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U.S. ELECTION ASSISTANCE COMMISSION
PUBLIC MEETING

Taken at 1225 NEW YORK AVENUE
NORTHWEST, SUITE 1100
WASHINGTON, D.C. 20037

Taken on the date of:
TUESDAY, MAY 24, 2005

21 Start time: 10:00 o'clock, a.m.
22 Taken by: JACKIE SMITH, a Court Reporter

- 1 U.S. ELECTION ASSISTANCE COMMISSION:
- 2 Gracia Hillman, Chairman
- 3 Paul DeGregorio, Vice-Chair
- 4 Ray Martinez III, Commissioner
- 5 Juliet Thompson, Legal Counsel
- 6 Carol Pacquette, Interim Director
- 7 SPEAKERS:
- 8 Margaret Sims, Research Specialist, EAC
- 9 Karen Lynn-Dyson, Research Manager, EAC
- 10 Kim Brace, Election Data Services
- 11 Al Ater, Asst. Secretary of State,
- 12 Louisiana
- 13 Michael Kerr, ITAA
- 14 Joe Hazeltine, Wyle Laboratories

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1 P-R-O-C-E-E-D-I-N-G-S

2 CHAIR HILLMAN: Good morning. This
3 meeting of the United States Election Assistance
4 Commission will come to order.

5 If you would all stand and join me in, "The
6 Pledge of Allegiance."

7 (The Pledge of Allegiance.)

8 CHAIR HILLMAN: If I could remind
9 everyone, please, to turn off your pagers, cell
10 phones, and any other devices that would make
11 noise and distract from our meeting this
12 morning.

13 If we could have roll call, please.

14 MS. THOMPSON: Members, please
15 respond as I all your names: Chair Hillman?

16 CHAIR HILLMAN: Here.

17 MS. THOMPSON: Vice-Chair DeGregorio?

18 CHAIR HILLMAN: Here.

19 MS. THOMPSON: Ray Martinez?

20 COMMISSIONER MARTINEZ: Here.

21 MS. THOMPSON: Madam Chair, all three
22 members are present.

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1 CHAIR HILLMAN: Thank you. We have
2 before us the agenda for today's meeting. And
3 with your concurrence, I would like to place the
4 update on the executive director search to come
5 immediately after adoption of the agenda.

6 Are there any other changes or adjustments?

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7 Okay, if not, we have our agenda, and adoption
8 would be in order.

9 COMMISSIONER MARTINEZ: So moved,
10 Madam Chair.

11 VICE-CHAIR DEGREGORIO: Second.

12 CHAIR HILLMAN: Thank you. As we
13 know, as we all know, we have been working for
14 quite awhile to go through the process of a
15 recruitment search and selection of executive
16 director.

17 The Help America Vote Act instructs the
18 Election Assistance Commission to receive
19 recommendations from both the Board of Advisors
20 and the Standards Board. They, each of those
21 boards, put together its own search committee.
22 Those committees then do their work, and

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1 presented to us the required, minimum three
2 recommendations.

3 Following that, we did our interview. And
4 I am very pleased to announce, as we did on
5 Friday --

6 Okay, yes. Where is it coming from? Where
7 are the technicians? There. You're okay. All
8 right. It is just a little startling, so
9 minimize the startle factor.

10 As we did on Friday, we announced that we
11 have hired Thomas Wilke to be the Election
12 Assistance Commission's first Executive
13 Director. Tom is with us this morning, and I
14 would ask that you stand, and so we can
15 acknowledge you. Congratulations, and welcome
16 on board.

17 Tom has a very long and illustrious career
18 in election administration, starting out as a
19 local election official, and working his way up
20 through to serving as Executive Director of the
21 New York State Board of Elections, very active
22 with the National Association of State Election

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1 Directors, and many other associations. And
2 we're very pleased and fortunate to have Tom on
3 board. And he will begin, officially, full
4 time, on June 20, 2005. This year, 2005.

5 Commissioners.

6 VICE-CHAIR DEGREGORIO: Thank you,
7 Madam Chair.

8 I would also like to publicly congratulate
9 Tom Wilke on his selection as Executive
10 Director.

11 As the Chair pointed out, we had a very
12 good process to determine who we were going to
13 select for this very important position with the
14 Election Commission, and it was a very good
15 process that we went through. Certainly, the
16 Advisory Committee and the Standards Board did
17 its due diligence, and we did ours, and came up
18 with the best person we could possibly find in
19 the United States.

20 And Tom Wilke is the person that not only
21 served as a local election official, but a state
22 election official. He is well known throughout

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1 the country, and he is a person of great
2 integrity, great knowledge, and I know will be a
3 great asset to this Commission, and to the
4 efforts for election reform at the federal level
5 in the United States.

6 So I want to take this opportunity publicly
7 to congratulate Tom, and know that we welcome
8 you, and look forward to your starting date.

9 CHAIR HILLMAN: Commissioner
10 Martinez.

11 COMMISSIONER MARTINEZ: Thank you,
12 Madam Chair.

13 I, too, want to add my sincere
14 congratulations to Tom for this appointment.
15 Obviously, Tom's background is well known as

16 very experienced and very respected, a former
17 local and state election director, but I think
18 perhaps even more important to me is that for
19 the past 17 or 18 months, and really beyond
20 that, even before I started my term as a
21 Commissioner, Tom has been available to lend his
22 expertise to all of us, quite frankly. And I am

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1 deeply appreciative that Tom helps me.

2 There comes the startle factor. There must
3 be a short somewhere.

4 Tom has helped me to understand the issues
5 from the perspective of the election
6 administrator. I mean, it is so valuable for
7 us, as Commissioners, to get educated and to
8 hear what impact our decisions have from every
9 perspective.

10 Obviously, as a direct stakeholder,
11 election administrators, I think, are very
12 fortunate to have somebody of Tom's caliber,
13 credibility, and experience, to be coming on to
14 the EAC to advise us not just on an informal
15 basis, and as a professional and a friend, but
16 now as a colleague.

17 So I look forward to his insight. I look
18 forward to his advice, and I look forward to his
19 leadership during his tenure here in the EAC.

20 Congratulations, Tom.

21 CHAIR HILLMAN: Thank you. If we can
22 now move our attention to the minutes from the

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1 April 26, 2005 meeting. Are there any
2 corrections to the minutes? If not, it would be
3 in order to move for approval.

4 VICE-CHAIR DEGREGORIO: So moved.

5 COMMISSIONER MARTINEZ: Second.

6 CHAIR HILLMAN: Okay. We're all in
7 favor.

8 We have a pretty full agenda this morning,

9 so we will get started right away with reports,
10 the reports. The first report --

11 If the mic's not on, if I'm not audible --
12 I know we're doing it for recording purposes as
13 well, so I hope that even if the mic's not on,
14 it's getting recorded.

15 First report, Title II requirements
16 payments update. Margaret Sims, a member of the
17 EAC staff.

18 MS. SIMS: Thank you, Madam Chair.
19 Good morning, everyone.

20 I'm happy to report that EAC has processed
21 over \$11,000,000 in HAVA requirements payments
22 since our last meeting. These payments went to

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1 two states, Alaska and North Dakota.

2 The latest disbursements bring the total
3 requirements payments processed by EAC to more
4 than 1.88 billion, of the more than 2.3
5 billion appropriated for this purpose in fiscal
6 years 2003 and 2004.

7 The payments have gone to 53 of the 55
8 states and territories eligible to receive them.
9 All 53 have received their 2003 requirements
10 payments. Forty-five of them also received
11 their full 2004 requirements payments, and two
12 of them received partial 2004 requirements
13 payments.

14 This leaves just over 437,000,000 to be
15 distributed to ten states from the fiscal year
16 '03 and '04 funds. Only two states have not
17 received any requirements payments, and those
18 states are Guam and New York. New York is
19 expected to file a certification -- New York is
20 expected to file certification soon for over
21 153,000,000, in 2003 and 2004 requirements
22 payments, now that the state has its

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1 five-percent match, and its administrative
2 complaint procedures have been pre-cleared by
3 the Department of Justice.

4 Guam, certification for its 2003 and 2004
5 payments is pending. The territories still
6 needs to file its HAVA compliant administrative
7 complaint procedures with EAC. That is a
8 prerequisite to its receiving any requirements
9 payments.

10 California recently filed the certification
11 for its FY 2004 requirements payments, which is
12 worth over 16,000,000. This certification and
13 supplemental materials provided by the state are
14 under review right now.

15 The remaining outstanding balance of over
16 \$112,000,000 represents the 2004 requirements
17 payments that have not yet been claimed by seven
18 states. The seven states are Alaska, Delaware,
19 Hawaii, Michigan, Montana, Oregon, and Texas.

20 Michigan and Texas, which have received
21 partial 2004 requirements payments, based on a
22 partial five-percent match, plan to certify for

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1 the remaining 2004 funds once their states have
2 appropriated the remaining five-percent match.

3 Alaska, Hawaii, and Oregon, are seeking the
4 required five-percent match. Alaska has
5 indicated they expect to have the match within a
6 couple weeks. Delaware and Montana cannot
7 certify for their 2004 requirements payments
8 until after they have submitted a state plan
9 addressing the use of those payments, and EAC
10 has published the plans in the Federal Register
11 for 30 days.

12 Are there any questions?

13 VICE-CHAIR DEGREGORIO: Yes, Peggy.

14 First, we met with Secretary of State Bruce
15 McPherson from California a few weeks ago. It
16 appears he called and he brought the
17 certification.

18 Where are we with that payment?

19 MS. SIMS: At this point, we're
20 reviewing some supplemental materials that the
21 state kindly provided. One was a statement
22 indicating how they intended to comply with the

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1 state auditor's recommendations. Another is a
2 clarification of a budget that was submitted
3 with that statement to indicate how it compares
4 to the latest budget published in the state plan
5 for California.

6 The most recent supplemental material was
7 received yesterday, so we're right in the middle
8 of reviewing that. And, hopefully, we'll have
9 that done within 24 hours.

10 VICE-CHAIR DEGREGORIO: That is very
11 good.

12 Yesterday, I spoke at the swearing of the
13 new election board in St. Louis County. And I
14 was sitting next to the County Executive on one
15 side, and the Secretary of State Carnehan on the
16 other.

17 The County Executive made the point that he
18 doesn't want to get rid of punch cards, and he
19 has taken the position that the county is not
20 going to funds getting rid of the punch cards in
21 St. Louis County.

22 Missouri has accepted money, and in doing

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1 so, they agreed to get rid of the punch cards
2 that exist throughout the State of Missouri.

3 About 60 percent of the voters vote on
4 punch cards. And St. Louis County takes the
5 position they are not going to get rid of punch
6 cards, and Missouri has accepted the funds.

7 What happens, what will happen next, if
8 they don't come into compliance with that? Will
9 the State of Missouri have to give back the

10 three or four million dollars that's allocated
11 to St. Louis County for this?

12 MS. SIMS: The state would be
13 required to a portion of the 102 money that is
14 to cover the total number of precincts that were
15 considered for the 102 funds. But aside from
16 that, HAVA does require that the state meet the
17 301 voting system standards on and after January
18 1, 2006. And that would apply, regardless of
19 whether or not they replace the punch card
20 systems.

21 VICE-CHAIR DEGREGORIO: If they don't
22 replace punch card and lever machines throughout

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1 the country, any jurisdiction, if they have
2 accepted this 102 money or not, they still have
3 to comply with 301?

4 MS. SIMS: That's correct.

5 VICE-CHAIR DEGREGORIO: That is what
6 I told them, and I know the Secretary of State
7 would like for them to get rid of the punch
8 cards for them too. I think it would be a good
9 idea for them to do so too.

10 They are claiming they don't have funds. I
11 think this kind of battle is going on throughout
12 the country, in other jurisdictions, over
13 whether they have funds or not to replace the
14 punch cards, especially for jurisdictions who
15 have waited so long to do so.

16 So thank you for that.

17 COMMISSIONER MARTINEZ: Peggy, I will
18 simply make an observation, perhaps not so much
19 a question.

20 I was in Houston yesterday participating in
21 a community forum that was sponsored, in part,
22 by Beverly Kaufman, the County Clerk of Harris

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1 County, who oversees elections for Harris County
2 as well. There was a lot of discussion about

3 the transfer of money from the Federal
4 Government to the Secretary of State's Office in
5 Texas. And I think Texas is slated to get about
6 \$132,000,000 in Title II payments, in addition
7 to the roughly 25,000,000 or so that was given
8 to Texas under Title I for machine replacement
9 and other things.

10 There was just a lot of talk about success
11 stories. One of the challenges that Harris
12 County, many jurisdictions around the country
13 have, for example, in complying with the very
14 important provision of the Voting Rights Act
15 Section 2303, which is the minority language
16 provisions, that if a jurisdiction has a certain
17 percentage of minority residents in that
18 jurisdiction, they have to provide ballots, in
19 Spanish, for example. And one of the challenges
20 has always been to find poll workers who speak
21 that language, who speaks Spanish or Vietnam,
22 and they reported success, this past November.

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1 I think they had 90 percent of the poll stations
2 in Harris County had coverage with Spanish
3 language interpreters that could assist voters
4 who needed that assistance.

5 So I just wanted to report to you,
6 obviously, you are doing excellent work in
7 making sure that the EAC distributes this money
8 and works with the states so cooperatively to
9 make sure that the money is flowing. And I was
10 just fortunate, I think, to get some first hand
11 observations about some of the success stories
12 that, I think, will be coming out even more.

13 So as we move into the next selection
14 cycle, in terms of the use of these
15 unprecedented federal funds. Thanks for the
16 work you are doing.

17 MS. SIMS: Thank you.

18 COMMISSIONER MARTINEZ: It was a day

19 well spent.

20 CHAIR HILLMAN: Okay. Are there any
21 other questions for Ms. Sims?

22 If not, thank you very much.

18

1 MS. SIMS: Thank you.

2 CHAIR HILLMAN: We now will have
3 several reports regarding our research agenda
4 for 2005. We'll have an update on the statewide
5 voter registration guidance, and following that,
6 an update on provisional voter, and voter
7 identification study, and then a report on the
8 efforts we made to collect and analyze data from
9 the states.

10 Just to put this in context, Section 303 of
11 HAVA requires that each state develop and
12 maintain a single statewide list of registered
13 voters. That is a very significant undertaking.
14 The law allows, allowed states to waive
15 compliance with the mandate until January 1,
16 2006. So what we have are 17 states that
17 implemented these lists in time for the November
18 2004 election, and 44 states took the waiver
19 option, which means they must be in compliance
20 by January 1, 2006.

21 Of the 44, 21 states have entered into an
22 agreement for the development of the database,

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1 and nine others have requests for proposal
2 pending. And so that leaves a few that are
3 still working their way toward being in a
4 position where they will have requests for
5 proposals, or developing the database in-house.

6 We issued draft guidance about a month ago.
7 Tomorrow is the last day for public comment on
8 the guidance. The EAC thanks, very much, the
9 state and election officials who formed a
10 working group, working with us to develop the
11 draft guidance.

12 And thank you to Commissioner Martinez, who
13 spent a lot of time with the group to help make
14 sure that we were moving along as swiftly as we
15 could, so that the guidance would be issued in a
16 timely fashion for the states. And we're
17 thankful to everybody who has been submitting
18 comments and for those who haven't yet, you
19 still have 24 hours until close of business
20 tomorrow. And we will continue to explore
21 technical issues surrounding the maintenance and
22 upgrade of systems that support the voter

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1 registration databases as it will be a first
2 time venture for two-thirds of the states. And
3 it is, as I said before, a rather significant
4 undertaking.

5 And with that, Commissioner Martinez, I
6 think you and Ms. Lynn-Dyson have a report for
7 us.

8 COMMISSIONER MARTINEZ: Sure. I'm
9 happy to provide a quick -- I think the
10 background that you just provided, Madam Chair,
11 is obviously very pertinent to this undertaking.
12 This is significant, not just because of the
13 subject matter in that we're providing guidance
14 and offering some interpretation to the language
15 in Sections 303, primarily Section 303(a) of
16 HAVA, but it also marks the first time that the
17 EAC has developed guidance under our authority
18 in HAVA in Sections 311 and 312.

19 We're not a regulatory agency when it comes
20 to the administrative requirements that state
21 and local governments have to implement as a
22 result of HAVA. We are, however, an agency that

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1 is required to give guidance when there is
2 ambiguity, or when there is confusion with
3 regard to what some of these requirements mean.

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4 This represents, Madam Chair, and
5 Vice-Chair, the first time that the EAC has been
6 able to develop, and, I think, in a very
7 inclusive and in a transparent manner, guidance
8 that I think will be very instructive and,
9 hopefully, very helpful, as states are trying to
10 make decisions on how to build their systems and
11 being in compliance with HAVA.

12 The challenge, of course, was that, as you
13 mentioned, something like 17 states have moved
14 forward in building these statewide systems
15 already. And then you have a number of states
16 who are in various stages, as you have just
17 reported in your comments.

18 And so the challenge for the EAC was to try
19 to arrive at some guidance that gathers the
20 information and experience of those states that
21 have moved forward, but also takes into account
22 the states that still have decisions to make,

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1 and the need that they have for the EAC to offer
2 some clarity on some of the requirements that's
3 in the language of HAVA.

4 We have been very fortunate to work, not
5 just with state and local election officials who
6 have lent their time and expertise, but also to
7 work closely with representatives from the
8 advocacy community, from civil rights, and
9 voting organizations who we have met with
10 directly. We have heard their input and, of
11 course, we have encouraged all stakeholders,
12 whether direct or indirect, to submit written
13 testimony, which is what we will consider as we
14 move forward after tomorrow in making our
15 decision to finalize this particular guidance.

16 We have also had the expertise of our
17 exceptional general counsel, Julie Thompson, who
18 has worked directly with the groups, and who
19 will take all the comments that have been
20 received, and advise the Commission as we move

21 forward.

22 Of course, our research manager, Karen

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1 Lynn-Dyson has been a key player in this process
2 as well. So this continues to move forward, and
3 we will, again, end the comment period and then
4 try to wrap up that guidance into some final
5 form in the coming weeks. Madam Chair.

6 CHAIR HILLMAN: Do we have an
7 estimate when that length of time will be, from
8 tomorrow until we think we can issue the final
9 guidance?

10 COMMISSIONER MARTINEZ: We don't have
11 an estimate. We hope it is sooner rather than
12 later. It depends on how many comments actually
13 come in. We have had to handle individual and
14 entities submitting comments. I suppose we may
15 have a few more before the deadline hits
16 tomorrow. And after that, it is up to our
17 counsel to take a look at these comments and
18 give some appropriate advice to the Commission.

19 My guess is we're looking into June,
20 sometime in June before we can -- when we will
21 finalize the particular guidance. Julie.

22 MS. THOMPSON: I think that's very

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1 accurate. We will take approximately a week to
2 week-and-a-half to process the comments and make
3 recommendation to you as to any changes,
4 additions, supplements, that may be necessary,
5 based on those comments, to the guidance.

6 CHAIR HILLMAN: Any questions,
7 Mr. Vice-Chair?

8 VICE-CHAIR DEGREGORIO: No. Thank
9 you. I don't have any additional questions.

10 CHAIR HILLMAN: The next report we
11 have is on the work that we're doing with
12 respect to provisional voting and voter

13 identification. Again, these are two mandated
14 items under the Help America Vote Act.
15 Provisional voting as we know, is not a new
16 concept to all states. Before November, 2004,
17 22 states had some form of professional voting,
18 or affidavit voting, or challenge ballot voting,
19 whatever it might have been called. Preliminary
20 data that we gathered, as we have reported
21 before, indicated that in the November, 2004
22 election, more than 1.5 million voters cast

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1 provisional ballots, and of that, more than 1.2
2 million of those ballots had been counted.

3 Confusion still exists, as it did at that
4 time, over the implementation of provisional
5 voting. And many voters are still not aware of
6 exactly what provisional balloting is, and what
7 the options are, and the circumstances under
8 which a provisional ballot is available to them.

9 The Election Assistance Commission is in
10 the process of finalizing its discussions with
11 Eagleton Institute and the Moritz College of Law
12 to enter into a contract to research how
13 provisional voting was implemented in 2004,
14 including a review of the statutes, and
15 procedures that were used throughout the
16 country. We will finalize guidance in the fall
17 so that it can be available to the states in
18 time for the 2006. We're trying very, very hard
19 to be on a time line that the guidance we issue
20 on any of the HAVA mandated items will be
21 available to states in as timely as fashion as
22 we can produce.

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1 And part of our study will look into
2 litigation that was useful in defining the uses
3 of provisional vote. We're implementing the
4 provisional voting study.

5 HAVA requires identification of first time

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6 voters who have not been verified through the
7 voter registration process before. I think it
8 is fair to say that voter identification is a
9 hotly debated topic throughout the country right
10 now. Many states are considering various
11 options of voter identification. And there is
12 discussion as to how the requirements of HAVA
13 interplay with existing state law and how
14 alternative identification processes can be
15 implemented in a fashion that does not
16 counteract what HAVA requires.

17 And, again, the study that will be
18 conducted by Eagleton, will take a look at voter
19 identification requirements, the types of ID
20 cards that can be accepted, as well as
21 procedures for alternative identification. I
22 think at the end, hopefully, it will be a study

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1 that will illuminate all of us.

2 Karen Lynn-Dyson will bring us up to speed.

3 MS. LYNN-DYSON: Madam Chair, I
4 really have nothing --

5 CHAIR HILLMAN: Bring the mic closer.

6 MS. LYNN-DYSON: I really have
7 nothing further to add to your introductory
8 remarks regarding the study. We're looking
9 forward to meeting with the contractors who will
10 be working with us on this important project in
11 the next week or so. And we have, as we always
12 do, set forth the very ambitious agenda,
13 research agenda, and work plan. And we
14 anticipate that this will be a piece of work
15 that is somewhat similar to the work that we
16 undertook with our statewide voter registration
17 databases and that we'll be convening public
18 meetings around the topic over the next three to
19 four months, and we look forward to having a
20 baseline of data and information on these very,
21 very important issues, really get a handle on

22 what happened with provisional voting, what is

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1 happened legislatively, administratively, and to
2 eventually issue some guidance to the elections
3 community on this topic, and, as you say, the
4 very hotly debated topic of great interest in
5 the community around voter identification
6 requirements.

7 CHAIR HILLMAN: Can you bring us up
8 to speed as to exactly where we are with the
9 contract process, either you or interim
10 executive director.

11 MS. PACQUETTE: Madam Chair, that
12 contract should be on your desk today for
13 signature. We have finished the discussions
14 with Eagleton and have prepared the contract
15 materials that are being finalized for your
16 signature. We have attentive date of, I believe
17 it's this Thursday, for a kick-off meeting with
18 Eagleton here in our offices.

19 CHAIR HILLMAN: Can you explain how
20 the Moritz College part of the work fits in with
21 Eagleton. We have referred to it as a contract
22 with Eagleton. What does Moritz do?

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1 MS. PACQUETTE: Yes.

2 Is this working automatic all right?

3 CHAIR HILLMAN: I can hear. I don't
4 know if anybody else can.

5 MS. PACQUETTE: Eagleton is in the
6 commercial world of being what we could call the
7 prime contractor. They are -- actually, the
8 contract that we have is with Rutgers
9 University, which is the parent organization and
10 the authorized contracting authority. Eagleton
11 Institute is an institute within the university,
12 and our contract is with them. They will be
13 performing the work. They have chosen to team
14 with the Moritz College of Law at Ohio State

15 University because the analysis that we have
16 required include, as you indicated, reviewing
17 litigation, reviewing legislation. So they
18 brought on board one of the leading institutions
19 in the country on election law to provide that
20 expertise for this contract.

21 However, Rutgers and Eagleton are
22 responsible for the performance of the work.

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1 CHAIR HILLMAN: Okay. Thank you.
2 Commissioners, questions.

3 COMMISSIONER MARTINEZ: Perhaps just
4 a quick comment, Madam Chair.

5 Again, I just want to expand upon the
6 significance of this project for the EAC.
7 Gathering information, I think one of the key
8 accomplishments, whether we, in the end, end up
9 with embracing your guidance or best practices
10 as a result of this work, the key part of this
11 work, I think, is going to be a thorough
12 analysis of how each jurisdiction that is
13 covered by HAVA, 55 jurisdictions, how they
14 treat provisional voting. And I think there's
15 been a lot of research in this area done by
16 other entities.

17 I know electionline.org put out a very
18 useful post November, 2004 study on provisional
19 voting, which I think was versus instructive.
20 For the EAC to go out there and work with these
21 55 jurisdictions and get a compilation of what
22 they do, how they treat provisional voting. And

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1 as you said at the beginning, Madam Chair, there
2 are some states that have extensive experience
3 with provisional voting.

4 When Congress passed this provision within
5 HAVA, they were looking at states that had been
6 doing this for a while and taking their

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7 experience, but it is also true that at least 16
8 states in this country have never implemented
9 any type of provisional voting whatsoever. They
10 didn't have challenge ballots, they didn't have
11 jury affidavit ballots. If you lived in one of
12 jurisdictions and you registered on the roles to
13 vote, you have no recourse to challenge that,
14 and you are simply disenfranchised.

15 So this is an important extremely important
16 provision of HAVA. It is one that was the
17 source of great confusion to election
18 administrators. And I think during this
19 election cycle, I think it will be one of the
20 most significant projects that we undertake at
21 the EAC. And I think just simply gathering the
22 data is going to be an accomplishment even of

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1 itself, even beyond what we end up embracing as
2 an end product.

3 CHAIR HILLMAN: Okay.

4 VICE-CHAIR DEGREGORIO: Karen, the
5 data that was collected by EDS, Kim Brace's
6 organization, we're going to be releasing soon.
7 How will that help instruct Rutgers and Moritz
8 that are going to do this work?

9 MS. LYNN-DYSON: I think, Mr.
10 Vice-Chairman, we're comfortable and confident
11 in saying that the work that Kim Brace and EDS
12 has done with analyzing, collecting, and
13 analyzing Election Day survey information is
14 some of the best and most comprehensive, to our
15 knowledge, that's been collected on this. And
16 so, certainly, the information that we have and
17 we have in turn tasked EDS to analyze, will be
18 readily available to Eagleton, to Moritz, to
19 consider when they take a comprehensive look at
20 provisional voting, and any other issues.

21 You are going to here later from Mr. Brace.
22 And I think this is the first-time effort we

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1 have in this regard but it is very
2 comprehensive, and the best information that's
3 been gathered to date.

4 VICE-CHAIR DEGREGORIO: So if we
5 obtain information on provisional voting from
6 different states, coupled with this research,
7 that will tell us how they do it, what the law
8 says. We'll be moving to get some data and do
9 some comparative analysis from states that, for
10 instance, had statewide voter registration
11 database in place for 2004, and how they
12 compared to a state that did not. And,
13 obviously, we'll be able to get their data, the
14 raw data, from the survey from EDS, but compare
15 it to the other data that we get, the research
16 data on the laws and regulations themselves, to
17 try to make some real comparison about what
18 worked, what didn't work, and to help instruct
19 states on how they can do it better.

20 MS. LYNN-DYSON: Right. I think that
21 as we pursue assorted tasks within the research
22 agenda, it becomes very clear how the issues are

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1 interconnected.

2 Case in point, provisional voting and
3 statewide voter registration database. As you
4 point out, on provisional voting and voting
5 identification requirements, as we explore these
6 issues, we will see how they inform one another.
7 And, eventually, we hope, improve election
8 administration practice.

9 VICE-CHAIR DEGREGORIO: Thank you.

10 CHAIR HILLMAN: Okay. Thank you,
11 very much.

12 Okay. The final report under the research
13 agenda is from Mr. Kim Brace, Election Data
14 Services, to give us an update on our efforts to
15 collect data from the states, including our

16 Election Day Survey, and the military and
17 overseas citizen survey data. As we have
18 wrestled with up to this point, when we have
19 reported activities under HAVA to Congress and
20 others, we have had to do it based on anecdotal
21 or inconsistent data. And part of our effort is
22 to lay a baseline of data collection by the EAC,

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1 so that as we go through future federal election
2 cycles, we can build on that and have
3 comparative data to mark progress or lack
4 thereof under the Help America Vote Act.

5 With that, Mr. Brace. Thank you.

6 MR. BRACE: Thank you, Madam Chair,
7 Vice-Chair, Commissioners. It's a pleasure to
8 come before you today and give you an updated
9 progress report on the analysis we have
10 undertaken of the Election Day Survey for the
11 EAC.

12 For the first time in this nation's over
13 230-year history, the Federal Government has
14 made an assessment of election procedures used
15 across the land. The Election Day Survey
16 represents the largest and most comprehensive
17 survey of voting and election administration
18 practices ever conducted by a U.S. Governmental
19 agency. A survey provides statistics and voter
20 registration modes of voting, including absentee
21 and provisional; over votes and under votes for
22 federal offices, number of precinct polling

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1 places and poll workers. The survey also
2 provides information on voting equipment,
3 including equipment failures and polling place
4 accessibility.

5 State election directors and election
6 administrators in the District of Columbia and
7 four territories, Guam, Puerto Rico America's
8 Samoa, and the U. S. Virgin Islands were asked

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9 to respond to the survey. The state directors,
10 in turn, sought data from local election
11 administrators. Responses were received from
12 all state level jurisdictions except for
13 America's Samoa and Guam.

14 The Election Day Survey requested
15 information from a total of 6,568 local election
16 administrators. The 43 questions in the survey,
17 if all had been completed, would have produced a
18 total of 282,000 individual data items, but
19 there is a substantial number of missing
20 responses to questions on the number of ballots
21 counted and votes cast for federal offices.
22 Response rates were over 90 percent, but on

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1 other questions, such as provisional ballots and
2 polling place accessibility, response rates were
3 under 50 percent.

4 Although higher response rates are
5 preferable, it is important to point out that,
6 one, this is the first time that the Election
7 Day Survey was administered, and two,
8 participation in the survey was voluntary.
9 As is typical with baseline surveys, many issues
10 were identified with the administration of the
11 Election Day Survey. These include first, there
12 were differences in how state and local election
13 administrators interpreted some of the
14 terminology used in the survey questions. For
15 example, what is a poll worker, or what
16 constitutes an absentee ballot.

17 Different interpretations of the survey
18 items by election administrators resulted in
19 some uneven reporting, sometimes even within a
20 state.

21 Second, because of the delay in the
22 election of the EAC and the time required to

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1 obtain approval of the survey instrument under
2 the Paperwork Reduction Act, the survey was sent
3 to state election directors just one week before
4 the November General Election. Election
5 administrators did not have enough lead time to
6 plan and set up the systems for compiling the
7 statistics that were requested by the survey.

8 Third, the Election Day Survey was
9 distributed to state election directors as an
10 electronic spread sheet, but responses to the
11 survey were received in a variety of formats.
12 While some election directors sent the original
13 electronic spreadsheet to local election
14 administrators, others prepared their own
15 surveys, and in some cases, altered the survey
16 questions. This resulted in even more uneven
17 reporting amongst the states.

18 Fourth, we have identified many data entry
19 errors in those spread sheets. In some
20 instances, we have been able to identify the
21 error through our analysis. We have asked for
22 clarification and made corrections to them.

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1 However, we don't have the resources to validate
2 every one of the 282,000 data items. And,
3 subsequently, some data items, some errors might
4 remain.

5 Despite the problems in administrating the
6 survey, we believe that reliable information has
7 been obtained from many of the questions, and
8 our work illustrates some of the successes and
9 challenges of election administration in the
10 United States.

11 However, we caution that our findings are
12 still very preliminary, and only valid for those
13 jurisdictions that reported. We cannot make
14 inferences for jurisdictions that did not
15 report. We would also caution that the
16 reliability of some responses reduced the
17 overall validity of some of our efforts.

18 One purpose of the Election Day Survey was
19 to provide, as you mentioned, Madam Chairman,
20 the baseline of election administration data to
21 help the EAC to identify the prioritize issues
22 for the study under Section 241 of HAVA. As of

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1 now, the baseline has only partly been
2 established, but we continue to receive data.
3 In just the past two weeks since we have put
4 together some of our analysis, we have received
5 18 separate submissions of new or corrected
6 data. As of now, we have four major
7 recommendations for the EAC on data collection
8 efforts.

9 First, we would recommend that the EAC hold
10 two symposiums, the first for state election
11 directors, and the second, for consumers of
12 election data to produce accurate and consistent
13 definitions of election administration
14 terminology. A set of common definitions will
15 increase the reliability of future data
16 collection. We recommend that the symposiums be
17 held in the near future to allow election
18 administrators time to conform procedures to the
19 new definitions.

20 Right now, for example, as has already been
21 testified, many states are in the midst of the
22 computer programming for the development of the

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1 statewide voter registration systems, and that
2 provides a lot of opportunity for data
3 collection.

4 Second, we recommend that the next Election
5 Day Survey be conducted by a method that
6 provides interactive quality assurance checks.
7 Such a system might be Internet-based, or
8 consist of a spread sheet in which respondents
9 could see how different survey questions were

10 related.

11 For example, the number of ballots cast in
12 early absentee, provisional, and Election Day
13 voting should be equivalent to the total number
14 of ballots cast. That's not always the case in
15 the data that we have collected. Validating
16 responses at the time of data entry would
17 greatly reduce the number of data errors that we
18 have found.

19 Third, we would recommend, as we have in
20 previous progress reports, that the EAC expand
21 its clearinghouse role to include the ongoing
22 funding and election of precinct level

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1 registration, turn out, election returns,
2 precinct maps, polling place information, sample
3 ballots, election manuals, and other items to
4 assist in the analysis of the voting process.

5 And, finally, as I said earlier, there are
6 errors and omissions in the data from the
7 Election Day Survey. The assessment is not
8 perfect. Some of the errors might even point
9 users of the survey data in the wrong direction,
10 but the survey is a start.

11 Consequently, our conclusions are still
12 sensitive, and a report of the survey is not
13 ready to be released at this point. So, as for
14 the recommendation, we would, to help reach the
15 ultimate goal of the election administration
16 baseline in representing all election
17 jurisdictions, we would recommend that the EAC
18 consider involving the states in a review of the
19 data that's been compiled so far.

20 Many original state commissions have been
21 updated several times. Such a review would not
22 only provide an opportunity for survey

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1 respondents to identify and correct data items,
2 but also to retrieve some of the missing data

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3 needed to complete the survey. This would
4 greatly improve the quality of the data and
5 coverage of the survey so that more election
6 jurisdictions are represented in the election
7 administration baseline.

8 In addition, census population estimates
9 that have been used in our analysis so far, in
10 July, the Census Bureau will be releasing new
11 population estimates that could be incorporated
12 into the survey analysis for a more complete and
13 current view of voting and election
14 administration statistics.

15 We would also note that the questions on
16 absentee voting in the Election Day Survey are
17 closely related to the military and overseas
18 absentee ballot survey from the ULC HAVA Survey
19 which was conducted shortly thereafter.

20 Coverage rates and data quality issues related
21 to the ULC HAVA Survey, however, are even more
22 problematic. And in some instances, it appears

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1 that data from the two surveys have been
2 intermingled. A delay in the release of the
3 Election Day Survey to allow for the review of
4 the survey data by state election directors
5 would also provide an opportunity to resolve
6 conflicts between the ULC HAVA and the election
7 surveys, as well as resolve other data coverage
8 and data quality issues specifically for the ULC
9 HAVA survey.

10 Finally, we have begun work on the NVRA
11 survey, Voter Registration Survey, as final data
12 has now been coming to the EAC. Some of the
13 data requested are the same or similar to the
14 information requested in the Election Day
15 Survey. We are comparing the data right now,
16 and I can report as an update that there are
17 differences in that data compared to the
18 Election Day survey. So we're seeking a way of

19 trying to resolve these differences between the
20 states.

21 This concludes my progress report to date,
22 and I'd be happy to answer any questions.

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1 CHAIR HILLMAN: Okay. Commissioner
2 Martinez, do you have any questions?

3 COMMISSIONER MARTINEZ: Well, first
4 of all, I want to start, and Ken, perhaps you
5 have much more experience in this area than I
6 do, but I think it is important to note and
7 perhaps to give a strong word of appreciation to
8 the jurisdictions that are complying, and even
9 to all jurisdictions, quite frankly.

10 Gathering their data, I am certain is very
11 time intensive and personnel intensive.

12 MR. BRACE: Absolutely.

13 COMMISSIONER MARTINEZ: And so my
14 guess is that while, obviously, this data, we
15 feel, is critical to give us a baseline so that
16 we can appropriately wear our hat that Congress
17 gave us, as a national clearinghouse of
18 information related to the federal election
19 administration practices. The fact of the
20 matter is, this is a major undertaking to get a
21 survey like this, and then as a chief election
22 official, disseminate that survey to your local

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1 jurisdictions, and try to get compliance for
2 something that, again, is voluntary.

3 MR. BRACE: That's correct.

4 COMMISSIONER MARTINEZ: So I want to
5 commend the states and local jurisdictions for
6 their efforts in complying and in helping us to
7 gather this very important and critical
8 information.

9 The one question I would have to you, and I
10 had a chance to read through your testimony
11 before you came up, and I think it's very

12 helpful, and I think your recommendations are
13 very compelling. I didn't realize that we, in a
14 sense, were going to be confusing jurisdictions
15 by sending out a survey that asked questions on
16 absentee voting that would then confuse what is
17 required information or surveys under two other
18 federal statutes, UL HAVA and NVRA. There is no
19 choice, and those jurisdictions are required to
20 give us that information whereas our Election
21 Day Survey is voluntary. And I would ask you,
22 certainly, there is a way, can we send all three

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1 surveys at the same type. Perhaps you can give
2 us some insight, as we can insure that type of
3 confusion does not occur again in the future.

4 MR. BRACE: As I recall, not all
5 three surveys were sent out exactly at the same
6 time, but fairly close together. They were sent
7 to the states, as I said, the Election Day
8 Survey, so they got it just before Election Day.
9 And the other two, I believe, were sent out in
10 late November and December time with varying,
11 statute geared deadlines for receiving
12 responses.

13 COMMISSIONER MARTINEZ: So once we go
14 through the exercise of trying to achieve a
15 common set of definitions and take some of your
16 suggestions, we will have our survey instrument
17 out well before an Election Day, so they can
18 know and anticipate what information they are
19 going to need to gather to be able to comply
20 with our Election Day Survey.

21 MR. BRACE: Absolutely. And that is
22 the heart of my recommendation, in terms of

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1 having that symposium very soon, so they can see
2 what's needed.

3 COMMISSIONER MARTINEZ: Thank you,

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4 Madam Chair.

5 CHAIR HILLMAN: Mr. Degregorio.

6 VICE-CHAIR DEGREGORIO: Just to build
7 on what Commissioner Martinez said, because it
8 is a very important point, I think many election
9 officials out there don't collect a lot of data,
10 as you know, in your line of work.

11 MR. BRACE: Yes.

12 VICE-CHAIR DEGREGORIO: We have
13 talked about this in the past. I know this
14 survey was a surprise to many, but the UL HAVA
15 information, as an example, is something that as
16 mandatory that we request, that we try to
17 obtain. And I understand, at least in
18 preliminary information, that you provided to
19 us, that in that particular area, we're fairly
20 weak.

21 MR. BRACE: That's correct.

22 VICE-CHAIR DEGREGORIO: Can you

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1 elaborate a little bit on that?

2 MR. BRACE: As I indicated in my
3 testimony, the response rates varied from
4 between 90 down to 50 percent. Unfortunately,
5 on the ULC HAVA data, we're lucky to get up in
6 the 50s range.

7 VICE-CHAIR DEGREGORIO: And the
8 polling place accessibility issues, which is a
9 very important issue for this Commission to
10 obtain that type of information from the states,
11 it is disappointing that that is at the 50
12 percent level too. Why do you think that is?
13 Why aren't they able to obtain that information?
14 Because as I understand it, most states are
15 required to obtain that information from the
16 election jurisdictions. At least in Missouri,
17 the states survey jurisdictions on a regular
18 basis to obtain information on how many polling
19 places were accessible.

20 Are the states not doing or just not

21 providing the information to us?

22 MR. BRACE: We don't know totally the

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1 answer yet. However, the Election Day Surveys
2 actually asks three questions dealing with
3 disability. The first question was looking at
4 wheelchair accessibility, which is, as you
5 mentioned, the requirement that they meet.
6 There is much more data there, although not as
7 much as we would have liked.

8 The other two surveys or the other two
9 questions ask for variations on the theme. And
10 from what we can see so far, there appeared to
11 be some confusion in whether or not you were
12 looking at voting equipment information in those
13 two questions or polling place information where
14 the question actually did say polling place.

15 So there has been some confusion, in terms
16 of those particular data, but it does appear
17 that at least in terms of the wheelchair
18 accessibility, we're getting a little bit better
19 response, but that was Question No. 21 at the
20 tail end of everything. And I think you can see
21 a definite drop-off of responses as you got
22 towards the tail end.

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1 VICE-CHAIR DEGREGORIO: Their issue
2 of ballots cast, which is a tough one, we're
3 aware that the Department of -- Congressional
4 Department, the Census Bureau is going to come
5 up with some kind of report very shortly on
6 ballots cast, on census data.

7 In your report to us today, you talk about
8 the number of ballots cast and early absentee
9 election day voting should be equivalent to the
10 total number of ballots cast. Let me ask you,
11 how do you define this, just so that I
12 understand. If somebody cast a provisional

13 ballot, provisional ballot which may or may
14 not -- we know that roughly 67 percent of
15 provisional ballots are counted, the votes are
16 counted.

17 MR. BRACE: That's correct.

18 VICE-CHAIR DEGREGORIO: Is that a
19 cast ballot or counted ballot? How would you
20 define that for us? Because, as an example, in
21 Ohio, with 40,000 provisional ballots cast but
22 not counted, the state reports their turn-out.

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1 Are they reporting that 40,000 into their
2 ballots cast are saying we had a higher
3 turn-out. Even though, technically, those
4 people were not registered to vote because their
5 ballots were not counted.

6 Enlighten us as to what you think about
7 this issues?

8 MR. BRACE: That is a continued
9 confusion area, Mr. Vice-Chairman.

10 Unfortunately, the states have come up with
11 different definitions of whether or not they
12 count that kind of information. We're seeing
13 different definitions of whether or not inactive
14 voters are counted in with the counts of
15 registered voters or not. What we attempted to
16 do, in putting together the answers to the
17 survey, is look from an analysis standpoint of
18 how data could be used together.

19 The survey, however, asked for data
20 separately. And I believe, and I think in
21 talking with a number of different states and
22 why, one of our recommendations is that they put

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1 together that data with kind of like blinders,
2 without realizing that there are some
3 relationships between data. So part of what our
4 goal is, is to get out to the states the
5 information so that they can see that there are

6 relationships between the two, that things
7 should add up, and that you don't want to count
8 something here when you should be counting it
9 over there.

10 I'm afraid that we're going to find a lot
11 of that in the ULC HAVA survey, of whether or
12 not, even though the instructions to the survey
13 said when you look at the absentees, don't count
14 ULC HAVA when you answer the Election Day, but
15 do count ULC HAVA here on the ULC HAVA Survey,
16 we're seeing intermingled data.

17 VICE-CHAIR DEGREGORIO: Thank you for
18 that.

19 CHAIR HILLMAN: Kim, one of the
20 things I want to thank you for is the candor in
21 which you sort of said we've got to correct some
22 things along the way here so we can compile the

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1 kind of statistics that really will not only
2 inform the EAC in its work, but inform the
3 country with respect to not only progress made
4 under the Help America Vote Act, but progress
5 made in assuring voters that their votes are
6 being counted.

7 And, secondly, seeing an increase,
8 hopefully, in participation at the polls, that
9 more voters will vote over time. I think one of
10 the things for me that, you know, you just don't
11 know what you're going to learn when you go
12 through an effort like this. And the
13 recommendation about coming up with some agreed
14 upon universal terminology, if you will, I know
15 that, for example, on the voting system
16 guidelines, there is a glossary of terms so that
17 people will all understand when we refer to poll
18 worker, this is what we mean.

19 MR. BRACE: That's correct.

20 CHAIR HILLMAN: So I think it will be
21 a very interesting exercise for us to go through

22 and, hopefully, it will help educate people as

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1 to why there may have been confusion with
2 respect to the use of different terminology and
3 different expectations in different
4 jurisdictions when the Census Bureau issues its
5 report on the number of people registered and
6 voter participation, what is the basis of the
7 data. Is it a survey, is it an extrapolation.

8 And I used that data for many, many years,
9 and I should know the answer to that question.
10 I have just plain forgotten.

11 MR. BRACE: I use it also, Madam
12 Chair. It is a survey. However, they have not
13 gone and collected the actual information like
14 you have, in terms of the Election Day Survey.
15 So when the bureau puts out its study, which
16 we're anticipating probably within the next week
17 or so, you do need to understand that they are
18 going to come out with one set of numbers and
19 we'll have a different set of numbers. Ours
20 tend to be the certified, official numbers.
21 Theirs are the results of survey questions being
22 posed to voters. And we know that the survey

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1 methodology indicates that not all voters want
2 to answer the way that they truthfully should.
3 If you were asked, did you vote, and everybody
4 wants to say that they voted, but we only know
5 that a certain number of votes were actually
6 cast.

7 And so survey responses have,
8 traditionally, shown that it tends to be a
9 little inflated. The Census Bureau surveys,
10 they have started those back in 1964, and they
11 have consistently shown a little bit more
12 registration and voting than the real numbers.
13 show.

14 CHAIR HILLMAN: But the trends are

15 pretty consistent, even if the number's around a
16 hundred percent.

17 MR. BRACE: The good pieces of
18 information coming from the Census Bureau
19 studies are the demographic variables, how are
20 the different race groups voting and
21 registering, how do different income groups vote
22 and register, how do different people that own

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1 property vote and register. That information is
2 not available from the official sources.

3 There's only five states in the nation that
4 collect race information on their registration
5 rolls, so you can't get data, other than those
6 five. The Census Bureau studies are useful, but
7 looking at that demographic variable.

8 CHAIR HILLMAN: Well, it is my hope
9 that the Election Assistance Commission in time
10 will be able to be a solid and credible source
11 of data, because it is very useful. I mean, it
12 is one sure way to measure progress, but as you
13 said, in the past, the Census Bureau data was
14 always useful to indicate patterns and voting
15 behavior.

16 In your presentation, you said that as of
17 now, our baseline has only been partly
18 established. What percentage would you say, are
19 we halfway there, three quarters of the way
20 there, two-thirds of the way there.

21 MR. BRACE: It depends on which
22 question?

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1 CHAIR HILLMAN: Overall.

2 MR. BRACE: Overall.

3 CHAIR HILLMAN: All overall effort.

4 MR. BRACE: Overall effort, I think
5 we're probably about between 60 to 70 percent
6 there.

7 CHAIR HILLMAN: All right. Well,
8 that is encouraging. All right. Well, I think
9 that you have answered all my questions.
10 Commissioners, any other questions. Okay.
11 Thank you, very much, Mr. Brace.

12 MR. BRACE: Thank you.

13 CHAIR HILLMAN: Okay. Next on our
14 agenda is an update from our general counsel,
15 Ms. Thompson on the California audit.

16 As we noted earlier when Ms. Sims was
17 giving us an update on the Title II requirements
18 payments, we did have an opportunity to meet
19 with Secretary McPherson and Mr. Clark, who I
20 believe is Deputy Secretary of Election Matters
21 from California. And it was a good
22 conversation, and they soon thereafter submitted

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1 their information with respect to what they will
2 do to comply, and how they have responded to the
3 California auditors report. And we did
4 discussion with them that we will proceed with
5 our own audit. As we had voted to do earlier
6 this year.

7 So thank you for the update.

8 MS. THOMPSON: Thank you for that,
9 Madam Chair.

10 Just for purposes of recapping, I'd like to
11 take a moment just to inform you all as well as
12 the public that are here with regard to the
13 California audit that you all voted in January
14 to conduct, a special audit out of Title I fund
15 by the California Secretary of State's Office,
16 and that is prior to current administration,
17 specifically, during what would have been their
18 fiscal year, 2004.

19 I'm happy to report that we have finalized
20 a contract with the Department of Interior. The
21 Office of the Inspector General will be
22 conducting that audit for us. They are in the

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1 process now of developing a plan for that audit,
2 which will be delivered to us 20 working days
3 from the dates of that contract, which would be
4 within the next week-and-a-half to two weeks.
5 At that time, you all will have the opportunity
6 to review the audit plan, approve it, and then
7 the audit begins.

8 CHAIR HILLMAN: You referred to the
9 Department of Interior. That is the U.S.
10 department of Interior, correct?

11 MS. THOMPSON: Yes, ma'am.

12 CHAIR HILLMAN: Any questions? Okay
13 good. Thank you. All right.

14 The next is an update on the process of
15 publishing the proposed voluntary voting system
16 guidelines. And we received the guidelines from
17 the Technical Guidelines Development Committee
18 on May 9th, I believe, which was, in fact, the
19 deadline. And we are getting ready for the
20 public comment period.

21 MS. PACQUETTE: Yes, ma'am. This is
22 to briefly review the process that we're

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1 following. We did receive the recommendations
2 from the Technical Guidelines Development
3 Committee on May 9th. In addition, a few days
4 before that, we received from NIST a collection
5 of public comments that they had received on
6 their website since the 8th of April, which is
7 when NIST had to cut off their review of public
8 comments. So we already have some public
9 comments to look.

10 In addition, there were comments made to
11 the glossary. We were just talking about
12 terminology. NIST has delivered to us a revised
13 glossary on the 20th of May. They have
14 incorporated all the comments that they received
15 up until a few days before that on the glossary,

16 and so we now have a revised glossary with
17 comments incorporated that we can move forward
18 with.

19 We are working on developing a web
20 application so that it will be easy for people
21 to submit comments to our web page. This will
22 include a format that will also help us in

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1 reviewing and managing the comments, as we have
2 to go through them all, as you know, and make a
3 determination of how to handle them.

4 We're currently in the process, in the
5 Commission, of reviewing the recommendations and
6 looking at some potential modifications to the
7 document before we publish it for public
8 comment. We're currently envisioning that that
9 publication will happen in early June.

10 The plan is to publish a notice in the Federal
11 Register, and an executive summary or an
12 overview of the document in the Federal
13 Register.

14 We will actually post the proposed
15 guidelines on our website in their entirety, and
16 we will also issue a press release at that time
17 to let the public be aware that the document is
18 ready for review and comment. In addition to
19 being available on the website, we will also
20 have available in hard copy, and on CD. It will
21 be available in both PDF and HTML format on the
22 website, again, to accommodate all members of

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1 the public who may be using technology to review
2 this document.

3 We will at the same time be notifying our
4 boards of the availability of the document for
5 their review, which will be concurrent with the
6 public comment period.

7 We have scheduled the first public hearing
8 for June 30th. This will be running just in

9 advance of the ICREOT meeting in New York City.
10 The first hearing will have two panels of
11 presenters, with representatives from the test
12 laboratories and system vendors who will be
13 giving us their comments on the guidelines.

14 The second public hearing has been
15 scheduled for July 26th. We have not yet
16 settled on a venue for this hearing. In this
17 hearing, we will also have two panels, one of
18 election officials and one of election officials
19 from advocacy groups, similarly to give us their
20 commentary on the guidelines.

21 I might also note that in both of these
22 public hearings, there will be an opportunity

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1 for members of the public, the general public,
2 to register in advance to come before the
3 Commission and make their comments on the
4 document.

5 Also, in July, we envision having a joint
6 meeting of the EAC's board of advisors and
7 standards boards to review and discuss their
8 comments on the guidelines. We have not
9 finalized the date or the venue for that
10 meeting. Since we anticipate publication in
11 early June, that would mean ICREOT would be the
12 end of the 90-day comment period. We hope to
13 then accommodate all the comments, and then have
14 the guidelines ready for the Commission's review
15 and adoption towards the end of September or
16 perhaps early October.

17 We'll be following a process of reviewing
18 the comments at least on a weekly basis as they
19 come in, because we do want to facilitate the
20 process at the conclusion of the comment period
21 to complete all of the perhaps required
22 modifications and have this document ready for

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1 your review.

2 We also plan presentations at the summer
3 meetings of all the election organizations and
4 other stakeholder groups in our effort to very
5 widely publicize the availability of this
6 document and to encourage commentary from the
7 public.

8 That concludes my report.

9 CHAIR HILLMAN: Thank you, Ms.
10 Pacquette.

11 Some few questions have been raised about
12 what it is that the EAC is doing now, from the
13 time it received the draft on May 9th, until the
14 time that we post it for public comment. And I
15 think it's important for us to just at least
16 clarify the due diligence that we're doing.

17 And correct me if I have forgotten
18 something, but three major things. One is to
19 just make certain that the recommendation, the
20 recommended guidelines are in compliance with
21 and consistent with the Help America Vote Act,
22 that the things that the law directs us to take

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1 into account are, in fact, addressed. And that,
2 secondly, with respect to the portion of the
3 guidelines that is the 2002 standards, that
4 there is some outdated terminology in those
5 sections which are no longer used. And that
6 we're going to put a clarification to explain
7 that we're not changing that old terminology at
8 this point, but rather to acknowledge.

9 And maybe if you could just explain that
10 back to me a little better than I have to you.

11 MS. PACQUETTE: Yes. Well, one very
12 clear term that under the previous voting system
13 qualification process was the term,
14 "qualification," for the national processing of
15 systems for use while the term, "certification,"
16 was reserved for the use of the states in their
17 process in certifying systems for uses in their

18 states.

19 HAVA has used some new language which says
20 the national process will now be called a
21 certification. So rather than go back to change
22 all the places in the portion of the new

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1 proposed guidelines that is the 2002 voting
2 system standards, we will just indicate at the
3 beginning of the sections that there will be
4 some inconsistencies in terminology between the
5 new portions of the document and the older
6 portions of the document, and just to explain to
7 the reader why they are seeing different
8 terminology in the two sections.

9 Similarly, there's quite different
10 formatting between the new portions of the
11 document and the old portions, and we want to
12 just put in an explanatory comment for the
13 reader who might be looking for a document
14 that's similarly formatted from beginning to end,
15 which is what we're used to seeing.

16 There are very good reasons for why it's
17 formatted this way, because we wanted to make it
18 very clear what are the new portions and what
19 are the old portions. Again, we just need to
20 need some language around the document to
21 explain how it was put together, how it should
22 be reviewed, and as you note, some

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1 clarifications on the terminology.

2 CHAIR HILLMAN: And the document
3 itself can be very intimidating to look at and
4 enough to make somebody decide they will take a
5 pass on wanting to review it. For those people
6 who are technical and the groupies of what used
7 to be called the standards and now the
8 guidelines, they may enjoy going through each
9 page, but much people have an interest in this

10 because of all the discussion about the
11 electronic voting systems, and security, and
12 reliability, and whether or not there are
13 sufficient measures of security being taken,
14 that it may not be as easy for them to
15 appreciate where in the documents those items
16 are.

17 So we're doing an executive summary of some
18 sort to help people who can sort of at a glance
19 get to the meat of the issue they are looking
20 for.

21 MS. PACQUETTE: Well, the document
22 does have a very full and complete table of

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1 contents, but we're also doing, as you note, an
2 executive summary that explains the significance
3 of the document, and indicates what are the new
4 elements from the 2002 standards, and to just
5 give a complete overview so that members of the
6 public, who don't normally deal with the subject
7 matter, will have some context in which to
8 understand how this document is used.

9 For example, this document is used as the
10 testing document for the qualification and now
11 certification of voting systems. So, again,
12 many people don't think of it in those terms.
13 So we're trying to just make it clear because we
14 expect that there will be more interest in this
15 document, given all the publicity about HAVA
16 funding and issues with voting systems, that we
17 may have more wide readership than perhaps the
18 2002 standards received, and we just want to
19 make it an accessible document, if you will, to
20 the extent that such a technical document can be
21 made a little more user friendly.

22 CHAIR HILLMAN: Good. And then the

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1 other aspect that we're considering, of course,
2 will be the subject of our next panel of

3 presenters, and that is the executive date of
4 the guidelines, and any consideration for
5 grandfathering provisions.

6 MS. PACQUETTE: Yes, that's correct.
7 The Commission decided that we wanted to think
8 very hard about whether to issue an executive
9 date and perhaps some consideration of
10 grandfathering of existing systems along with
11 issuing the proposed guidelines. So the panel
12 that we have before us today is part of the
13 information gathering that you have already
14 engaged in to inform your decision-making in
15 that regard.

16 CHAIR HILLMAN: Great. Thank you.
17 Vice-Chair Degregorio?

18 VICE-CHAIR DEGREGORIO: Yes, Madam
19 Chair. That is the document here. It is very
20 detailed, a lot of work has gone into it. They
21 built the standard upon the 2002. I know, Madam
22 Chair, that at the previous meeting, Dr. S.

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1 Fiinnech spoke about the work they did to come
2 up with this document that NIST and, of course,
3 the Technical Guidelines Development Committee
4 that did so.

5 Ms. Pacquette, do you envision, as we go
6 through this process this summer in receiving
7 comments from the public and from various
8 groups, that NIST will continue to support the
9 work that we do in coming up with a final
10 version of this?

11 MS. PACQUETTE: Yes, Mr. Vice-Chair.
12 We will have conversations with NIST, and we
13 have an understanding that certainly the
14 comments are going to be reviewed by the EAC
15 staff. And we're looking at getting some
16 consultants on board to assist us with this
17 workload.

18 We have an understanding with NIST that

19 more technical comments, we will certainly be
20 consulting with them or clarification points, to
21 maintain some consistency in approach.

22 VICE-CHAIR DEGREGORIO: You spoke of

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1 our public hearings that we're going to conduct
2 this summer. The fact that this will be
3 published on the web, do we have a plan, a pro
4 active plan, in place to make sure that we're
5 notifying all the groups out there in the
6 states, groups out there who have an interest in
7 the subject to make sure they have the
8 opportunity to know about this, to inform us
9 what they may think about this document.

10 MS. PACQUETTE: Yes. We do want to
11 make it very widely publicized. There will be a
12 press release, presentations at meetings. We,
13 of course, have our e-mail distribution list,
14 which includes state and local election
15 officials, and representatives of many of the
16 constituencies that would be interested in this
17 document. So we will certainly be soliciting
18 all of our groups that we work with to reach out
19 to their membership.

20 We have also had very good support from NAS
21 and ICREOT in putting important EAC notices on
22 their websites as well. And we hope they would

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1 do that for the guidelines to, again, help us
2 get the word out to all of the parties.

3 CHAIR HILLMAN: Commissioner
4 Martinez.

5 COMMISSIONER MARTINEZ: Thank you,
6 Madam Chair.

7 I want to start by, again, I think we have
8 all said this publicly before, but thanking NIST
9 and the TGDC members for accomplishing in nine
10 months what takes many years, and that is, to
11 revise these type of technical standard

12 requirements, objective, repeatable measures.
13 I think extraordinary work was done by -- thanks
14 to the NIST partners.

15 Likewise, Carol, you spent the better part
16 of your term as interim director shepherding
17 this process, moving toward where we are today,
18 on the version of being able to embrace,
19 hopefully, a good product in these revised
20 standards.

21 My personal opinion is that the most
22 critical work that is happening with regard to

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1 our due diligence, internally, that we're doing
2 right now and for the next couple of weeks, is
3 the analysis of the requirements with their
4 consistency technically, in Section 301 of HAVA.
5 Because while the voting system guidelines are
6 voluntary, states can choose to accept them and
7 impose them, or not. And at last count, Tom
8 Wiggle probably knows that, but 36 states or
9 thereabouts have required national vendors to go
10 through a national certification process before
11 they can actually do business in their state,
12 but it is all voluntary.

13 Once, again, the standards in Section 301
14 of HAVA for voting systems, there is nothing
15 voluntary about that. Those are requirements
16 and mandatory, as a matter of federal law. And
17 there's some key things in Section 301 of HAVA
18 which I think, as a Commissioner, need to be
19 consistent about what we embrace at the end of
20 this product. And so I think the review that
21 we're doing for the general counsel, I think, is
22 key.

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1 Julie, I would call on you, if you have a
2 few words about the process that you're using,
3 how that work is going, with regard to that

1
4 analysis.

5 MS. THOMPSON: Thank you,
6 Commissioner Martinez.

7 The Commissioners have asked me to review
8 the recommendations provided by the Technical
9 Guidelines Development Commission for compliance
10 with Section 301-A of HAVA. Therein lie the
11 requirements that HAVA has dictated for what are
12 quote, "HAVA-compliant voting systems."

13 So I am reviewing each of the standards one
14 by one, analyzing that comparison, in comparison
15 to that statute as well as, in some instances,
16 there are other statutes to be considered, but
17 analyzing each one, one by one, to insure they
18 are in compliance.

19 COMMISSIONER MARTINEZ: Just to
20 clarify, they have informed us they had the very
21 same questions as they were developing
22 requirements. While they had counsel, they did

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1 not have counsel that could appropriately
2 interpret consistency issues with regard to HAVA
3 and Section 301. So that has all been deferred
4 to the EAC. That is not so much a discretionary
5 undertaking, but one that is really needed, not
6 because we think so at the a EAC, but NIST and
7 the TGDC members also think that as well. Is
8 that correct?

9 MS. THOMPSON: Yes, it is.

10 COMMISSIONER MARTINEZ: Thank you,
11 Madam Chair.

12 CHAIR HILLMAN: So we will move right
13 now into our next panel of presenters.

14 We have with us -- if all three of you
15 could just take a seat at the table. We have
16 Mr. Al Ater, First Assistant Secretary of State
17 from Louisiana. Michael Kerr, Information
18 Technology Association of America, ITAA,
19 representing the counsel of voting machine
20 vendors, and Joe Hazeltine, Senior Director,

21 Eastern Test Operations, Wyle Laboratories.

22 And then just -- you know, we did also

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1 invite Steven Berger, who is with the IEEE. And
2 somebody has to help me with, IEEE, what that
3 stands for.

4 MS. PACQUETTE: Institute for
5 Electronic Electrical Engineers, more or less.

6 CHAIR HILLMAN: I don't have details
7 in my head.

8 Mr. Berger is a member of the Technical
9 Guidelines Development Committee. And we did
10 have with us earlier, but I believe she has
11 left, Alice Miller, who is director of the DC
12 Board of Elections, who was also a member of the
13 Technical Guidelines Development Committee.

14 Gentlemen, we have asked you to bear with
15 us and make brief presentations so that we could
16 have sufficient time for discussion and
17 questions for all of you. And I see somebody is
18 going to use a PowerPoint.

19 MR. HAZELTINE: I am.

20 CHAIR HILLMAN: How about that, if
21 you don't mind, we will go to Hazeltine.

22 CHAIR HILLMAN: So that light can be

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1 turned off, out of my eyes. Okay.

2 MR. HAZELTINE: Well, good morning,
3 Madam Chair, and members of the Election
4 Assistance Commission.

5 CHAIR HILLMAN: Could you -- I'm
6 sorry, bring a microphone.

7 MR. HAZELTINE: Good morning, Madam
8 Chair, and the members of the Election
9 Assistance Commission.

10 I was asked to do a presentation on
11 grandfathering of the voting systems standards
12 of 2005, from a test laboratory's perspective,

13 and that's what this presentation here does.

14 Here we go. First thing, I want to talk
15 about past standards. In 1990, when the federal
16 election performance standards and directive
17 regarding electronic system was created, it was
18 implemented over a period of several years.
19 1992, when we got involved in it, but it was
20 finalized in around '94.

21 2002, voting system standards was published
22 in April of that year, and grandfathered until

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1 January of 2005. The other two standards,
2 European norm, and Millstair, the only reason I
3 mentioned those is because those are documents
4 referred to in the voting system standards.
5 Generally, on European norm standards, they have
6 a two to three-year grandfathering period.
7 Millstair also grandfathered based on the
8 applicable revision, looking at the impact of
9 not grandfathering.

10 First of all, the standard is not available
11 today, generally available. You can get a copy
12 of it. Testing laboratories have not been able
13 to train on the new standard requirements, and
14 there are many. The vendors are not all aware
15 of the new requirements and how to implement
16 them. The compliance checklists which we use in
17 testing laboratories is our primary
18 documentation goal. We would need to have those
19 in place to make sure we can give people results
20 in between different competing laboratories, and
21 also different products. And not all issues
22 have been resolved in the voluntary voting

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1 system guidelines. For example, the
2 implementation of VPAT audit trails.

3 Other issues, they contain many new
4 requirements. The Americans With Disabilities
5 Act, Section 508, which have not been evaluated

6 before, and we would need to create processes.
7 With no grandfathering, there would be no
8 qualified system available.

9 Qualified system -- can HAVA funding be
10 used. That is an issue more than testing, but
11 no system's built to the standards, so system
12 testing laboratories will see a pretty good size
13 lull and the corresponding surge. We may have
14 the capacity to keep up with the demand during
15 that surge period, and that would be an issue.

16 Bottom line, in our opinion at Wyle
17 Laboratories, we're not ready to implement
18 today. We would think three to six months. I
19 would think end of the year for sure.

20 Benefits, grandfathering provides
21 time for us to train in the new requirements,
22 provides time for to us prepare, review, and

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1 approve the verification checklists, which will
2 take a month to six weeks to do, provides time
3 for vendors to learn and design new systems.
4 Vendors will now have time to design all changes
5 at the same time. Otherwise, what we will see
6 would be systems come in a piecemeal approach.

7 Certain aspects have been addressed.
8 Others haven't. This also forces compatibility
9 issues. The other benefits supplementary is it
10 is consistent with past practice, consistent
11 with other standards on how they implement.

12 Detriments, once again, the e-mail's going
13 through that sequence. It would slow the
14 implementation of the standard of should be VVSS
15 2005, would not be used extensively. It is not
16 amenable, end of the year, and possibly not used
17 in the 2006 election cycle. Some of the
18 technology is ready for implementation, not all
19 of it.

20 Systems non-compliant with HAVA would need
21 to be fielded, particularly in the area of

1 funds be used for those systems. Which standard
2 would we use for those systems, or include
3 partial portions of the ADA-type issues. Issues
4 like voter verifiable paper audit trail remain
5 under resolve. The point there is, the longer
6 you delay implementation, the longer you delay
7 creating systems that could be compliant with
8 the standard as intended, and vendors and
9 laboratories, obviously, would not be challenged
10 to develop new technology until it is required,
11 there is a firm date for implementation. All
12 those things are detrimental, in terms of moving
13 technology forward, by delaying implementation
14 of the standard.

15 Just to point out where we currently are,
16 we completed three systems in the last few
17 weeks. We have four systems which are currently
18 in various stages of the certification process,
19 all using 2002 voting system standard, which is
20 the applicable document. Actually, I have two
21 new jobs that came in the last week for
22 additional voting machines. So there is six to

1 eight programs that are in the introductory
2 phases of new equipment, all being tested to the
3 current document, to the proposed new one. Some
4 vendors are looking down the road, saying, why
5 don't we just block a certain time, two to three
6 months at the testing lab, so we can learn how
7 to implement this new technology. What that was
8 going to do, certainly, would limit capacity for
9 competing vendors. So it is an issue that is
10 out there for us, that we would have to work
11 with.

12 Again, I would like to thank you so much
13 for your time, and that is my presentation.

14 CHAIR HILLMAN: Thank you, very much,

15 for the efficiency of your presentation. We
16 appreciate that very much.

17 What we'll do is have all three
18 presentations, and then we'll do the questions
19 and answers. And so then we will go back to Mr.
20 Ater. Am I pronouncing that correctly, Ater?

21 MR. ATER: Yes, Madam Chair.

22 CHAIR HILLMAN: Well, okay.

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1 MR. ATER: Thank you, Madam Chair,
2 Vice-Chair, Commissioner Martinez. I appreciate
3 the opportunity to appear before you today and
4 give some thoughts on how this could affect our
5 state.

6 Commissioner Martinez, as you mentioned,
7 our state is one of these that it's not
8 voluntary. Our state says, by state statute,
9 that we shall do this. So it creates a unique
10 problem for us, and we're very glad to see that
11 you all are considering an executive gate, or
12 grandfathering, or something of that nature.

13 I'll give you a very brief description of
14 where we are within our process, with regards to
15 HAVA. We have an RFP out on the streets that
16 the responses are due on June 1st. We hope to
17 have a contract in hand to replace our voting
18 system in our state. We use some lever
19 machines. We have some parishes, as we call
20 them, in Louisiana, that have DREs, and used
21 DREs for the last 12 to 15 years, but we have
22 approximately 50 parishes that use the lever

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1 machines which we have agreed to replace
2 pursuant to accepting the money that you were
3 speaking of earlier.

4 So we find ourselves in the unique
5 situation, without grandfathering, or without an
6 effective date or something of that nature that

1
7 we're required by January 1st of 2006 to
8 complete this task. Because just as
9 Mr. Hazeltine had just said, in reality, by then
10 you may or may not have the standards, you may
11 or may not have it tested, and we may have
12 purchased and spent \$50,000,000 of taxpayers'
13 monies that the State of Louisiana, quite
14 candidly, can't afford to spend again for
15 something that does not meet the new standards.
16 So it would be of great concern to us that you
17 would consider a grandfathering or effective
18 date or something to address that situation
19 because we don't want to find ourselves out of
20 compliance with you all, with justice, or with
21 anybody else, for that matter. And you can see
22 a unique situation where we, because of our

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1 state statutes and our expectations, while our
2 state statutes now address NASAD, I fully expect
3 the legislature, as this rolls, to roll it
4 forward to that because that is clearly the
5 intention.

6 As a former member of the state
7 legislature, I can assure you that was clearly
8 the intention and desire of our state
9 legislature, is that this not be optional.

10 The only thing we want to certify is those
11 things that meet the standards and guidelines
12 that is set forth by this Commission.

13 CHAIR HILLMAN: Thank you, very much.

14 MR. ATER: Thank you.

15 CHAIR HILLMAN: Okay. Mr. Kerr.

16 MR. KERR: Good morning, Chairman. I
17 am -- my name is Michael Kerr. I am with the
18 Information Technology Association of America,
19 and its Election Technology Council.

20 ITAA is one of the oldest groups for the
21 IT, representing about 400 companies. The
22 Election Technology Council is made up of a

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1 group of vendors which produce software,
2 hardware, and services for the voting systems
3 marketplace. Current members of the ETC are:
4 Advanced Voting Solutions, Danaher Gardian
5 Voting System, Diebold Election Systems,
6 Election Systems & Software, Hart InterCivic,
7 Perfect Voting System, Sequoia Voting Systems,
8 and UniLect Corporation. Membership is open to
9 any company in the election systems marketplace.

10 We're pleased to respond to your request
11 for vendor perspective on the issues surrounding
12 the timing and implementation of the VVSG. Our
13 member companies have a great stake in the
14 conduct and outcome of this process.

15 Indeed, equipment provided by our members
16 accounts for about 90 percent of voting systems
17 in the marketplace today, and over 2000
18 dedicated system employees at our member
19 companies work hard to make sure American
20 elections are worked out.

21 ETC applauds the Election Assistance
22 Commission, the TGDC, and NIST, on the

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1 aggressive timetable to adopt revised guidelines
2 for the 2002 Federal Voting System Standard.
3 However, despite the considerable work underway,
4 our member companies are concerned that election
5 officials may have unrealistic expectations
6 about the completion of the first phase of the
7 VVSG amendment to the 2002 VSS.

8 As the Commissioners and the EAC staff
9 already know, the drafting of the guidelines is
10 just the first step of a multi-step process
11 before there will be substantive changes in the
12 design and function of actual voting equipment
13 in the market. Therefore, as the EAC considers
14 an executive date for the VVSG, it is critically
15 important to keep in mind all that must occur

16 after the new guidelines are in place. As
17 history has shown, taken in whole, this process
18 can take years to complete.

19 As this process gets underway, there are
20 several realities that voting system vendors
21 believe must be acknowledged and accounted for
22 in laying the ground work for successful roll

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1 out of the new standard and guidelines. The
2 delays at the beginning of the EAC/Nist ramp-up
3 period set the guidelines development process
4 back by 12 to 18 months, and there is no
5 reasonable way to make up for front-end delay by
6 shortcutting the VVSG roll out process.

7 There is simply too much at stake to
8 expedite the process to meet artificial
9 deadlines while creating risks of getting the
10 outcomes wrong. The current guidelines revision
11 effort is unparalleled in terms of scope and
12 speed of a technical guidelines development for
13 any voting system, and possibly for any
14 comparable technology. Indeed, similar efforts
15 have taken many years to complete.

16 For evidence of the time it takes for the
17 marketplace to absorb and adjust to a new
18 standard, one need look no further than the 2002
19 voluntary voting system standards. In 2005,
20 three years after its initial release, only now
21 is the standard beginning to take on a
22 near-universal hold. This lengthy adoption

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1 period has not been for a lack of trying as
2 meeting the standards that the election market
3 demands provides a competitive advantage, but
4 rather recognition that the process to make
5 encompassing changes requires to do it right.

6 Promulgation change to rules, guidelines,
7 and standards is a time-consuming, risky
8 business for technology vendors and their

9 customers. Because of its almost unprecedented
10 nature, it can fairly be said that no one
11 understands how specific changes proposed in the
12 new guidelines will impact the big picture, in
13 terms of voting system reliability, accuracy,
14 usability, and security. Moreover, the changes
15 proposed might have a profound impact on the
16 economic and business models under which
17 companies operate in the voting system
18 marketplace.

19 The vendor community is pleased to be
20 working with EAC as one of the constituencies
21 providing input into the guidelines, but due to
22 the way the guidelines development process has

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1 been defined and operated from the outset, that
2 is, without direct vendor participation in the
3 TGDC, our members will be coming in at the tail
4 end of the process and sorting through a complex
5 set of proposals. Some of our members have
6 dozens of different products in the marketplace.
7 To turn on a dime and bring all these products
8 into compliance with the new guidelines is not
9 likely to comport with the realities of
10 generating quality products, of producing
11 shareholder value, and assisting the customers,
12 elections officials, and ultimately, voters,
13 with the key element of democracy, providing
14 secure, accurate, reliable voting systems.

15 It is unrealistic to expect that the
16 vendors, ITAs, and customers, which include
17 state, county, and local officials, will be able
18 to get these products, new products certified
19 and into the field for the national elections in
20 November, 2006. While we have yet to see the
21 final version of the guidelines, but early
22 indications point to many new requirements that

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1 impact widely on vendor equipment and practices
2 as well as on the customer. Some have been
3 drafted hastily, and may conflict with other
4 existing requirements. Changes to the
5 requirements are still occurring today -- sorry.
6 Changes to the requirements still occurring
7 today will continue through the public comment
8 period. These protests will require
9 interpretation, test design, and product
10 certification.

11 On the vendor side, a likely scenario will
12 be that changes contained in the VVSG will be
13 factored into the system design, production,
14 testing, marketing, support and maintenance
15 operations over the course of two to three years
16 after their final release.

17 Customers will be faced with a similar set
18 of metrics and procedures when it comes to
19 acquisition, deployment, and support for systems
20 seeking compliance with the new VVSG.

21 In addition to funding and management
22 issues, there remains a host of policy questions

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1 to be considered and resolved at the customer
2 level. Consideration of questions related to
3 paper requirements has already slowed
4 considerably the acquisition and deployment of
5 new equipment in several states, even in the
6 systems mandated for replacement under HAVA.

7 Members of the ETA are concerned that many
8 state and county officials are delaying their
9 acquisition and deployment of voting systems
10 under the false assumption that the adoption of
11 new standards will immediately result in revised
12 voting technology appearing in the marketplace
13 prior to January 2006, and that those new
14 systems can be implemented and used in 2006
15 primary and general elections. Given the
16 realities described above, it is simply not
17 possible to achieve those timelines. If states

18 and counties delay their decisions, it is very
19 likely they will miss their 2006 deadlines for
20 HAVA compliance.

21 To help minimize that issue, we think it
22 would be helpful for the EAC to advise election

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1 officials that waiting for these guidelines to
2 be implemented may jeopardize their ability to
3 comply with HAVA guidelines. EAC should assure
4 jurisdictions that equipment properly certified
5 to existing standards is capable of providing
6 secure, accurate, and reliable elections that
7 meet functional requirements laid out under
8 HAVA.

9 Under a best case scenario, it will still
10 be difficult, under the current 2002 standards,
11 for state and counties to meet the deadline
12 under 2002 standards, unless they act quickly.
13 Recognizing that it often takes three to six
14 months for counties to select a system and
15 complete contracts, waiting for 2005 VVSG will
16 effectively preclude counties and states from
17 completing their transition to new voting
18 technology under the deadlines established by
19 HAVA.

20 We urge you to communicate these important
21 timeline issues to counties and states, and
22 encourage them to proceed as quickly as possible

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1 under the currently available standards. It is
2 our understanding that the subject of
3 grandfathering current equipment under the new
4 guidelines, as well as phased implementation
5 through effective dates, has come up for
6 discussion at TGDC and EAC. This is a greatly
7 important issue which merits consideration by
8 the EAC.

9 As we have stated above, we believe that

10 equipment certified under the 2002 standard is
11 HAVA-compliant. The core requirements of the
12 2002 standard make up the VVSG1, with some
13 notable additions. Therefore, should it not
14 follow that systems certified to meet 2002
15 standards, and that have been proven in the
16 field to provide the customer and voter with an
17 acceptable level of usability, reliability,
18 accuracy, and security, would be grandfathered
19 under VVSG.

20 The decision to grandfather or re-test the
21 installed base of equipment to the 2005
22 guidelines leads to some tough questions.

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1 What impact of the business case and lifetime
2 costs of equipment would be caused by changes
3 proposed in the guidelines? What is the gain to
4 the customer and voter of equipment recertified
5 under VVSG? Is a minor modification sufficient
6 to cause re-testing of thousands of lines of
7 cost and dozens of hardware components? Should
8 higher immunity testing thresholds mandate
9 costly hardware changes to existing
10 installations when the benefits may be minimal?

11 This decision raises serious funding
12 issues, as well. If equipment certified under
13 2002 standards is not grandfathered under the
14 new guidelines, the cost burden to the customer
15 will be onerous. Without some type of
16 grandfathering provisions under VVSG, additional
17 federal funds will be necessary to cover the
18 cost of replacement equipment and upgrades that
19 may fall out of line with new standards.

20 We believe that an implementation of the
21 guidelines should follow the old adage, "Perfect
22 should not be an enemy of the good." While we

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1 always strive towards perfection, we believe
2 that making perfection the operating standard in

1
3 the guidelines development process and then
4 requiring re-certification of existing equipment
5 will lead to slower adoption of the guidelines,
6 greater backlogs in systems certification and
7 testing, and other undesirable or unintended
8 outcomes.

9 The Commissioner and customers should know
10 that companies operating in a profit-seeking
11 market are driven to out-compete each other on
12 the basis of product features, benefits,
13 quality, service, and price. It is only logical
14 that they will make every effort to bring their
15 products into line with the updated guidelines
16 because that is what their customers will be
17 demanding. But to find a system and entire
18 product line, or even a generation of voting
19 equipment, uncertifiable against possibly a
20 possibly unattainable or untestable standard set
21 forth in the VVSG, while that equipment can
22 readily meet requirements in HAVA, it would be a

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1 poor outcome, one that may force states as to
2 squander federal and states monies already
3 appropriated and spent.

4 Please accept the going comments in the
5 spirit offered. ETC members fully support the
6 goals of the VVSG development efforts. However,
7 as the party charged with implementing the
8 guidelines into all of the legacy, current and
9 future election products, we urge circumspection
10 and caution in the process. Workable and
11 reasonable requirements and timetables are key.

12 Thank you for providing us with the
13 opportunity to express our concerns and
14 participate at this level, and I look forward to
15 answering any question by the Commission.

16 CHAIR HILLMAN: Great. Thank you.
17 We do have time for a few minutes of questions.

18 VICE-CHAIR DEGREGORIO: Thank you,

19 Madam Chair.

20 This is an important issue that we're
21 looking at. We have had conversations with NIST
22 about the history of the work that they do in

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1 setting standards, and whether there is
2 grandfathering or implementation dates that are
3 looked at in the industry, and that they look at
4 when they implement standards. Certainly, the
5 history of voting system standards shows that
6 there have been implementation dates put forth
7 each time standards have been come up, whether
8 it is 1990 or 2002, to allow the industry to
9 come into compliance.

10 I'd like to ask Mr. Hazeltine a question
11 about the timetable to conduct this work,
12 actually, test equipment. And I know that
13 equipment's different, it depends on which
14 equipment you're talking about, which standards
15 you're talking about, but what's an average time
16 that it takes for you to receive something and
17 then to go through testing it, and coming up
18 with finishing the work that you do on a
19 particular product? Is there an average type of
20 time that you have to go through.

21 MR. HAZELTINE: Thank you,
22 Mr. Vice-chair.

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1 The average would be probably four or five
2 months, from start to finish. That's a program
3 where the documentation is pretty in good
4 condition, the vendor's been through the process
5 before, so they are aware of the steps.

6 VICE-CHAIR DEGREGORIO: The issue of
7 VPAT, you brought it up in your remarks,
8 voluntary voting.

9 MR. HAZELTINE: Voter verified paper
10 audit trail.

11 VICE-CHAIR DEGREGORIO: But as you

12 stated, you said it remains unresolved.
13 Certainly, the draft guidelines, and there's
14 been a big discussion with the TDGC and NIST.
15 They were instructed from the EAC to come up
16 with guidelines in regard to this particular
17 area that we know is an important issue. And we
18 know that many states are mandated through
19 regulation or legislation that they want to use
20 the VPAT, the systems that they buy, as used in
21 the 2006 election cycle.

22 Do you see how we can get there? Do you

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1 see how these systems can be tested in time? If
2 we don't come up with guidelines, if we're not
3 finished, for instance, until the end of
4 September, early October, then they have to come
5 to you. Is it possible to get there for the
6 VPAT 2006?

7 MR. HAZELTINE: Yes, sir, it is
8 possible to get there.

9 Mr. Hancock asked the question about six
10 weeks ago to the testing tab, has anyone seen a
11 VVPAT-compliant system in test. And the answer
12 is, no. I believe there is a way to get there
13 from here, if something were available for us to
14 look at.

15 CHAIR HILLMAN: Mr. Iter, in
16 Louisiana, you stated this change over, and what
17 you're doing in your states and your locals.
18 Are you helping your locals, I can't remember if
19 it is just a state contract and the locals buy
20 into it, but to develop language in the
21 contracts with the vendors that require the
22 vendors to come in compliance at some point with

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1 the guidelines that are produced by the EAC.

2 MR. ITER: Thank you. Louisiana is
3 actually one of the few states that we are a

1
4 state-based system. Our state furnishes all the
5 equipment, buys it, and gives it to the locals
6 and so forth, and so on. So we're a state-based
7 system, so we're not working from jurisdiction
8 to jurisdiction.

9 But in our request for proposal that we
10 have out now, obviously, one of the mandates is
11 that it be HAVA compliant, particularly with
12 Section 301. That point in my comments that
13 gave me pause and great concern is that we also
14 are a state that, by statute, says that nothing
15 -- we shall not certify anything unless it meets
16 these guidelines that you're talking about. So
17 we're faced with the was unique situation that I
18 find very troubling, that we have a January 12,
19 '06 deadline to be HAVA-compliant. We have new
20 guidelines that are going to be coming out,
21 September, October testing that takes perhaps
22 four on five months. We're hopeful to have a

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1 contract signed early summer so that we can meet
2 the January 1, 2006 deadline. Then as I said in
3 my comments, we could find ourselves having just
4 spent \$50,000,000 of taxpayer money on a system
5 that suddenly, a view shorthand of, we sign the
6 contract to find out that they don't meet the
7 guidelines, and that our state statute says they
8 must be, but do that trying to meet the HAVA
9 guidelines.

10 We're in a little of a catch-22, of can't
11 win for losing, as we like to say in the
12 country.

13 VICE-CHAIR DEGREGORIO: We appreciate
14 that. There are many states --

15 MR. ITER: There is probably several
16 other jurisdictions in the exact same situation
17 we are.

18 VICE-CHAIR DEGREGORIO: Please, give
19 our best regards to our secretary. We're still
20 praying for his recovery, and hope he is back to

21 work soon.

22 MR. ITER: Thank you for those

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1 comments, and I certainly will.

2 VICE-CHAIR DEGREGORIO: Mr. Kerr, you
3 raise a lot of red flags in your testimony about
4 how your members can come into compliance and
5 meet these guidelines.

6 Are the vendors willing to except language
7 that I know some jurisdictions have, some don't,
8 but to make sure that when contracts are let in
9 the states like Louisiana, or other states buy
10 equipment, that they can at some point in time
11 become in compliance with the guidelines, be it
12 on the date that we set, or some other date that
13 they may set in negotiation, or set by their own
14 states?

15 MR. KERR: I have not raised that
16 question. The question has not come up for
17 discussion on any of our recent calls. Of
18 course, I couldn't commit a single one of our
19 members to taking that kind of action.

20 With that said, that approach, a graduated
21 implementation effective dates, as long as it
22 didn't push equipment out that our members could

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1 consider compliance with requirements of HAVA
2 and performing to the specifications of the
3 customer, I think they certainly would give that
4 positive consideration, because they realize the
5 pressure that their customers are under, and
6 they want to respond to those as well.

7 VICE-CHAIR DEGREGORIO: That's a
8 question I get very often from election
9 officials.

10 That's all I have.

11 CHAIR HILLMAN: Okay. Mr. Martinez.

12 COMMISSIONER MARTINEZ: Thank you,

13 Madam Chair, and I will be very brief.

14 Thank you all for your testimony. I think
15 it is very helpful. We're trying to do our
16 homework, so to speak, on our end, to get
17 educated and put some language out, hopefully,
18 simultaneous, draft guidelines that gives
19 indication where we're going so we can get
20 comment on this particular issue. So I
21 appreciate all of the testimony that has been
22 presented.

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1 Mr. Kerr, I want to thank you,
2 particularly. I think your comments are well
3 thought out. And I had a chance to read your
4 testimony, and there's several things that you
5 say that I think are worth expanding on. I'm
6 not going to focus on just one area, in the
7 interest of time.

8 I want to say that one of the things that
9 you said in your testimony was that systems
10 certified in the 2002 VVSG have proven to be
11 accurate, reliable, secure, etc.. I agree with
12 you, and I want to say that for the record.

13 On the other hand, there was a poll taken
14 by the Wall Street Journal, NBC News, perhaps a
15 week or two after the November 2004 election,
16 which asked the basic question, do you believe
17 that your vote is being tallied accurately, or
18 I'm not sure what the question exactly was, but
19 it spoke to voter confidence. And one in four
20 voters lacked confidence. This is just in the
21 past election system.

22 So this is a critical issue that we're

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1 trying to address, and to do so in a manner that
2 is reasonable to all affected parties, the
3 vendor industry, certainly, or partners that do
4 the testing for us in the labs, our
5 stakeholders, and election administrators and

6 voters themselves, trying to keep everything and
7 juggle all these things.

8 We have ended up in the worse case scenario
9 in that the Commission was late in being
10 appointed. We have heard the plan already, we
11 have said, violins playing. We were under
12 surrounded in our first fiscal year, and here we
13 are, standing within seven or eight months from
14 your statutory deadline of being compliance,
15 whether VVSG-compliant, that is a very ominous
16 thought.

17 So that's some commentary. And I wonder if
18 I could just play out a scenario and get all of
19 you to react to it. And that is, hypothetically
20 speaking, because I don't know where we're going
21 to go as a body. But if we went, essentially,
22 the normal route, if you will, Mr. Hazeltine,

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1 you and I have heard it from others, but
2 normally there is some sort of an effective date
3 that embraces an 18 to 24-month window.
4 I think in the case of the 2002 VVSG, it was
5 something along those lines. I think by 2005,
6 all vendors had to be certified fully to the
7 2002 standards, but they could do it sort of
8 piecemeal in between then. That may not be
9 exactly accurate but something to that effect.

10 If we went down the road of embracing an
11 effective date, let's say 24 months from the
12 date of adoption, and yet worked with the labs
13 to encourage you all to be ready to test to the
14 new requirements as quickly as possible, which I
15 think I have heard you say you could be ready to
16 do so roughly within three to six months, and
17 then left the decision to states as to which of
18 those requirements, if they wanted to pull down
19 to try to get vendors to test before the 2006
20 election. Let me place this out, and that is
21 the concern that I have, is that you have

22 jurisdictions, and we have not taken a position

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1 on this and will not take a position on VPAT, as
2 to whether that is a required way to
3 independently verify, but you have had, at least
4 I think at last count, eight states that have
5 legislatively mandated by 11-06, their VPAT
6 systems have to be compliant, which we don't
7 have any testable, repeatable standard to insure
8 accuracy, reliability of those components.

9 And if a state wants to pull down, for
10 example, the requirements on VPAT, and require
11 the vendors to be able to have a piece of
12 equipment that either they are adding to
13 existing machines or they are purchasing a new
14 system entirely that's been tested to those VPAT
15 requirements, is that even possible?

16 And I know I have confused the question,
17 but, in other words, Mr. Iter, I am sitting
18 there in one of your parishes that is already
19 using a DRE system. I don't think your state is
20 mandated VPAT.

21 MR. ITER: that's right.

22 COMMISSIONER MARTINEZ: And I want to

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1 be able to buy a piece of equipment, or I'm
2 going to require the vendor to make this VPAT
3 requirement, but yet currently, actually, that
4 is not entirely accurate because this was done,
5 at least in part for the Nevada system. But is
6 it possible to get to a point so that a state
7 can, at their discretion, decide to pull down
8 the VPAT requirement, should we embrace them in
9 final form in the next three or four months?

10 Mr. Hazeltine, do you follow where I am
11 going?

12 MR. HAZELTINE: Thank you,
13 Mr. Martinez. I do follow where you're going.
14 We're not the one -- ultimately, the ones making

15 the decision. It would be the vendors using the
16 equipment. Can we be ready to test? Yes.
17 Could we be ready to test Volume 2 of the VVSG,
18 2005? Yes.

19 There is not a significant number of
20 changes. My focus, I guess, if we're going to
21 -- would be to prioritize some of the areas in
22 the ADA area, in the voter verifiable area, and

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1 also in the security area, and actually have
2 implementation dates on those sections which
3 pose the largest changes to the document at this
4 point.

5 COMMISSIONER MARTINEZ: Any comment
6 from Commissioners, from your perspective?

7 MR. KERR: I think my testimony
8 touched on two or three of issues that would
9 come into play. First, the test design process.
10 Once the test comes out of the door at a lab or
11 is ready to go into production, there may be
12 some continued tweaking that may stretch the
13 process out a little further. Sometimes on the
14 testing day, one is going to come back with some
15 conflicts in the marketplace or with existing
16 requirements that may need to be worked out for
17 a set of iterations.

18 I think also that the risk posed by those
19 types of continued testing scenarios might add
20 to cost and complexity for the customer, which
21 may, again, cause the vendor some hesitation in
22 going back for continued testing until they

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1 believe that everything is up and running
2 smoothly and the way it should be.

3 So while I think that there are ways to get
4 in, there are certainly issues that should be
5 addressed up front and clearly communicated with
6 vendors and the states that might enable that

7 outcome to take place.

8 COMMISSIONER MARTINEZ: I appreciate
9 that, Mr. Iter. I guess, Mr. Iter, what I am
10 trying to get to is giving election
11 administrators some tools and, obviously,
12 flexibility in making decisions on how to impose
13 these requirements, but some tools so that you
14 can say to your constituents back in Louisiana
15 and in the various jurisdictions, we've done
16 something to try to improve the process, not
17 just for 2008, but for 2006, because right now,
18 the perception, like it or not.

19 I think, again, you make a very good point
20 that systems in use today that have been
21 certified to the existing standards are secure,
22 they are accurate, they are reliable. There

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1 certainly have been mistakes, we acknowledge
2 that.

3 We have to work in tandem as
4 administrators, advocates, etc, to insure that
5 we minimize any of those mistakes. But I'm
6 trying to arrive at a point, if at all possible,
7 it may be too late. Maybe we're just so down
8 the road here and so close to the deadlines,
9 Mr. Iter, that it is impossible to do anything
10 to help you, as you prepare for the 2006
11 election cycle.

12 Any comments you want to add?

13 MR. ITER: Thank you, Commissioner.
14 I share your similar concern, quite candidly,
15 with regard to the verifiable voter paper trail.

16 From a personal perspective, what I would
17 love to see is, rather than Congress address it
18 at one phase, and another state address it in
19 another fashion, and perhaps EAC address is it
20 another fashion, I would love to see a uniform
21 -- obviously, if this is something that is going
22 to be done, there is obviously more than one way

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1 to do it, one correct way is what I'm trying to
2 say.

3 In many instances, there's a host of things
4 that are reliable and accurate and everything.
5 From a personal perspective, I would love to see
6 if this is where we're going, a standard by
7 which all of us can say, pick and choose, if you
8 will, a menu, and these are acceptable methods.
9 And then an adequate amount of time to implement
10 it, because I share your same concern.

11 While I hear and I appreciate their
12 optimism, from our perspective, I don't see any
13 way in the world we can go there from here with
14 what we're dealing with. Because we're dealing
15 with you all coming out with some standards as
16 late as October, and five or six months, and we
17 don't know it is just going to be a guess.
18 Maybe some things on the market now will meet
19 those standards. Maybe not a thing on the
20 market now will meet those standards, but in any
21 event, five or six months before those tests are
22 done, as to see if they do or do not. So that

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1 would put me in the posture of delaying the
2 purchase or the signing of any contracts, if I
3 want to make certain what we purchased meets
4 those standards, until after the deadline of
5 when I am not found in compliance with the HAVA
6 Act.

7 And I don't relish that, quite candidly,
8 being out of compliance with DOJ, or with
9 anybody, for that matter. But the most
10 important comment I think you made is what we
11 have said in our state from day one. We come
12 from a state or I come from a state where we do
13 enjoy great voter confidence.

14 I speak a lot. I spoke five times in the
15 last two weeks to different groups. And my

16 standard question when I get up, before I say my
17 comments, I say, I would like a show of hands,
18 please, how many of you in this audience believe
19 that when you walked into the booth -- and in
20 our state, you can push a button, push a lever
21 or touch a touch screen because we have all
22 three. When you do, your vote is recorded

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1 accurately, and it is going to the candidate or
2 to the question that you voted on, and that on
3 election night, that when the Secretary of State
4 reports those results, that you have confidence
5 in it. Do I have a show of hands, how many
6 people in the room believe that? I have been
7 speaking of audiences 250 or 300, and every hand
8 in the room goes up.

9 So that's my lead-in to say, as we do this,
10 the most important thing we can do is not lose
11 that confidence. Because an the old saying from
12 father, it takes a lifetime to earn someone's
13 trust, and about 15 second to lose it. That's
14 what we're trying very carefully not to do.

15 The confusion seems to be adding to that,
16 quite candidly. So sometimes I think it is
17 better just to slow down, stop and say, hey,
18 let's get it right, rather than get it quick.

19 CHAIR HILLMAN: I have a quick
20 question for each of you. Mr. Iter, you said in
21 Louisiana, I think you have used a state-based
22 system where the state purchases the equipment?

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1 MR. ITER: Yes.

2 CHAIR HILLMAN: Remind me again, how
3 many counties are using DRE?

4 MR. ITER: We have 14 of our 64.

5 CHAIR HILLMAN: Okay.

6 MR. ITER: And some of them, as long
7 as 14, 12, 15 years.

8 CHAIR HILLMAN: Can you help me

9 understand how some parishes are using DREs and
10 other aren't? Was this their option?

11 MR. ITER: No, its been financial.
12 When I say financial, its been as we get money
13 from the state legislature. Obviously, this
14 whole new host of monies and/or requirements
15 hasten that, but through a slow process, we
16 update equipment each year. And we have a
17 request given to our state legislature to keep
18 full the fleet updated. And as we update it, we
19 would buy what we felt was the best product on
20 the market and go forward from there.

21 We had 64. We can't afford to buy 64 new
22 once all the same year. We embarked upon a

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1 process.

2 CHAIR HILLMAN: Thank you, very much.

3 MR. ITER: Yes, ma'am. Thank you.

4 CHAIR HILLMAN: Mr. Hazeltine, Do I
5 understand correctly that Wyle was testing prior
6 to 2002?

7 MR. HAZELTINE: Yes, ma'am. We have
8 been he using since probably about 1992.

9 CHAIR HILLMAN: Okay. When the 2002
10 standards came into place, was there a similar
11 rush, if you will, or surge, with respect to
12 equipment to be tested against the new
13 standards, was there similar activity as you
14 would anticipate would happen under the new
15 guidelines?

16 MR. HAZELTINE: Well, my
17 recollection, the answer to that would be no.
18 The majority of the requirements in 2002 were
19 pretty much in the machines already, from a
20 testing standpoint.

21 CHAIR HILLMAN: Okay. Thank you.

22 MR. HAZELTINE: There wasn't a void,

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1 as we're going to come into this time.

2 CHAIR HILLMAN: Thank you. Mr. Kerr,
3 in your testimony or in your written testimony
4 anyway, you say that under a best case scenario,
5 it will still be difficult for states and
6 counties to meet the HAVA deadlines under the
7 current 2002 standards, unless they act quickly.
8 Can you help me understand what you meant by
9 that?

10 MR. KERR: I believe if you look at
11 the process, actually, I am not quite sure where
12 the 2002 standards reference.

13 CHAIR HILLMAN: It is on page 4, and
14 it is under your section, "Insuring Compliance
15 With HAVA Deadlines."

16 MR. KERR: You know what, I have
17 recorded mine, for easier visibility here.

18 CHAIR HILLMAN: It is like the third
19 paragraph under, "Insuring Compliance With hava
20 Deadlines."

21 MR. KERR: Right. For them to come
22 into compliance with 2002, in some states, I

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1 think the point is some states are still working
2 on that. And the process for them to get to
3 2002 compliance is an important one. And we
4 recognize that the equipment that has been
5 released in recent years has performed above and
6 beyond what was available under the previous
7 standards. So we're working closely -- I
8 believe our members are working closely with our
9 customers to can get them to 2002 levels of
10 compliance.

11 Even with the expedited activity that is
12 going on right now, there is still considerable
13 work to be done to get them there, and we
14 believe that should be the focus.

15 CHAIR HILLMAN: Okay. And one last
16 question for you. Some of your members sell
17 voting equipment outside of the United States,

18 is that correct?

19 MR. KERR: That's correct.

20 CHAIR HILLMAN: Do they have to be
21 certified against standards in those other
22 countries, some or a few or many?

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1 MR. KERR: I'm sorry. The
2 international marketplace goes beyond my scope
3 of expertise. One of our members, John Brow, is
4 here. He might be able to help you out after
5 the hearing, because he does international work.
6 He is with ES&A.

7 CHAIR HILLMAN: All right. I will
8 ask him afterwards. Thank you, very much.

9 Before closing, I have just two final
10 items. I want to take this time to thank Carol
11 Pacquette for working with us as interim
12 executive director. She jumped into the very
13 deep end of the pool. I think we blindfolded
14 her and told her, now, jump in. But I want to
15 thank you so much for coming in. We were a
16 train moving down the track. And the
17 commissioners were holding on for dear life, and
18 you were willing to jump on and hold on for dear
19 life with us. We appreciate that, very much.
20 And as Commissioner Martinez mentioned earlier,
21 in particular, you have helped shepherd, just
22 push along this process with the voting system

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1 guidelines. Because it is, for us, so
2 incredibly important, and it is a huge, huge
3 task that we're doing. And also to thank you
4 for your willingness to continue after Mr. Wilke
5 comes on board to help us with our tasks on this
6 and related issues. So thank you, very much.

7 MS. PACQUETTE: Madam Chair, thank
8 you. Its been a lot of fun. Its been a lot of
9 challenges, and I think your description is very

10 accurate. We're all still hanging on to that
11 boxcar and trying to not lose our grip, not to
12 intimidate Tom.

13 COMMISSIONER MARTINEZ: Tomorrow
14 hasn't signed his employment contract yet.

15 MS. PACQUETTE: But its just been
16 great to work with the Commissioners,
17 counselors, and everyone on the staff. It is an
18 amazing organization.

19 I have spent many years employed by and
20 working as a contractor for many different
21 federal agencies, and I just have to say the
22 productivity rate coming out of the EAC is just

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1 head and shoulders above anything that I've seen
2 anywhere else. It's really a tremendous record.
3 I have been happy to contribute to that, and to
4 continue helping the EAC. So thank you all,
5 very much, for your confidence in keeping me
6 onboard.

7 CHAIR HILLMAN: Thank you, very much.

8 (Applause.)

9 CHAIR HILLMAN: Mr. Vice-Chairman.

10 VICE-CHAIR DEGREGORIO: I will just
11 ditto those comments. Carol has been very
12 helpful to all of us, as a Commission, and
13 individually. And I simply appreciate the
14 efforts she has put in to help us in this moving
15 training. We're all holding on for dear life
16 many days.

17 COMMISSIONER MARTINEZ: Carol, thank
18 you for everything you have done. We look
19 forward to your continued leadership, helping us
20 with the guidelines, as we go over the next
21 several months. And also the transition, there
22 is a whole list of substantive things you are

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1 going to continue to work on for us. We
2 appreciate your leadership and continuing to

1
3 hang on.

4 CHAIR HILLMAN: Let me just say, to
5 remind us all, that we have meetings each month
6 June, July, August, September, probably through
7 the rest of the year, but my schedule takes me
8 through September here.

9 Our next meeting is June 30th. It will be
10 held in New York City. We'll be addressing the
11 topics of the voter identification study and the
12 draft guidance. We'll be developing and holding
13 hearings on the voluntary voting system
14 guidelines.

15 Future meeting topics will include the
16 National Voter Registration Act. Another
17 hearing on the voluntary voting system
18 guidelines, voter education, and further work
19 with respect to the guidance that we'll be
20 issuing on the provisional voting and voter
21 identification.

22 So with that, this meeting stands

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1 adjourned. All right. Thank you.

2 (Whereupon at approximately 12:00
3 o'clock, p.m., the above meeting
4 was adjourned.)

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CERTIFICATE OF COURT REPORTER

I, Jackie Smith, court reporter in and for the District of Columbia, before whom the foregoing meeting was taken, do hereby certify that the meeting was taken by me in shorthand at the time and place mentioned in the caption hereof and thereafter transcribed by me; that said transcript is a true record of the meeting; that I am neither counsel for, elated to, nor employed by any of the parties to the action in which this meeting was taken.

JACKIE SMITH,
Court Reporter in and for
The District of Columbia

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