one of the issues that has come up is that -- well, my understanding at your recent meeting with OMB, that there might be two categories now, how you view MOE. You have counties that -- or States that give money to counties and States that don't give money to counties. What I would like to propose is that, for States similar to Washington, there's a third category, and that would be States that give money to counties for specific purposes to fulfill a specific request, which is what our entire grant cycle does, all of our grant cycles in Washington.

Once a grant is approved for a county, I take the responsibility of monitoring it. We have tight -- very tight internal controls. And one of our biggest issues that we addressed was supplanting; that we didn't believe that supplanting was appropriate in any situation whether it was a 251 related item or anything. It could be -- if a county trained election officials every year in a certain area, they would have no -- they couldn't ask for that because they've already provided those funds. So, we feel like, in



our State, we took it a step beyond and that supplanting isn't just 251 related, it's all elections. Anything that they do with their regular budget.

As part of the grant process I monitor the counties. I go out to the counties. I've been to every county in our State. I look at their equipment. I take pictures of their equipment. I double-check their serial numbers, make sure that they've reported their equipment in accordance with the rules with OMB and administrative grants requirements. I ask questions about fraud, and interview, you know, staff. Part of the grant process, there's questions that say, "Is this a regular expense in your election budget?" Or, "Have you historically funded this expense in the past?" So we have a lot of internal controls.

And I think, my focus for the Commission to consider is that, the Maintenance of Effort is there to prevent States from taking Federal money and supplanting their budget. And I think that this is accomplished in other ways than just in MOE, because quite frankly, in our State an MOE wouldn't necessarily capture that, because for our counties the MOE is for base year 1999, which is a low year, so any expenses that they had in that year would be extremely low. So their Maintenance of Effort, for example purposes, say it's \$10,000, whatever, but in 2000, maybe it's 20,000. And so, technically, they could supplant \$10,000 of Federal funding because their baseline is established in 1999, yet their expenses for 2000, 2004, 2006, you know, even year elections, are quite higher.

And then, the last thing I just wanted to address is that, for our State, we really feel that there's no compelling reason to require MOE at the county level. It's a burdensome task to go to all of our jurisdictions. And we're lucky, we only have 39. I know there are several that have thousands. And so, to go to that level when we have already taken several steps to address supplanting and making sure that our counties are not doing that, I think we've gone quite frankly, above and beyond the intent and spirit of HAVA.

So thank you.

CHAIR RODRIGUEZ:

Thank you. And will you introduce yourself, Ms. Dalton?

MS. DALTON:

Good morning. I'm Vicky Dalton. I'm the Spokane County Auditor, which is a population of a little over 400,000 with about 235,000 registered active voters and about 15,000 inactive voters, just to give you an idea of the size of my county.

A little background, I've been the county auditor for ten years. It's been a great job, lots of adventures. Before that, I was the internal auditor for the county for ten years. And prior to that, I did have another career. I worked for a CPA firm that was contracted to Department of Labor, Office of Inspector General. So, for almost four years I traveled the country as a contractor for the OIG and did a lot of grant work. I also sit on the HAVA Grant Advisory Board for the Secretary of State's Office. So once Lori is done reviewing the grants, she makes the recommendations to that particular body, we review the grants, we get to question the applicants and then we make the recommendation to the Secretary

of State, as to whether or not to approve that grant. And, again, that's part of the control process of ensuring that the grants are well thought out, that they are documented and that they will produce an achievable result.

As Lori mentioned, with the Maintenance of Effort, there is the requirement to create the baseline and that is definitely problematic. As all of you have lived through, there are cycles in elections. There are the four-year cycles, which are the huge peaks, and those are the Presidential elections. And every four years, life becomes absolutely insane for any of us that are in the elections process, and the costs are generally far higher than in any other year. In the State of Washington, we also experience two different two-year cycles. We have the partisan elections, which we refer to as the even years, and then we have the odd years, which are the municipal elections, the non-partisan. And so, if you were to look at a graph of our election costs over, let's say, an eight-year period you would see a huge peak, then it would come back down into a valley, another bump, a valley, a huge peak. And so, trying to identify a good baseline would be a severe problem.

Another issue that we would have in the State of Washington, trying to identify a baseline for the local jurisdictions, is that our retention cycles are fairly short. I can't speak for other States, so I'll only speak for ours, but on our local elections we have a 60-day retention cycle. On the Federal elections, we have a 22-month cycle, of course, but for our financial records we have only a six- year retention period. And our baseline would occur in the calendar year of 1999. While we have our gross numbers, we

don't have the underlying detail, to try to identify what those 251 costs would have been. In Washington State, we would be fortunate, however, that only provisional ballots would have been triggered into that 251 baseline. So, that would be our good news. However, we still wouldn't be able to figure out what our costs are, because the information simply doesn't exist. We would literally be guessing. So, for the State of Washington, for the local jurisdictions in the State of Washington, this actually would be an exercise in futility. What we could provide you would, simply, be a guess.

One of the things that I'd like to talk about also, is that while I do understand the concept of MOE, I think one of the things we also need to consider is, efforts versus dollars. For the State of Washington even if we could provide you numbers, the dollars of expenditures, it's really not going to explain what we've managed to accomplish with the HAVA funds. I think our grant process, however, does provide that trail. With our grants process, even from the application, it's very specific about what the money is going to be used for and what that money is going to achieve. And once the grant is performed, completed, and the counties are reimbursed, we're going through a very detailed process. We have to turn in a lot of detail on documentation, invoices. It is a very auditable process, which, I think the auditors will be bringing that back to you later to show that the Washington State grants process is a actually very, very tight process.

So I'm just hoping that, as you work through what is really a very difficult topic with OMB and as you work your way through the Maintenance of Effort requirements, you know, please keep in mind

that some of what might be requested is actually impossible to perform, because the information simply doesn't exist.

CHAIR RODRIGUEZ:

Thank you, Ms. Dalton.

MS. DALTON:

Thank you.

MS. ARNOLD:

Good morning. My name is Evelyn Arnold and I am the Chelan County Auditor, which is right in the middle of the State. Our county is only about 70,000 in population, so it's a smaller county.

I'm here -- we're representing all the county auditors in Washington State, because we are very concerned about this policy of the MOE since, from what Ms. Dalton has said, we are unable to create a baseline at this point, and we're very concerned of what's going to happen to the funds that we've received. And we were -- our Secretary of State worked with us very well, where we knew when we were taking this money, we could not supplant. And then we also knew, in taking some of these funds, that it was going to create a cost increase in elections beyond what Federal money was going to supply in years to come, because many times you're buying new equipment with HAVA money and then you will be paying maintenance later with local dollars. And so, this was very - - we discussed this greatly because being from a smaller county, I had to know what that impact would be. Would my commissioners support this, later, once I accepted HAVA money? And we knew that, you know, you've got the increased costs of your IT, staffing, the maintenance on these new -- the voter registration system.

That doesn't go away. It's wonderful to have, you know, it was wonderful to have that HAVA money and it really did create some wonderful improvements, but now with this new provision of the MOE, we're concerned what will you do with States like us that we cannot provide a baseline? We did -- we feel we did go the extra mile in being very careful that we did not supplant.

Also, I wanted to state another difference. Provisional ballots are the one -- we have been doing provisional ballots. I've been the county auditor for 18 years. We've been doing provisional ballots before that time. Our provisional ballot costs have actually gone down, because we went to vote-by-mail. And in a vote-by-mail environment you have fewer provisional ballots. So again, this is showing another, where my costs of provisional ballots, in 1999 was higher than it is now. And even if I had the baseline, because of law changes in 1999, my provisional ballots were just like another absentee ballot. They were printed. We didn't keep the costs separated. And so, for me to -- if I had the detail, it would even be hard for me to let you know how much my provisional ballots cost back in 1999. Since then, we've had law changes in 2005, where we do provisional ballots separately, but before that time, they were just in with our other ballots.

So, this is why we're asking you to reconsider the MOE Advisory that you put forth, to work with States like Washington who have done -- we have done due diligence. And we feel that this would be, you know, it would be actually something that would be futile for us to go through, because again, I went through and I had my accountant go through what numbers we could get and

they are only, you know, I could show you supplies. I could show you personnel costs, but I cannot show you the detail from 1999. And so, I would request that you do look at changing your policy, to work with States like Washington State.

Thank you very much for this opportunity, Madam Chair.  
Appreciate it.

CHAIR RODRIGUEZ:

Very good, thank you. Are there any questions for our witnesses, here? Vice-Chair Hunter.

VICE-CHAIR HUNTER:

Thank you very much for making the trip. We really appreciate it. It's impressive that you're this dedicated, that you're willing to travel from the State of Washington to discuss this issue. We very much appreciate it.

Question for Lori, or for whoever it is appropriate. You mentioned, Lori, that -- Ms. Guerrero, that, with respect to, if a State gave a grant down to a county for a specific purpose, maybe that's a different category that we hadn't thought of, and I think you're right, that's something that we had not thought of, could you explain, kind of give a more detailed explanation of what type of -- what's an example of the type of thing you might grant down to a State? What kind of activity...

MS. GUERRERO:

Right.

VICE-CHAIR HUNTER:

...are you paying for?

MS. GUERRERO:

Well our first round of grants went for requirements only, so they were punch card replacement funding and then disability access machines. Grants for their local voter registration system that would then connect with the Statewide database.

VICE-CHAIR HUNTER:

Okay.

MS. GUERRERO:

After the counties had all met their requirements, we opened it up for other election improvements. Some counties had applied for staff, like, to set up like a voter education program in their county. They never had a voter education program, and so they asked for funding for staff. And one of the interesting things, with those type of applications is, we kind of grilled the counties going, "Well we're going to give you this money for like a period, a year or two years. What are you going to do after that, you know? How are you going to continue the program"?

VICE-CHAIR HUNTER:

Uh-huh, uh-huh.

MS. GUERRERO:

And so, you know, because they recognized that this is a one-time shot and what are you going to do to maintain it. So, for the counties, it was a lot of, well, we were hoping that we can show our county commissioners how successful this was and that they will then want to fund it. But ultimately the remaining of the funding would be up to the counties.

Additionally, we had grants for simple things, like, even letter openers, because with our counties going to vote-by-mail, letter



openers just saved them a whole bunch of time, than sitting there, opening it one at a time and then opening up the secrecy envelope one at a time. So it was -- there's so much that the counties asked for. And it was just individual, because a county like King County would never ask for letter openers, because they had them, you know. They've had them for years. But a little county, like Pend Oreille County, when I went out and did a monitoring visit, it happened to be during an election and they're opening up their letters, one at a time, with a little envelope opener. So, I'm like, "Have you thought about putting in a grant for, you know, little things?"

And then some of them -- for the larger counties were bigger -- were bigger items. Some counties, they would get all this huge equipment because their punch card equipment was so small and they had no room for it, or they had disability access units that weren't accessible. So, they got grants to, like, maybe move a desk or move a counter or a wall to make it accessible for these disability voting units. So, it was a wide range of things, but their grant requests were specific and only approved for that purpose. And I would get calls a lot of times saying, "Well I don't want to do this. Can I change it?" I'm like, "No. You'd have to go back to the Board and a new application." So we were pretty strict with that.

And a lot of counties ended up giving back funding. And giving back doesn't mean we gave it to them ahead of time, but we would hold a certain amount of money for them. One of the main reasons was, they would apply for a grant, but then they'd go to

vote-by-mail after they applied for that grant, so they didn't need as much equipment. So it was very specific.

VICE-CHAIR HUNTER:

Okay, thank you. That's helpful.

CHAIR RODRIGUEZ:

Commissioner Davidson?

COMMISSIONER DAVIDSON:

Mine is kind of, just carries on, exactly, I mean you know, what kind of grants. But now how did you monitor that, those grants? How did you go out and really, actually make sure that the counties were doing what they said? Or -- for instance, you talked about voter education. If they had a voter education program before, what did they have to do to get grant money?

MS. GUERRERO:

We -- I actually don't recall. We did have a suggestion for some counties, that if they wanted to, lack of better term, beef up their voter education program that they already had, that we would be happy to do that. None of the counties took us up on that though. If they already had a program and they wanted to do extra things, they pretty much used their existing staff.

In getting back to the monitoring question, if a county -- like one particular county asked for funds to create a calendar, like an election calendar, they had never had one before, and use that for voter education. And they had all sorts of different dates that things were due, like filing week and different information on election and how to vote in their specific county. So, one of the requirements was any printed materials that they produced, that they send to us,

because we wanted to make sure they were educational and they didn't say, you know, "Vote for so and so, county auditor," you know. They had to have an educational message to them.

On those types of grants, I didn't necessarily need to go out and see the calendar, they could just ship it to me. But on the other grants, I would go out, I would take their application and their file and look -- let me back up one second. Before we get to that, they would request payments and their payment requests, the invoices and what not, had to match up to their request. So, I would compare their invoices to their requests and make sure that that matched up. And then, when I felt that the grant was ready to be monitored, I didn't want to go out there when they hadn't purchased all of their equipment, then I would make an appointment with the counties. I would go out there, monitor their equipment. I would check things for security and I would bring back information. We have a voting system team and I would bring back information to them saying, you know, "I think that they could improve their security in this respect," or, you know, different things like that.

When I went out, one of the main things I looked out for, was accessibility. In our State, since we're vote-by-mail, we really felt it's important -- if your only polling site is your county courthouse and it's not accessible, then you need to address that. And so, we now have set aside \$1.7 million for an accessible grant cycle and we're holding two times a year grant cycles for the counties, for accessibility.

MS. ARNOLD:

If I might add, with the accessibility issue is, we passed a State law that requires every county to have a committee, an Accessibility Committee. And so, we have a committee now. And it was very good -- I hadn't done that before and it was very good for us to have people with disabilities meet with me in my courthouse and see -- and then they actually, you know, instead of looking at a book and measuring, it was great to have somebody with a disability come in and be on my committee and give us suggestions. And they thought of things that I would not have thought of. And so -- and that was part of our requirement, is that anything that I applied for had to come through my committee before I could even apply to the State. And so, that, I felt was very -- it was a very good process.

COMMISSIONER DAVIDSON:

Thank you.

COMMISSIONER HILLMAN:

Madam Chair, I didn't have a question earlier, but I want to make an observation.

CHAIR RODRIGUEZ:

Okay.

COMMISSIONER HILLMAN:

First of all, thank you. I join my colleagues and thank you for making the trip and coming to talk with us.

And I admire the extra effort that the State of Washington has made in partnership with its counties, for what might be described as, very good management of the application of HAVA funds. And for me, in an interesting way, you've sort of supported

the case, about how MOE is appropriately applied at the county level.

And I guess, my observation is, that there are two issues and they're getting blended, but as we EAC move forward on this, we have to look at, I think, two separate issues. One is the requirement that MOE applies to counties and units of local government who receive HAVA funds. The other is, the record keeping and documentation of that. So, the application of it and how those -- how the documentation can be prepared and the records kept, are two separate things.

And that's just the only observation I wanted to make. But thank you.

CHAIR RODRIGUEZ:

Thank you. I have a few questions. With respect to provisional ballots, those are required in all elections or just Federal elections, in Washington State?

MS. DALTON:

Provisional ballots are required in all of our elections. We can have up to a -- well, the law allows up to six standard elections per year, both local, State and Federal. Provisional ballots are required in all of those.

CHAIR RODRIGUEZ:

Okay, that's good. And then, Ms. Guerrero, you said that you were the Federal grants coordinator for the State of Washington in the past?

MS. GUERRERO:

Well, I've had ten years of experience administering Federal grants in Washington.

CHAIR RODRIGUEZ:

Okay.

MS. GUERRERO:

Just different agencies.

CHAIR RODRIGUEZ:

And not just in the Secretary of State's Office...

MS. GUERRERO:

Right.

CHAIR RODRIGUEZ:

...obviously, but...

MS. GUERRERO:

Uh-huh, yes.

CHAIR RODRIGUEZ:

And so you're familiar with the OMB Circulars and...

MS. GUERRERO:

Yes.

CHAIR RODRIGUEZ:

Okay.

MS. GUERRERO:

Yes.

CHAIR RODRIGUEZ:

All right. I don't have any further questions. I'll ask again, are there any...

VICE-CHAIR HUNTER:

No, not right now.

CHAIR RODRIGUEZ:

Okay, would you...

COMMISSIONER DAVIDSON:

One thing I would want to make sure I understand. Could I?

CHAIR RODRIGUEZ:

Sure.

COMMISSIONER DAVIDSON:

It's not so much a question, but when the two of you from the counties, I think Ms. Arnold and Ms. Dalton, when you were speaking, you said that your budget baselines didn't go down. We'll say line items. I mean, it didn't go that deep into line items for you to be able to figure out your MOE...

MS. ARNOLD:

That's right.

COMMISSIONER DAVIDSON:

...even if you still had that. I mean you know what your budget was at that time, but you may have had staff and you may have had supplies and you may have had equipment, but it wasn't broken down as -- do I understand you correctly, that it wasn't broken down into the detail that is needed to come up with an MOE?

MS. ARNOLD:

That is correct. We cannot come up with an MOE baseline for 1999. County auditors in Washington State cannot.

MS. DALTON:

I can tell you how much I spent for the overall election office. I can tell you how much was capital, how much was supplies. I can probably even break it down by voter registration versus the cost of

each individual election, which in 1999 we probably would have only had three elections that year, maybe four. But to tell you how much of that was related to provisional ballots or how much of that was related to any of the new items that are now provided under HAVA, that would not be possible. They would be wild guesses at best, because it's not just the financial data, it's also the performance data. The information that tells me how many provisional ballots I processed in each one of those elections, is gone. It cannot be recovered because we have a six-year retention cycle, or in some cases a 60-day retention cycle for the local elections, and it's just flat gone. It's not there anymore.

MS. ARNOLD:

And that is our concern with the MOE.

COMMISSIONER DAVIDSON:

Okay, thank you. I -- go right ahead.

MS. GUERRERO:

I just wanted to make one more comment. I had -- I had spoken with another election official, in another State and asked them, you know, about provisional balloting costs and they said, "We didn't give any jurisdictions money for provisional balloting," because you're just printing a stack of ballots and most likely, you're discarding ballots because you always have to print more than enough. You don't -- it would be disastrous to run out. And there's no, really, way to separate out costs. How are you going to give them money for provisional balloting, when you don't know how many you're going to issue? And it varies. So, that State in particular didn't give any funds.



COMMISSIONER HILLMAN:

One quick follow-up.

CHAIR RODRIGUEZ:

Commissioner Hillman?

COMMISSIONER HILLMAN:

I'm sorry, one quick follow-up. Did I understand correctly, that you said, 1999 would have been a low base year and every year thereafter the funding -- I mean the expenditure, at the county level would have been higher? No?

MS. DALTON:

No, because it's cyclical. So, it's quite possible -- 1999 would have been a certain dollar amount. The year 2000 is a Presidential election...

COMMISSIONER HILLMAN:

Right.

MS. DALTON:

...would have been at least 50 percent higher. And then, coming back down into 2001, depending upon how many elections we ran that year, because there's the potential of six...

COMMISSIONER HILLMAN:

Uh-huh.

MS. DALTON:

...standard elections. It depends upon how many elections we run in any given year. So 2001, if all we had were fall elections...

COMMISSIONER HILLMAN:

I'm sorry, I should have said Federal election...

MS. DALTON:

...it would have been cheaper.

COMMISSIONER HILLMAN:

...cycles. Would it have been possible that expenditures in 2000, 2002, 2004 and 2006 and this year would have been lower than 1999?

MS. DALTON:

There is the possibility for such great variance, that it is possible for a Federal election in one year, to be less expensive than the Federal election in a previous year.

COMMISSIONER HILLMAN:

1999.

MS. ARNOLD:

1999.

COMMISSIONER HILLMAN:

2000 against '99, 2002 against '99, 2004 against '99. Would any of the subsequent Federal election cycle expenditures have been lower than the 1999 base?

MS. DALTON:

Probably not.

MS. ARNOLD:

Probably not.

COMMISSIONER HILLMAN:

Okay.

MS. DALTON:

But without going back and looking at the overall. And then just one quick point to make, as a thank you, to Congress and the EAC. What some of this money has done for us, is just astounding. In a

vote-by-mail State, like ours, in my county, with about 250,000 voters that have to be serviced, we recently acquired a piece of equipment that sorts out our envelopes and that now captures their signatures electronically from the envelopes. It allows us to see the signatures on screen at the same time, rather than looking at the signature from the VR file on screen and then having to look at the envelope physically. That has almost doubled our rate of production. And I'm not sure that people tell you thank you enough. And again that's going back to, what is this money really achieving? For us, it's doubled our production, and in this case, it's actually lowered our costs. So, a one-time capital investment with ongoing annual maintenance has actually reduced our personnel costs, dramatically. So that's one of the things that we're facing out there on the front line, is that 1999 is tough, because it's not comparable anymore to what we do.

COMMISSIONER HILLMAN:

Well, since none of us were the authors of HAVA we can feel happy to not have to take credit or otherwise for that particular formula.

MS. DALTON:

You do have my sympathy, as a Commission for having to implement all these specific requirements of HAVA. I do realize how hard this is.

COMMISSIONER DAVIDSON:

It probably also has made your results come in quicker, by having the automation.

MS. ARNOLD:

It does.

MS. DALTON:

It does.

MS. ARNOLD:

It does.

CHAIR RODRIGUEZ:

Commissioner Hunter.

VICE-CHAIR HUNTER:

Ms. Guerrero, I'm wondering if you could talk a little bit about the State expenditures and if there were no requirement on the part of the counties to maintain the effort, because it, in my view, doesn't say that that's required in the statute. And we'll talk about the OMB meeting in a little while, but just for a moment, please explain to us if you could how you -- your view of the State's budget with regard to the possibility that the State supplanted -- that the Federal funds supplanted State expenditures since 1999 to run elections.

MS. GUERRERO:

I'm sorry, could you...

VICE-CHAIR HUNTER:

Forgetting the counties for a minute...

MS. GUERRERO:

Uh-huh.

VICE-CHAIR HUNTER:

...could you just talk about the State and the State's budget, and is there a possibility that one could, after looking at your State's books, make an allegation that the State, in fact, used Federal funds to supplant State activity, based on the 1999 fiscal year?

MS. GUERRERO:

Yes, no it was very clear. At the State level, of course, we didn't have provisional balloting costs, so that didn't apply to us. But we had a very, very small start-up voting system program that we -- I think we generously applied as our baseline MOE. So, as far as at the State level, you could look at our budget and clearly see that we have spent far more for our baseline in '99 than -- we even have people that we are paying with State funds that are doing, pretty much all HAVA work. So, because we were so concerned, I'll just give you an example about supplanting, we had a staff person who had worked for the Secretary of State's Office, just like in voter registration or voter services, and his role completely changed. He is now the VRDB help line. That's all he does, all day long. And -- but because when -- he had already worked like 32 hours a week and now he's full-time, the only portion that HAVA is paying is the eight hours, even though his entire job has changed. But we were so concerned about supplanting and, you know, just the appearance of it, that we're like, "Okay, we're only going to pay you out of HAVA the eight hours a week, even though you're doing all HAVA now." So, it's very clear in our budget that we were very conscientious about that.

VICE-CHAIR HUNTER:

Thank you.

CHAIR RODRIGUEZ:

I have a question about retention schedules, and I'm a former county official, so, we had to really strictly abide by those. And so, to the average person, they're going to say, "Well, why don't you have your records from 1999?" But can one of you just make the

point for me, why it's important to stick to retention schedules for liability purposes?

MS. ARNOLD:

Go ahead.

MS. DALTON:

Well, one of the things that we face, in the State of Washington, which you also face on the Federal level, is public records request. Yours is the Freedom of Information Act. Ours is the Public Records Act. If we maintain a record past the retention schedule, that does not alleviate our responsibility and the potential of fines for producing that record. So, if we fail to produce that record, our fine is \$100 a day, per item. And this is becoming a major concern for the local governments, and this is becoming a very costly thing for local governments. So, the local governments across the State really are becoming much more diligent about sticking to the retention cycles. That's the paranoia side of it and the dollar side of it.

The other portion of sticking with retention cycles, is, government creates an unbelievable amount of paper, even in this electronic age. And to maintain records beyond that retention cycle, we simply drown in paper. In the State of Washington, we have a very complete retention cycle that is created through the Secretary of State's Office. It's a different division in the Secretary of State's Office archives, and local governments are sticking very strongly and strictly to that retention cycle now.

MS. ARNOLD:

And we also went through litigation in our 2004 election, so we all know we -- all the county auditors were subpoenaed, our records were subpoenaed. We all know about, you know, processing records. And so, that even -- since we had that experience, we know more about taking care of records, making sure that, if we do have them, they are accessible, very quickly accessible and then readable to the public or to attorneys, anybody who requests them. And so, it really changed our mindset. I keep our election information in a different manner, because we were -- at that time I was requested, "Could you pull out," you know -- with vote-by-mail, we had to pull out specific envelopes of signatures. We had to find them. In, you know, in my county, we had over 30,000. Out of 30,000 envelopes I was requested five and we had to be able to find them. And so, record keeping is very important in our State and we do follow the laws in that.

CHAIR RODRIGUEZ:

All right. I'm going to ask you to stay available...

MS. ARNOLD:

Okay.

CHAIR RODRIGUEZ:

...in case, in our discussion we have...

MS. ARNOLD:

We'd love to.

MS. GUERRERO:

One small comment and maybe the counties could back me up on it. We talked last night about -- Commissioner Hillman was talking about costs going up or down. In respect to provisional balloting

costs from 1999 to now, very likely could have gone down, because the counties went to vote-by-mail.

MS. ARNOLD:

Right.

MS. GUERRERO:

But because they're not -- they don't break out the costs, there's no way of knowing for sure.

MS. DALTON:

And I can give some gross numbers on provisional ballots. In the 2000 and 2004 Presidential elections, our provisional ballots were approximately 5,500 in 2000, and approximately about 7,500 in 2004. Those were the two Presidential elections. In a normal, even year, which would also include a Federal election, we would have been looking at, maybe a thousand to 1,200. In a non-partisan year, we're probably down at about 700. That's when we were poll sites. Now, except for a Presidential year, we don't even have 100 provisional ballots, on our heaviest election cycle.

MS. ARNOLD:

Right.

MS. DALTON:

In fact, some of our elections, we've been well below 50 and even 20, even for full county-wide elections. And that's the impact of vote-by-mail. So again, things change over time and that includes the dollars.

CHAIR RODRIGUEZ:

Okay, thank you.

MS. ARNOLD:



Thank you.

CHAIR RODRIGUEZ:

And again, we might call on you again, if that's okay.

VICE-CHAIR HUNTER:

Thank you.

CHAIR RODRIGUEZ:

All right. We have a motion on the table and that is...

COMMISSIONER HILLMAN:

Madam Chair, are they the only people who were here for...

CHAIR RODRIGUEZ:

Well, until Mr. Jim Dickson gets here, they're the only people scheduled.

COMMISSIONER HILLMAN:

Okay, can I just then enter into the record -- I did receive email notifications from several organizations and actually, they were all the ones who signed the letter we received yesterday, May 21, who indicated, several of them, that due to the notice period, they were not able to schedule themselves to be able to come and testify, but would have liked to. And so, they resubmitted their letter of April 29 and said that they regretted, they could not be here in person. I'm trying not to be distracted by whatever that noise is, but...

CHAIR RODRIGUEZ:

If there are Blackberries on -- if you turn them off, we don't get the feedback.

There were a number of -- yes, those should be entered into the record, and I think we got 50 emails last night. All of the correspondence, one this morning, to my knowledge, every

comment related to today's meeting will be entered into the record of this meeting.

COMMISSIONER HILLMAN:

But -- and I appreciate that, but I think the point they wanted to make was, that they were disappointed to not be able to come. Submitting the comment was one thing, but they wanted to take advantage to be able to come in person, but could not.

CHAIR RODRIGUEZ:

Point taken. Okay, we have a motion on the table to modify Advisory Opinion 07-003, and we'll continue discussion on the motion. Vice-Chair Hunter.

VICE-CHAIR HUNTER:

Madam Chair, thank you very much. I would like to talk about HAVA funding issues a little bit more broadly for a minute, before we get into the specifics of the motion on the table. And my intention at this point, is to ask to table the motion again, for further discussion and in our constant quest for more information on these subjects.

But just about HAVA funding, in general, for a minute. As I think most of you know, here in the audience, when the -- the original set of funding was sent out even before the EAC was established and it was sent out by GSA. And after that, two subsequent piles of money were given out by the EAC and in all three cases, the only document that the State received, when receiving that funding, was a letter, you know, saying, "Here's some money. Here's the relevant provision of HAVA. And by the way, these OMB Circulars apply." And specifically, it was OMB Circular

A-87 and 102. Those are the ones that we're primarily talking about now. And so, States were given notice to the extent, that the letter sent to them, is adequate notice, that the OMB Circulars would apply. There was no grant agreement and there were no regulations adopted in advance of sending the money. And I realize that's impossible for the first set of funds that were sent out, but even for subsequent ones there was no grant agreement, no regulations, no guiding principles. And again, I was not here, so I understand that there were major hurdles, a new agency, you know, not a lot staff. I fully understand that. But I'm just laying this out without being -- without, you know, laying blame at anyone's feet. I'm just laying out the facts that States were not given anything other than the specific letter.

And so, one of the things I've learned, you know, most, in the past six months here at the EAC and one of the major pieces of information that I took out of the OMB meeting and also out of the experience of Chair Rodriguez's proposal to amend a decision made by the EAC, with respect to the reasonableness of funds used, and more specifically, a Florida letter, was that the OMB Circulars are not clear, by just about anybody's standards and that the agencies that are tasked with implementing these Circulars, have their right to provide their own interpretations of the Circulars. And that's well settled in all kinds of cases and law stuff that I've been reading lately, that the Circulars can be interpreted by the relevant agency. And I would argue, that in most cases, that's almost required. I mean I could sit here and read to you provisions of the Circular that I've read over and over and over and I still don't

know exactly what they're trying to say. And so, especially for States that have little to no experience, with respect to implementing Circulars, this kind of guidance to them, is very important. And I think we should consider that as we move forward and try to make these decisions, we should look back and say, "It's nobody's fault, but that's the way this has happened." And we should consider that, as we move forward.

As the Chairman mentioned, I've been reading a lot of FEC case law and regs in the past few days and two things came to mind, that were really, I thought, very important for us to consider here at the EAC. Congress passed a law in the last session, the Honest Leadership and Open Government Act of 2007. Part of the law puts immediately into effect, new laws regarding traveling of candidates. And the FEC, almost immediately, put out a statement and said, that for the regulated community, to the extent that you rely on a reasonable interpretation of that law, the FEC will not come after you, because we obviously haven't had a chance to do the regulations, because the law became effective, immediately upon passage. So, I think that's interesting. I realize the FEC has regulatory authority and it's not the same as the EAC, but I think it's instructive to us to consider, that States do need additional guidance in some of these areas and I think the FEC has recognized that on numerous occasions.

Another example is, another provision of that same law requires the FEC to come up with regulations, with regard to bundling of campaign contributions. In the law -- Congress

specifically said in that law, that that law is not effective until the FEC has a chance to come up with regulations.

So again, two examples of Congress and the relevant agency recognizing that further guidance is needed, so States and regulated communities do not find themselves at crossroads with the law in the future.

And speaking of crossroads, I do think that we're at a point, here now at the EAC, where we're in a real -- we're in a crossroads and I do think it's a very important time for us to step back, look at these laws, look at the Circulars, come up with some good helpful guidance to the States, so they know what the rules are.

Unfortunately, a lot of these issues are coming up, sort of ad hoc, and the more I look at them the more I really do firmly believe that that's the approach the EAC should do. We should sit down, not only with this Maintenance of Effort issue, but with allocable cost issues and a couple of, what I call sort of "big ticket" items. Nobody can anticipate everything. That's clear. Everybody agrees with that. But to the extent that we know what some of the major issues are out there, we need to sit down, start over, and make up some rules for States.

One other thing to add, is, we did have a meeting with OMB, as was referenced by Ms. Guerrero and our Chair earlier, and that was because I basically pestered them for a month to get a meeting together, thinking that it was a good way for us to get some guidance from the people who wrote the Circulars, on how to move forward. And I think it was -- we actually haven't had a chance to talk amongst the Commission since the meeting, but my personal

view is, I think it was a very helpful meeting. And it did raise a lot of additional questions, in my mind. It answered a few, but raised many more. And again, you know, we had approximately a two-hour conversation over, you know, some very specific issues and some of the issues weren't even necessarily answered when we left the room, and these are with the experts who wrote the Circulars. So, you know, for example, the reason that I originally scheduled the meeting was to talk about allocable cost issue, and on a one very narrow question that came up in an audit of the State of Wyoming, in my mind OMB was making two very good arguments that were somewhat contradictory. So, I walked away from that meeting thinking, well, there's a lot more to this issue than I originally realized and again, something that we need to go back and really fully develop this. And I have no problem in my, speaking for myself, going back to OMB again and saying, "OMB we've come up with this policy. This is what we think is the best reading of both HAVA and the Circulars and our current circumstances. And are you in agreement with this"? Or going to GAO, or whoever is a good outside source, to help us with these things. I have no problem with that, because I think, universally all of us want to do the right thing and follow the will of Congress.

We did add a question about the applicability of the Circular 102, to the OMB question and we did discuss it. They did say that in their mind, at that point, they thought that the Circular did apply to the funds, despite the fact that they told me a few weeks prior that it did not. But at this meeting that we went to together, they did say that. But Washington State, in my mind, brings up a really

good question that we had not addressed with them. What if the State specifically says, "We want you to use this money for a specific purpose"? And the reason why that's relevant is, it's very similar to what they said was okay in the context of the State purchasing a machine and then essentially mailing it to the county. They said in that case, that's not something that would trigger the MOE requirement. So, maybe there's a parallel there, that we should explore.

Another point about Circular 102, just left my mind, but we did, you know, learn a lot at that meeting and there's a lot more to do. We received, as somebody mentioned, numerous comments. I mean, this is just a printed copy of the comments that we received over the past week or so, regarding the Maintenance of Effort issue, most of them from State and locals, including a letter from the National Association of State Election Directors. They have carefully considered this issue and even set up their own panel to talk to -- to work with the EAC on these issues, and they've universally said, that it's their opinion, that the language of HAVA does not require that the counties provide a Maintenance of Effort. So, that is universally the opinion, I think exclusively, from State and local election officials that that is a fair interpretation of the statute.

And one other thing I'd like to mention. I'll introduce into the record, if I may, a letter addressed to me May 8<sup>th</sup> from our Inspector General, who has, per my questions to him, he has listed out all of the States that the EAC has audited. And I asked him, of the States that we've audited, and the list includes California, New

Jersey, Georgia, Texas, Ohio, Illinois, Indiana, Virginia, Maryland, South Carolina, Missouri, Wyoming, Pennsylvania, Kentucky and New Mexico, they were not asked to show Maintenance of Effort at the county level. So, all of these States have already been audited and were not asked this. So, this goes back again to providing States clear guidance on the front, so we're not going back and changing the rules of the game, over and over. The Inspector General notes in his letter, that he is not sure what his policy will be going forward with respect to those States, whether he'll go back and re-audit those States or just do a special audit for this purpose. And I think in part he might be waiting for our decision on the Maintenance of Effort issue.

With respect to the audits underway, he notes that the audits are underway in the State of Washington, Michigan, Minnesota, Rhode Island, North Carolina and Florida. And he plans -- we have or will be requesting MOE at the local level. And from what I can tell from this letter, he said that the only State that was able to meet his request, was the State of Minnesota. No other State, at this point, has been able to meet his request either, because they don't have the records or it's their position that this law does not apply to the counties.

So, I think that's very instructive that we've already done all of this without asking for the county Maintenance of Effort and I think we're just -- we need to be very mindful of, not only the fairness argument, but any potential litigation with going down this path, without a clear sense of where we're going.

Thank you very much.



CHAIR RODRIGUEZ:

Thank you. Is this a good time to talk about the OMB meeting, as requested? Who on the staff, Mr. Wilkey, will lead us in that discussion?

EXECUTIVE DIRECTOR WILKEY:

General Counsel.

CHAIR RODRIGUEZ:

Okay.

COMMISSIONER HILLMAN:

Can I just make a comment, before we segue into that? And I want to thank Commissioner Hunter for recognizing that the way EAC should proceed when developing policy, is in the global context. We had agreed to do that earlier this year in January or February. I had raised that point in March or April, that for EAC to ad hoc approach policy making is not the most effective way to go. We've lost two valuable months on this issue. What we did agree to do, what is under works, but it's part of the, you know, our policy making procedure that we want to put in place, is to create what I would call, a joint partnership task force with State election officials to explore HAVA funding issues. But Madam Chair, I don't think we should wait two months to do that, and rather, I would recommend that we begin with a working group between EAC and State election officials on this issue, to move it post-haste, and that we ask NASED, since this is such an important issue to NASED, that they carve out some time during their upcoming summer meeting, which I think is at the end of June, that we can sit down and discuss this issue with them and so that they can have input as well. I'm

just afraid that if we go through the process to create the joint task force structure first and then move to appointing a task force on this issue, we'll be in late July or early August and by that time this issue will have taken on a life of its own. I am concerned because there are counties who are of the impression, as well as States, that EAC has the authority to exempt counties from the MOE, and it is not that easy and we do not unilaterally have that authority. And so, I think we have to be very clear, with respect to the authority EAC has, what it can consider, and if we want to determine that an OMB Circular doesn't apply, what we have to go through to get exemption from OMB on that issue. And it doesn't happen overnight and we can't do that ourselves, so, I hope, moving this day forward, we will, as Commissioner Hunter suggested, take a step back, take a look at what we're trying to achieve and the most effective way to do it, so we don't lose any more valuable time.

Thank you.

CHAIR RODRIGUEZ:

Thank you, Commissioner Hillman. Commissioner Hunter.

VICE-CHAIR HUNTER:

Thank you for the comments, Commissioner Hillman. One -- just -- response to that is that one of the reasons that we've had to deal with some of these issues on an ad hoc basis, and I agree that we shouldn't be doing that, is because there are audits going on in the field. And to the extent that the auditor is out there trying to figure out how to audit things, he has to look to the agency to get guidance on how to audit. And as far as I can tell, the only thing that he has out there right now, is the frequently asked questions in

the actual Circulars themselves. I don't know, am I missing something General Counsel?

COUNSEL HODGKINS:

The statute.

VICE-CHAIR HUNTER:

Well, okay, the statute, the Circulars and the frequently asked questions. And as I said earlier, I read the Circulars and the frequently asked questions innumerable times and there are many, many gaps. And it's just very clear to me why States are, you know, don't know what the rules of the game are based on those pieces of information. So, perhaps we should talk to the auditor or do something to put some of these things on hold because our taking time to really study these issues may or may not slow down the Inspector General, as he's auditing the States. And we know, for example, that he's out there looking at issues related to allocable costs from OMB Circular A-87, and again, in my view we do not provide any clear guidance on that whatsoever.

One last point on exemptions and exceptions from Circulars. Maybe the General Counsel will speak to this as she's summarizing our meeting with them, but my reading of the Circulars is that the only thing that the EAC cannot exempt is allocation of costs. However, we can set up our own policy with regard to that to put our own gloss over what States are able to do, but we do not have to go to OMB every time we want to make a determination on how the agency interprets the OMB Circulars.

CHAIR RODRIGUEZ:

Thank you, Commissioner Hunter. Madam General Counsel.

COUNSEL HODGKINS:

I suppose I'll speak to the first question -- the last question first and then address the other.

I think with regard to the Circular A-102, which is the one that is relevant to the current issue on the table, the Maintenance of Effort issue, there is a specific provision of that Circular that does require us to obtain permission for exemptions from that Circular. So, we would have to obtain permission from OMB.

As Commissioner Hunter expressed earlier, we had a meeting and I guess it was roughly one week ago with the Office of Management and Budget, representatives from the General Counsel's Office, representatives from the offices that deal specifically with grants and support agencies in making grants to States, as well as to private organizations. That meeting was based upon a memorandum that Commissioner Hunter sent over with a series of questions. And the question that was posed, that is relevant to this issue, is whether or not Circular A-102 would require the, if you will, transmission of the MOE requirement through to a sub-awardee or sub-grantee.

CHAIR RODRIGUEZ:

I'd like to just make a point of clarification. Commissioner Hunter did submit a list of questions, but circulated it in advance and asked for input and included questions from individuals at the EAC, including our Inspector General. Thank you.

COUNSEL HODGKINS:

Sure. The question related to Section 37 of the language of Circular A-102 related to sub-grants and the provision that states,

and I'll quote it, "States shall follow State law and procedures when awarding and administering sub-grants, whether on a cost reimbursement or fixed amount basis of a financial assistance to local and Indian tribal governments. States shall ensure that every sub-grant includes any clauses required by Federal statute and Executive Orders and their implementing regulations, ensure that sub-grantees are aware of requirements imposed upon them by Federal statute and regulation, ensure that a provision for compliance with Section 42 is placed in every cost reimbursement sub-grant and conform with any advances of grant funds to sub-grantees substantially to the same standards of timing and amount that apply to cash advances by Federal agencies." So the question was whether or not that provision would require the MOE requirement that is applied to the distribution of funds to States to apply to sub-grants or sub-awards to the county or units of local government.

In our discussion of that matter, first of all, OMB responded that they believe that it did require -- that section did require that the MOE requirement pass through to counties and units of local government. Interestingly enough, they also made some gratuitous statements with regard to the term "State", as used in our -- in the Help America Vote Act. While they profess not to be experts in our statute, they did offer that the general reading of the term "State" is to include local units of government as well as counties, and that it would require some clear statement in the statute to, if you will, override or not consider that to be the default reading of that statute.

So, as I see it, we sort of leave that discussion with two potential paths of policy. Path number one is the path that this Commission has already taken, and that is to define "State" as it is used in Section 254(a)(7) of HAVA to include States and units of local government. That is the position that the Commission took in adopting Circulars 07-003 and 07-003-A. Those are currently under suspension, as you know, by vote of the Commission. And what that would do, of course, is apply, across the board, regardless of whether or not there was a sub-grant or not, the requirement of MOE to both the State and units of local government within the State.

The other policy path, as I see it, is to not define the term "State" at all and to rely explicitly on the application of OMB Circular A-102, which would then apply the MOE requirement when a State makes a sub-grant or sub-award of funds to a unit of local government.

With regard to the policy behind MOE and/or A-102, OMB offered some comments that I thought were instructive, and that is that the idea behind A-102 and MOE is to protect against a risk that exists when cash is in the hands of an entity, be it the original grantee or a sub-grantee, because they have certain discretion to use that fund -- those funds. Regardless of what it is that they are supposed to use those funds for, they have the ability to spend it. And with that risk comes the need to protect the Federal fisc, and that is the idea of having the Maintenance of Effort requirement that would preclude them from supplanting those State dollars that they previously used for similar activities with Federal dollars.

I think that that is a summary of what the OMB meeting and their comments were relative to this issue. If you have any questions, I mean, you guys were all there too so you may have comments as well.

CHAIR RODRIGUEZ:

Commissioner Davidson.

COMMISSIONER DAVIDSON:

My understanding also, though, that is if there was equipment given to the locals we'll say, that that wasn't part of, you know, that was treated much different than funds. It wasn't part of it.

COUNSEL HODGKINS:

That's a very good point. Thank you for raising that. In their discussion of whether or not MOE applies through Circular A-102 they did discuss the difference between a cash award and, if you will, an award of a thing. If the State purchased a piece of equipment and then donated title to the unit of local government, that that is -- a different risk exists there between -- than would exist if the State had made an award of cash down to the county.

CHAIR RODRIGUEZ:

Commissioner Hillman.

COMMISSIONER HILLMAN:

I just want to thank the General Counsel for the overview and also to say that I'm glad we're discussing this because it is the first time that we've been together as a group since that meeting to be able to discuss what we learned from OMB and how we move forward. And I have to say that when I left the OMB meeting it was quite clear to me that as OMB looked at HAVA they would interpret that

the MOE responsibility follows the HAVA funds if those funds are sub-awarded by the State to the county. Now, as I said earlier, that does not get into the documentation issue. And one question -- before I continue my point, one question I have for the General Counsel is, when establishing MOE, does the MOE have to be established solely around the activities that are covered by Section 251? Or is there an alternative way that a jurisdiction can establish MOE?

COUNSEL HODGKINS:

Well, the specific statement of Section 254(a)(7) is, how, in using the requirements payment, the State will maintain the expenditures of the State for activities funded by the payment. So, we keep going back to these activities that are funded by the payment. Now in the original guidance that you all issued in Circulars 07-003 and 07-003-A, there was a concession, if you will, made to the States and that is, if the States were able to demonstrate that their entire budget for the base year and for subsequent -- I'm sorry, that their entire budget for subsequent years was larger than their entire budget for the base year, that we would accept that as evidence that they had met their Maintenance of Effort requirement without the requirement of going down and identifying individual expenditures that were made -- or that would be supported by the requirements payments that were made in the base year and then identify those same expenditures...

COMMISSIONER HILLMAN:

Uh-huh.

COUNSEL HODGKINS:



...in subsequent years. So it was a concession or an interpretation that would allow them to demonstrate or prove that point without having to go down and make -- note those individual calculations.

COMMISSIONER HILLMAN:

And I think that's an important point to bring out, and I will again refer back to the State of Washington. I mean, there were a number of comments that OMB said that reinforced that, as you look at the statute and as you look at the OMB Circulars and the requirements of Maintenance of Effort that the State is required to ensure that the local units meet the MOE requirement. And I think the State of Washington is an example of doing that very, very well. And again, how that MOE is determined and documented is again between the State and the locals. And I agree that EAC has a responsibility to provide as much guidance as possible with respect to MOE requirements, so that the States understand what is required.

I have submitted a -- for consideration by the Commission, and you all have copies of it and it will be posted for comment, a revised -- or revisions to our existing Advisory on MOE and that would be 007-003, let me not call it wrong -- okay, 07-003-A. And I'm just proposing mine as a replacement. And I've done it with track changes, so anybody looking at the document can see what I've proposed against what's in the current Advisory. And basically what I've done was to introduce explanation about the MOE application to a county or unit of local government, when that unit of government receives HAVA funds. I did not attempt to define State. I, quite frankly, saw a lot of traffic in comments from States

about the definition of State, and I'm not trying to enter into how we define the State, but rather to say the MOE responsibility follows the money -- follows the HAVA funds down at that level. And it does also acknowledge that, with respect to the application of the Circulars, if EAC sees particular unique situations and wants to consider requesting from OMB an exemption of the application of the Circular, that we do have the opportunity to do that. It would probably take months. And I don't know that we can suspend audits for months, because we've already indicated that we wanted to move ahead with the audit, in particular of the State of Iowa, to resolve some issues that we discussed at our last public meeting.

So, I would just say that there is a lot of work for us to do. I think we can accomplish a lot in the next month, particularly if we use the working group structure so that everybody is clear as to "A" what EAC's authority and responsibility is, where we have discretion, and where we have to get from OMB clearance to waive any application of a Circular.

CHAIR RODRIGUEZ:

Thank you, Commissioner Hillman. Vice-Chair Hunter.

VICE-CHAIR HUNTER:

Thank you. Just one comment and this is -- I'm happy to have this conversation later, but with regard to the specifics on whether or not we have to seek an exemption and how that happens and can we do something in advance and not have to go in particular to each -- to OMB each time we want an exemption, I'm not even sure that the exemption applies. But regardless of that, that's something

I would like to have a further conversation about, with our General Counsel and others in the future.

But one thing I wanted to point out, that actually, Sharmili Edwards in my office mentioned right after we left the OMB meeting, which is, this requirement for Maintenance of Effort, as we well know, comes out of Section 254 of HAVA and OMB was calling that an administrative requirement that, as our General Counsel mentioned, their opinion as of now is, that it follows the money. And so, what about all the rest of the requirements of the State plan? Because a State sends money down to a county, does that then mean that a county has to file some kind of plan, you know, to show -- to tell the public how they're going to be spending Federal dollars, to notice and comment, to do all the things that the State plan requires? So, that's just something that we didn't think of while we were sitting there with OMB, but something else that I'd like for us to consider in the future.

CHAIR RODRIGUEZ:

Okay. I, actually after the meeting and with help from our General Counsel submitted a letter to OMB asking for them to opine on a number of questions, including, are the payments to States subject to the provisions of OMB Circulars A-87, A-133 and the common rule. We'll post this letter on the Web site.

But, I see Jim Dickson in the audience, who has asked to address the Commission in the public hearing. And then, I'm agreeable to setting up the working group. And I think there's -- we're all in agreement that that's a good idea. It would not require a vote. And then, continue our discussion on this, as

Commissioner Hunter has indicated a desire to table, yet again, a vote on her motion.

Hello, Mr. Dickson.

MR. DICKSON:

Good morning...

VICE-CHAIR HUNTER:

Good morning.

MR. DICKSON:

...Commissioner and your colleagues. Thank you. I had a medical appointment this morning.

CHAIR RODRIGUEZ:

Surely. Surely.

MR. DICKSON:

Thank you for allowing me to testify. I had a medical appointment this morning that I had to -- could not move.

I'm going to begin with some comments from a broad coalition of civil rights and disability organizations, who have sent letters to the Commission on this question. So, these first set of remarks, I'm speaking for the following organizations: The AFL/CIO, American Association of People with Disabilities, the American Federation of State, County and Municipal Employees, the Asian- American Justice Center, Demos, Fair Vote, the Leadership Conference on Civil Rights, the League of Women Voters of the United States, the Mexican-American Legal Defense Fund, People for the American Way.

We have two broad points. First, we're a little concerned at the short notice that the Commission provided for this hearing. We

understand that there's -- this is Washington and things happen and one cannot always control the calendar, but we do have a concern that this was -- for this particular topic on the Maintenance of Effort, it was a very short turnaround. Several of my colleagues wished to attend but were not able to because of the short notice. So, we would very much urge the Commission to provide more notice when scheduling a public hearing.

On the question of the MOE itself, we urge the Commission to oppose the proposed resolution. We believe that it is within HAVA's intent that you do have State and local governments provide information to demonstrate that they're maintaining -- that they're not substituting Federal funds for local funds in the administration of elections. We understand that this can be a complex problem, but we have faith that the Commission can set up a set of regulations that will meet what we believe to be Congress's intent, so that we can document that local and State governments are maintaining effort. We also believe that this can be done without providing a huge burden on the State and local election officials.

If I could make a separate point, just for information on a somewhat different topic. I would like the Commission to know that the GAO is going to conduct a voting access survey on Election Day this year. This -- the Commissioners may know about this, but it came as a request from several Senators on both sides of the aisle. The Commission -- the GAO will be surveying polling places to document physical wheelchair access to the polling place, the presence and proper setting up of the accessible voting machine,

and they are also looking at the procedures that are in place or that are not in place, in long-term care facilities assuring that people who have some cognitive disability are able to cast their votes without undue pressure.

This survey is a replication of a survey that was done in 2000 and the GAO, when it was doing the survey in 2000, had a little bit of difficulty with getting access to some polling places. And I would ask the Commission to pass a resolution, if you would, or communicate to local and State election officials that you would like them to encourage them to cooperate with the GAO. This is not a game of "gotcha." This is an attempt to give us and Congress hard data on where we stand. We understand that it takes time for -- to reach Congress's goals and we think that a statement from the Commission encouraging local and State officials to work with GAO will just help this whole process work a lot smoother.

Thank you for your consideration.

CHAIR RODRIGUEZ:

Thank you, Mr. Dickson. And I hope in your spare time you'll have an opportunity to listen to the earlier portion of the meeting, the Webcast, because the State of Washington indicated that one of the most valuable benefits of HAVA funds was increasing access in their counties. So...

MR. DICKSON:

Thank you. I will.

CHAIR RODRIGUEZ:

...I think you'll appreciate that. Are there any questions for the witness?

COMMISSIONER DAVIDSON:

I just...

CHAIR RODRIGUEZ:

Thank you.

COMMISSIONER DAVIDSON:

I was going to say, I just would like to say thank you for coming and being here.

MR. DICKSON:

Thank you.

CHAIR RODRIGUEZ

Okay, at this point we'll entertain a motion to table, yet again, Commissioner Hunter's motion.

VICE-CHAIR HUNTER:

I move, yet again, to table my motion to amend the Maintenance of Effort Advisory.

COMMISSIONER DAVIDSON:

I second the motion.

CHAIR RODRIGUEZ:

It's been moved and seconded to table the motion. All those in favor indicate by saying aye.

CHAIR RODRIGUEZ:

Aye.

VICE-CHAIR HUNTER:

Aye.

COMMISSIONER DAVIDSON:

Aye.

CHAIR RODRIGUEZ:

Any opposed?

COMMISSIONER HILLMAN:

No.

[The motion carried. Commissioner Gracia Hillman voted in opposition to the motion.]

CHAIR RODRIGUEZ:

The motion is tabled until such time as it's brought up again. It's 11:40, and so, I'm going to call for a ten-minute break and we'll be back at 11:50. Thank you.

[The Commission recessed at 11:40 a.m. and returned to public session at 11:52 a.m.]

CHAIR RODRIGUEZ:

Thank you very much for returning, everybody. We're on to the New Business portion of the agenda and the first item is the Interim Report on the Statewide Voter Registration Database Study. And I'm going to call on Karen Lynn-Dyson, who is our Director of Research and ask her to introduce the topic and the panel.

Thank you, Ms. Lynn-Dyson.

MS. LYNN-DYSON:

Good morning Commissioners, Mr. Wilkey and General Counsel Hodgkins. I come before the Commission today, to introduce Olene Walker, who is Co-Chair of the National Academies' State Voter Registration Database's Study working group and Dr. Herbert Lin, Chief Scientist with the National Academies' Computer Science and Telecommunications Board. Together, they are going to describe their findings at the mid point of this three-year inquiry that



relates to the ongoing implementation of Statewide voter registration databases.

For its contract with the U.S. Election Assistance Commission, the National Academy of Sciences has been charged with organizing a series of workshops involving State election officials and information technology experts and for using the information from these workshops to prepare an interim and final report. The interim report is to highlight a series of immediate actions that States can take to improve the operation of their statewide databases for the 2008 election. The final report that is to be issued approximately 18 months from now will detail ways to achieve inter-State interoperability among State voter registration databases, along with advice on how to obtain systems that are accurate and secure.

Section 303 of HAVA required all States to implement a single, uniform, official, centralized, interactive and computerized statewide voter registration list by January 1 of 2006. In July of 2005, EAC issued guidance designed to assist States with their implementation of statewide voter registration databases. As a follow-on to this guidance and in accordance with Section 241(b)(3) of HAVA, EAC through its contract with the National Academy, is continuing its study of voter registration methods of how to secure and create accurate lists of registered voters and how States are ensuring that registered voters appear on the voter registration list, at the appropriate polling site.

I'm pleased to be able to present this interim report to the Commission. It contains several recommendations, many of which

can be completed before the November election, related to educating the public about voter registration processes and procedures along with suggested auditing procedures and matching protocol processes election officials can implement over the next several months. The report also provides some detail on longer-term actions election officials can take to improve the operation of their voter registration databases.

The work that the National Academy has accomplished thus far has been thoughtful and is useful for election officials. I believe the research they have conducted and the findings from the workshops they have held, have helped create a report with a number of very useful and practical ideas. In the coming months the National Academies will convene several additional regional workshop meetings, in which they will continue to gather information from local election officials, advocates, academics and policy makers regarding the implementation of Statewide voter registration databases. I look forward to learning more about what is gleaned from these conversations and to reviewing the findings and final National Academy of Science's report, which is scheduled to be completed in late 2009.

Thank you.

MS. WALKER:

Good morning. It's great to be back in the arena of elections and seeing so many friends from past and new friends, and it's a pleasure to be here.

I thank you for the opportunity to address you today. And I want you to know that we've had an outstanding committee, whose

attendance has been remarkable, and I want to certainly complement our study Director, Herb Lin, who has shown great leadership.

And with that I will quickly begin. My name is Olene Walker. I served as Governor and as Lieutenant Governor, and as Lieutenant Governor, I was over elections for the State of Utah.

COMMISSIONER DAVIDSON:

Karen, can you push the mic a little closer? That will take care of it.

MS. WALKER:

This one? Okay.

COMMISSIONER DAVIDSON:

Yes.

MS. WALKER:

I currently serve along with Fran Ulmer, as co-chair of the Committee on State Voter Registration Databases of the National Research Council. The NRC is the operating arm of the National Academy of Sciences, National Academy of Engineering and the Institute of Medicine of the National Academies, chartered by Congress in 1863 to advise the government on matters of science and technology.

I'm here to brief you on the committee's interim report entitled "State Voter Registration Databases: Immediate Actions and Future Improvements," which was released in April of 2008. As requested, I will focus on the best practices discussed in the report.

Mindful of the relatively short time available before the November 2008 elections, the committee largely focused on short-

term measures in its interim report. The committee concluded that although there would not be enough time to specify, develop and test changes to computer hardware or software, the committee also identified several longer range issues in its report, topics that will be elaborated on further in the committee's final report, which will be issued in 2009.

The committee identified five principle areas where processes and practices might be improved before the November election: (1) better education about the importance of legible and complete voter registration forms, (2) implementations of fill-in online forms to improve data quality, (3) improvements to the administrative processes and procedures related to verification and matching by voter registrars, (4) enhanced transparency of procedures for adding voters and for list maintenance, and (5) empirical testing to determine the adequacy of existing processes and publishing the results of those tests.

I will discuss each of these in turn.

First, the committee recommends taking steps to enhance public awareness about the importance of both legibility and completeness of voter registration forms, to help improve the accuracy and completeness of data that are entered into the voter registration databases. Registration forms themselves should emphasize the importance of legibility and completeness in their instructions. For example, these instructions should say things like, "Please print all responses. If your answers are illegible, your application may be incorrectly misentered, rejected, or returned to

you.” Messages such as these can also be disseminated to the public through media campaigns.

In addition, because activities of third-party voter registration groups and public service agencies account for a substantial amount of voter registration activity, voter registrars should emphasize to field volunteers and appropriate individuals in public service agencies, the importance of encouraging registrants to pay attention to legibility and completeness, as they distribute and collect registration materials. For example, they might ask -- is this better?

CHAIR RODRIGUEZ:

Yes, I think it’s the best we can do right now. Staff is checking in the back.

MS. WALKER:

Okay.

CHAIR RODRIGUEZ:

Just continue.

MS. WALKER:

For example, they might ask volunteers to tell potential registrants to “make sure you print legibly on the form.” Second, the committee recommends taking steps to minimize errors during this data entry, so as to improve overall voter registration data quality. For example, typewritten or printed information is always more legible than handwritten information, so the use of fill-in online registration forms should be encouraged. Such forms could be made available on voter registrant Web sites. Furthermore, it may be possible to convert the National Mail Voter Registration Form

into a fill-in online form, in time to be useful for the 2008 election. In addition, voter registrars should encourage entities sponsoring voter registration drives to submit voter registration forms in a timely manner to reduce massive influxes at the registration deadline, so there is adequate time to enter registration data.

Third, the committee recommends improvements to administrative processes, relative to verification and matching by voter registrars. For example, voter registrars verify information provided by registrants against information held in databases of the Social Security Administration or Department of Motor Vehicles. If the information is not verified, that is, if the query returns a non-match, voter registrars should resubmit the query using a variant of the original query. Such variants might include such things as, using Bill instead of William, or transposed fields, for example, last name/first names are switched.

In addition, election officials often have additional information that could be used to try the match again. The acquired knowledge of election officials should also be used to review all computer removal decisions.

It may also be possible to resolve a non-match result by directly contacting the voter, either by phone or in writing. Finally, all computer-indicated removal decisions should be reviewed by an election official before a voter is removed from the voter registration rolls.

Fourth, the committee also recommends taking steps to improve the transparency of procedures for adding voters and for list maintenance, such as collecting and publishing data on

outcome of voter registration applications received. For instance, how many applications are received? Of those that are received, how many are approved and how many are rejected? If an application was rejected, what was the reason? Was the application illegible or incomplete, or was the person deemed ineligible? According to the NASED survey of voter registrars, many jurisdictions already collect this data, and the EAC publishes some of this aggregated data in the Election Day Survey. Another element of transparency relates to removals from the voter registry, and the committee recommends that similar data be collected and published on how the State handles removals.

The committee believes that voter registrars should develop written procedures for the verification of new voters and the handling of removals and to publicize these procedures widely. These procedures should address explicitly, the specific field-level and record-level matching criteria used for each of these processes. Written procedures are needed both to inform the public of what election officials intend to be done and to provide a standard for accountability, regarding what is being done.

Fifth, and finally, because the only way to know how well a system is working, is to test it. The committee recommends performing empirical testing to determine the adequacy of existing processes and publishing the results of those tests. Those who receive the data resulting from such testing, ultimately, the public at large, must be educated to interpret the data in context and specifically to understand that no procedures for adding or removing voters can be perfect. At the same time, there is nothing

to suggest that individual voters who are wrongly eliminated from the voter registry cannot complain or seek correction of the problem through existing channels that are available for resolving such problems.

It's a pleasure to be here. Thank you. Herb Lin, the study Director, and I will be happy to answer any questions.

CHAIR RODRIGUEZ:

Thank you very much, Governor Walker. We're going to take a very brief break to -- we're not going to break, but we're going to check the technology very quickly.

I'm informed that the Webcast is going smoothly. They could hear you very well, so it's just something in the room.

MS. WALKER:

I've got all this equipment.

[Whereupon, a brief discussion ensued off the record.]

CHAIR RODRIGUEZ:

Dr. Lin, do you have anything to add at this point? But you are available for questions.

DR. LIN:

Yes.

CHAIR RODRIGUEZ:

Okay. Are there any questions for our panel or comments?

COMMISSIONER DAVIDSON:

A comment -- more of a comment than a question, where you stated about the third-party registrants in the States keeping records of that information and it was according to the NASED study that was done, that a lot of that information is collected now.



Right now we're collecting information for our -- that is required by NVRA, but we do not collect down to what the third-parties are doing. Are you saying that the States, through NASED, is indicating that they are collecting that information, how many did they get through third parties, how many could they accept, how many were rejected, whatever the problems might be? Are you saying that they are aware of that?

MS. WALKER:

We're saying some States keep records of why people were rejected. And we think this is a good thing, because they can analyze it and see that they're within the norm of their system working, and it gives them a chance to re-analyze their policies for adding and particularly, removing. Adding isn't a real problem unless problems develop, but certainly, on removing voters, then they should keep a record of why a registration form isn't used, whether it was -- they didn't write plainly, it wasn't complete. And if they're getting huge numbers, then certainly they ought to review their policies and their methods, because it's critical, because somebody that fills out that form, whether it's by somebody by knocking on the door, wanting them to fill it out or in a grocery store or whatever, they need to analyze what they're doing right or wrong and making sure that those people that think they're registered, are actually on the rolls.

COMMISSIONER DAVIDSON:

I guess this is something for us to discuss with the election officials, because, currently on our data survey that we do to the States, that includes the locals, what is going on, doesn't include the third

parties. It has other and it could indicate how many they registered, but it wouldn't indicate if there was issues. And maybe training is -- they would learn that if they did do this. Maybe training would help in the field or whatever the issue might be.

MS. WALKER:

The only thing I can say that would be valuable, if you kept track of from where it came from, if the main party was the third party or any of the State agencies where they're having a high number of rejections, that the election officials could then work with either the third party or the State agencies or whatever to try to...

COMMISSIONER DAVIDSON:

And we do get that.

MS. WALKER:

...to try to improve, either the instructions on being legible or going to the fill-in on the Internet, because they're far more readable than the handwritten.

COMMISSIONER DAVIDSON:

Okay, well thank you for being here. We appreciate it. It's great to see you again.

MS. WALKER:

Well, thank you.

CHAIR RODRIGUEZ:

Thank you. Commissioner Hillman.

COMMISSIONER HILLMAN:

Thank you. My question might fall into any one of the three areas that you referred to, numbers three, four and five. And it was, whether at this point in the study you've had an opportunity to look

at what the obstacles are in transferring voter registration data from other State agencies to the State election office, whether it's the Department of Motor Vehicles or the human service agencies or any of the other agencies that are required to provide voter registration opportunities.

MS. WALKER:

I'll let you start.

DR. LIN:

Okay, we haven't -- we haven't looked at that in any systematic way. We do know that in some cases, for example, a State will, if the voter has a -- checks off the box that says I want to register to vote, the agency will just hand the person a voter registration form. We know that that happens, and obviously, that's not a way of transferring data, in any meaningful way, between the two agencies. So there are many -- we could -- it would be safe to say that there are many difficulties in implementing this transfer, but we haven't looked at it in any systematic way yet.

COMMISSIONER HILLMAN:

Thank you.

CHAIR RODRIGUEZ:

Thank you, Commissioner Hillman.

VICE-CHAIR HUNTER:

And just a follow-up to that question. Have you looked at the verification after one's registered, you know, somebody turns it in in a place other than the DMV verification from a systemic practice through DMV or Social Security? It sounds like that's the same -- you haven't done...

DR. LIN:

I'm sorry, I don't quite understand the scenario you're proposing.

VICE-CHAIR HUNTER:

I didn't explain it very well. What I was trying to say is, following up on Commissioner Hillman's question, have you looked systemically at, not only the transfer of information from the DMV to the election officials when one registers at the DMV, but after that verification through -- as required by HAVA?

DR. LIN:

Yes, we have -- we have looked at that and we heard testimony and presentations from, for example, the Social Security Administration and somebody from the American Association of Motor Vehicle Registrars...

VICE-CHAIR HUNTER:

Uh-huh.

DR. LIN:

...or something like that. So we have looked at that and we have some understanding of how that...

VICE-CHAIR HUNTER:

But you plan to study that further. Is that fair to say?

DR. LIN:

A little bit. I think that it's certainly not off -- we haven't taken that off the agenda.

VICE-CHAIR HUNTER:

Okay.

MS. WALKER:

I can tell you my impression of it. I thought, this is so simple, all you have to do is verify it through the Social Security or the post office. Why are we spending all this time studying it? I had a great education in that arena, because I looked at the rate of mismatches from States. And many of them, I think -- I'm not -- this is me speaking. There were such high mismatches with no follow-up, I determined we do have a problem in finding matches. We've spent a great deal of time looking at matches and how you get matches and what the obligations of the election officials are. We've spent far more time in dealing with those agencies, and not that they don't do great work, but we have far too many mismatches back from them, I think, than is reality, without further check-up on their part and maybe it relies all on the election official's part, but certainly that match wasn't as easy as I had assumed that it would be.

VICE-CHAIR HUNTER:

Thank you. Interesting.

CHAIR RODRIGUEZ:

I would agree and just add, you know, sort of my personal sob story. I am a mismatch under the Social Security database, because my name, Rosemary, is spelled differently on my Social Security card than it is in my birth certificate and my driver's license.

The other thing is, that I'm working very hard to preserve my voting rights where I live, which is Colorado. So, I will, you know, my driver's license is the most precious thing I possess. But I had to open a P.O. box, because I only go home once a month and I was accumulating too much mail, so I get a voter registration form

from Women's Voices, Women Vote and they apparently matched the voter registration database against the national change of address list and sent me a voter registration form with my pre-filled out, very helpful, thank you very much, but it had my Post Office box there. That is not my address. My address is my home. So, I'm going to come up on whatever matches. I have not tested my last four digits of my Social. I don't know how to do that. But right now, I'm hitting two out of a couple of the possible matches and I'm terrified. So, Mr. Wilkey.

EXECUTIVE DIRECTOR WILKEY:

Thank you, Madam Chair. First of all, it's always good to see you Governor Walker.

MS. WALKER:

Thank you.

EXECUTIVE DIRECTOR WILKEY:

And we appreciate your service to this committee.

MS. WALKER:

It's been a pleasure.

EXECUTIVE DIRECTOR WILKEY:

I know that the State of Utah was very blessed to have you in your role there. And Dr. Lin, just for the record, the importance of this meeting is acknowledged by the fact that Dr. Lin has a tie on today, and I want the record to show that. You can always tell how important a meeting is.

An observation and then a question for you, Dr. Lin. I note in your testimony, Governor, that you talked about legibility and completeness of the form. We can't ever have a conversation

about forms, with me, that I don't get on my soapbox about literacy. It is an issue that I've been involved with for many years, and for which I will continue to have a conversation about every time we come close to it, because we have such an appalling rate of literacy in this nation. And I'm wondering, since I couldn't be there for all of the discussions that you had on this particular issue, was it discussed at all and what some of the members felt could be, in terms of providing for more plain language. For example, I'm reading a suggestion in your testimony for part of an instruction. If I were putting this into a plain language usage, for a great number of people who have reading comprehension difficulties, they would not be able to understand or read this. And I'm wondering, if it is something that the committee addressed and perhaps how we could move forward in addressing this better, in the years ahead.

DR. LIN:

Well, no, we didn't address this, what you say, very much. And we were concerned, mostly with the fact that people's handwriting is atrocious, mine included. But there is -- it's an interesting point that you raise and it will certainly -- I think that that's something that we can certainly ask about in the future, when we take testimony from people. I think it's an important question that you raise.

MS. WALKER:

Maybe it would be better to just say, "Write, so people can read it," and maybe that's all the explanation it would need.

EXECUTIVE DIRECTOR WILKEY:

Governor, I totally agree with you, because that's the point I've been trying to make all along. And I can assure you every time this

issue comes up, whether, when we finally get to the decision making in the redesigning our form, you're going to hear a lot from me on this issue.

Secondly, I had the opportunity to attend your last meeting and it was very well done. I did not have an opportunity, because of the closed session nature, to get into -- there was some talk of recommendations that you may be making to the committee, down the road, particularly in the area of security I believe. For future planning, we're going to be starting our discussions for our 2010 budget, in, probably July or August, and it would be good to know if the committee will be making recommendations that would affect any necessary funding that we may need, in years out. So, I don't know if you've had any discussions relative to that, but certainly that is something that we're going to be interested in and hopefully address, maybe, at your July meeting.

DR. LIN:

So, what I can say there is, that the committee did discuss some security issues at the last meeting. We can't obviously tell you what the recommendations are until we write the report, which won't be out until 2009. So, I think that we don't -- I don't think we can say much about that in time for your deliberations, if they're going to start in July.

On the other hand, my board and the National Academy's Computer Science and Telecommunications Board does have a fair amount of experience, in dealing with security issues and we'd be happy to meet with you off line to talk about security issues in a general fashion based on previous -- on a variety of previous



reports that we've done. So, we can certainly talk about that, if you would find that helpful.

EXECUTIVE DIRECTOR WILKEY:

Okay, thank you, because, you know, as I listened to the conversation, it struck me that, some of what they may be asking us to do could be a very expensive proposition, and that being the case, I wanted to be able to plan the year out.

DR. LIN:

Let's talk.

MS. WALKER:

We have some great experts in the security area...

EXECUTIVE DIRECTOR WILKEY:

Yes, I know.

MS. WALKER:

...and it's fascinating to listen to them. I think election officials and all of us, are going to have to make some tough decisions, because what degree of privacy and what degree of firewalls do you want on a system? There's no way you can go to the ultimate. Some of them have suggested the same as the big financial institutions. There's no way counties and States can go to that degree. But I think the important discussion, in terms of privacy, in terms of technology, in terms of security, is, to what degree does the election system demand it. And I don't think we've reached that criteria yet, but we did discuss it to some degree.

EXECUTIVE DIRECTOR WILKEY:

Thank you, because I think that would be particularly important to us as we look down the road. But also, I think it would be

particularly interesting to Congress as they look to any future deliberations on funding, HAVA funding, and so on, for any increased costs that may be in that area. So we'd appreciate hearing that.

And thank you again. Thank you Herb, and thank you Governor. It's always good to see you. Thank you, Madam Chair.

MS. WALKER:

Thank you.

CHAIR RODRIGUEZ:

Thank you.

MS. WALKER:

Enjoyed being here.

VICE-CHAIR HUNTER:

Thank you so much.

CHAIR RODRIGUEZ:

Ms. Lynn-Dyson, is there any action we're required to take on this agenda item?

MS. LYNN-DYSON:

No, not on this item.

CHAIR RODRIGUEZ:

Thank you then. Thank you very much for coming today.

Okay, our next item on the agenda is Consideration of Adoption of the Final Voter Hotline Study. Again, our Research Director, Karen Lynn-Dyson.

MS. LYNN-DYSON:

Thank you, Madam Chair. Very briefly, you will recall that in a previous meeting we heard testimony from Connie Schmidt, who

was the co-author of this study, the study having been contracted to the Pollworker Institute and the recommendation at that time was for, and it was accepted, that the Commission adapt the report and consider it for adoption, pending its final editing to GPO style. You have before you a document which has, in fact, and indeed, been fully edited, it meets all of our rigorous standards for grammar, syntax, voice, tone, et cetera.

So my recommendation to the Commission, is that you adopt, for publication and posting, this Voter Hotline Study.

COMMISSIONER DAVIDSON:

I move that the Commission adopt the Voter Hotline Study and proceed to have it published and put up on our Web site.

COMMISSIONER HILLMAN:

Second.

CHAIR RODRIGUEZ:

It's been moved and seconded to adopt the Voter Hotline Study.

And -- we were presented with the study in March or April?

MS. LYNN-DYSON:

We were in Minneapolis.

CHAIR RODRIGUEZ:

Colorado? Minneapolis.

MS. LYNN-DYSON:

Minneapolis.

CHAIR RODRIGUEZ:

April 16<sup>th</sup>, 2008.

MS. LYNN-DYSON:

We were in Minneapolis, April, yes.

CHAIR RODRIGUEZ:

Okay. Any discussion on the motion?

COMMISSIONER HILLMAN:

I have a question. It's been awhile since I've read the report, but does the study indicate that voter hotlines are viewed as a useful tool by either the provider or the consumer? Is there any...

MS. LYNN-DYSON:

The provider being the election official?

COMMISSIONER HILLMAN:

Right.

MS. LYNN-DYSON:

The consumer being the voter?

COMMISSIONER HILLMAN:

Right.

MS. LYNN-DYSON:

Yes, and I think it goes on to – absolutely, and goes on to say, it is a very cost effective and inexpensive way to provide information to voters. It's not -- it can be done inexpensively and quickly and efficiently.

COMMISSIONER HILLMAN:

Just a comment. I used to think, maybe, four years ago, five years ago, that frequency of calls to a voter hotline might have signaled problems with voters getting accurate and timely information, but I have come to appreciate, that the voter hotlines are really very useful and good tools. And if I just apply my own living and think about how many times I have called the day of an appointment to verify what time is my appointment or to get the correct address or

to be on my cell phone standing in front of the building trying to make sure I am at the right address. So, the notion that a voter can call at any time, to get information about their status, the location of their polling place, or whatever other valuable information is available, I think is more useful. And I'm almost beginning to appreciate that the more calls the better indicating that voters are, in fact, interested in finding out the information they need, so that they can vote. Thank you.

MS. LYNN-DYSON:

I would caveat a bit to say, Commissioner Hillman said "any time." Unlike, I think, the beauty of a Web site, which is a 24/7 kind of opportunity, a voter hotline doesn't present a 24/7 situation.

CHAIR RODRIGUEZ:

Unless it's automated.

MS. LYNN-DYSON:

Unless it's automated, that's correct.

CHAIR RODRIGUEZ:

Further discussion or questions? I think we're ready to move.

MS. LYNN-DYSON:

Okay.

CHAIR RODRIGUEZ:

All those in favor of adopting the final voter hotline study indicate by saying aye.

CHAIR RODRIGUEZ:

Aye.

VICE-CHAIR HUNTER:

Aye.

COMMISSIONER HILLMAN:

Aye.

COMMISSIONER DAVIDSON:

Aye.

CHAIR RODRIGUEZ:

Are there any opposed?

[The motion carried unanimously.]

CHAIR RODRIGUEZ:

Thank you very much. The next agenda item is the consideration of/adoption of the First-Time Voter Study report. And again, Karen Lynn-Dyson, Director of Research.

MS. LYNN-DYSON:

Thank you, Madam Chair. This is also a study. You will recall the contractor, Winner's Circle Communications, Meredith Imwalle, the President of that organization, presented to you all, in Minneapolis, on the findings from this study. And it included in it a series of focus groups and case studies that were done regarding voters' experiences with the use of their identification requirements. At that time, as with the Voter Hotline Study, I recommended that the Commission consider accepting the study and that, at a future point I would come before this body recommending that the case studies be adopted, once again, after they had been fully edited to GPO style and met government standards for grammar, syntax and presentation. So, I come before you with these case studies and with the recommendation that the Commission adopt, for publication, this report, "Case Studies on the Impact of the Help

America Vote Act's Identification Requirements for First-Time Voters."

CHAIR RODRIGUEZ:

Is there a motion to adopt?

COMMISSIONER HILLMAN:

So moved.

COMMISSIONER DAVIDSON:

I second it.

CHAIR RODRIGUEZ:

It's been moved and seconded to adopt the First-Time Voter Study report. Is there discussion on the motion?

I guess I would like to know what happens next, because I think that the Commission needs to take further steps with regard to this particular study.

MS. LYNN-DYSON:

This is not one which -- unlike some of our other studies, Madam Chair, namely, the Free Absentee Postage Study, which you may recall, that I presented to the Commission in February, at the winter NASS/NASED meeting, which I did recommend further study, feeling that on advice of General Counsel and staff recommendation that that did warrant additional work, the recommendation of staff is, that this study does meet our HAVA requirements, as put forth, I believe, it's in 244 of HAVA.

CHAIR RODRIGUEZ:

And so it's ready to submit...

MS. LYNN-DYSON:

It is ready -- it is ready...

CHAIR RODRIGUEZ:

...to Congress with recommendations for administrative and legislative action?

MS. LYNN-DYSON:

It is -- I believe that it will need staff to develop a series of recommendations and suggestions, but I do think that this first piece is ready for submission.

CHAIR RODRIGUEZ:

And this is a new part of the EAC that's -- part of the EAC that's somewhat new to me. So how do we develop this? What happens next?

EXECUTIVE DIRECTOR WILKEY:

Madam Chair, there are certain -- and I don't have the list in front of me, but there are certain research projects that must be submitted to Congress and others, that there are not. Principally those that are submitted to Congress carry with it some recommendations, either coming directly out of the report or taking the report and having EAC staff, through you, to you, and then to the Congress, making these recommendations. And I believe, this is one of those, where we will take these case studies and Research Department staff will recommend to you, some recommendations that we can send over to the Congress, based upon these studies.

MS. LYNN-DYSON:

Madam Chair, staff and I are presently working on a paper/memoranda that we will be presenting to you all, that lays out our ideas, about how, in total, and for each study we would present these documents to Congress. So, we are -- that is in process, and



I fully expect that we will have this memo to the Commissioners within the next ten days, just to address that concern.

CHAIR RODRIGUEZ:

Is there an opportunity in developing those recommendations for public input? In the past has there been?

MS. LYNN-DYSON:

We've not -- we've not done that in the past. I think that we have over the last several years, been so busy trying to get products developed, researched. But we do now find ourselves at the end saying, "Okay, now this work is ready to submit to Congress." In what form and in what fashion, I certainly think once staff and I come to you all with these series of recommendations that will be explored. I would add to that, Madam Chair, that in addition to Congress, we have in the works some recommendations about overall marketing and outreach, if you will, of sharing our work and our studies with the public, at large.

CHAIR RODRIGUEZ:

Very good. All right, then, I think we're ready to vote on adoption. All those in favor of adopting the First-Time Voter Study Report indicate by saying aye.

CHAIR RODRIGUEZ:

Aye.

VICE-CHAIR HUNTER:

Aye.

COMMISSIONER HILLMAN:

Aye.

COMMISSIONER DAVIDSON:

Aye.

CHAIR RODRIGUEZ:

Are there any opposed?

[The motion carried unanimously.]

CHAIR RODRIGUEZ:

Very good. Thank you Ms. Lynn-Dyson. And going back to the agenda, we struck the final item on the agenda, the State Instructions on the NVRA Form, for further staff work.

The last item on the agenda before Commissioners' Closing Remarks, is announcement of the June 19 public meeting agenda items. Mr. Dickson and Commissioner Hillman both made excellent points, as did others, who wrote in, about the EAC, not -- me, I guess, in particular, as I'm in the Chair right now, not providing enough notice of agendas. And so, I'm going to adopt a personal practice while I'm Chair. Ultimately, the EAC will have procedures on how the Commission governs itself, but in the absence of them right now, I'm going to adopt a personal practice, wherein, we will spend a few minutes at the end of each meeting on the agenda and then make it public and notice it 21 days before the next meeting. And I'll post a statement about this.

Yesterday, I asked all EAC personnel if they had items that they knew of, in advance of today's meeting, to place on the agenda, and I have several submissions. First of all, Brian Hancock, who works on our Management Guidelines, has requested time on the June meeting agenda, for the Commissioners to consider the Laboratory Accreditation Program Manual and then eight draft chapters of the Election Management

Guidelines project. Commissioner Hillman has proposed a replacement Advisory, which she distributed today. She would like consideration and a vote on that. A draft policy for Notice and Public Comment consideration and vote. Draft policy for Joint Partnership Task Force of EAC and State Election Officials Regarding Spending of HAVA Funds consideration and vote. And then we will, according to Mr. Cortes, take another look at the NVRA requests at least from Michigan. And then, today we decided to look again at the April 30<sup>th</sup> minutes. So, the agenda is already getting full, but I'll ask the Commissioners now, if there's anything they request be added, acknowledging that we're still outside of the 21 days that I'm going to shoot for for publication. Do you have anything else?

Commissioner Hunter.

VICE-CHAIR HUNTER:

Madam Chair, thank you. I intend to have something put together regarding allocable cost policy, but I'm not certain it will be ready by that time. But at this point I'd like to just raise the issue that I'm hopeful to have some kind of policy available for, at a minimum, discussion.

CHAIR RODRIGUEZ:

Very good. Okay, now...

COMMISSIONER HILLMAN:

Madam Chair, two other items. I would request that we have a report from the MOE working group, whatever stage it may be in by that time. And just a reminder, that the EAC Board of Advisors is

meeting on the 17<sup>th</sup> and 18<sup>th</sup> of June, two days before our next meeting, and I would have a report of that meeting.

CHAIR RODRIGUEZ:

Very good. Are there other statements from Commissioners?

Commissioner Davidson.

COMMISSIONER DAVIDSON:

I'm working with -- Madam Chair, I'm working with the staff and I will be working with making sure the Commissioners know, as we move forward with the State plans, and I don't look for that to be on the agenda until probably July, though.

CHAIR RODRIGUEZ:

Okay.

COMMISSIONER DAVIDSON:

So -- but I will keep you all informed.

CHAIR RODRIGUEZ:

We are going to have to take a tally vote between now and the next meeting once we receive the final list for the Election Data grants, and we have to submit those to Congress by the end of the month. So, we don't have them today or -- it would have been great to be able to discuss that today, in this public meeting, but because of the way that the contract was set up we won't get those until the end of the day and then we'll have to expedite our final decision on that through a tally vote.

Anything else, Mr. Wilkey?

EXECUTIVE DIRECTOR WILKEY:

No, I have nothing further.

CHAIR RODRIGUEZ:

Madam General Counsel?

COUNSEL HODGKINS:

Nothing.

CHAIR RODRIGUEZ:

Okay, then we're adjourned 15 minutes before one o'clock.

[Whereupon, the public meeting of the Election Assistance Commission adjourned at 12:43 p.m.]